

EUROPEAN PARLIAMENT

2009 - 2014

Committee on Petitions

22.1.2010

NOTICE TO MEMBERS

Subject: Petition 0013/2008 by Mr. John McElligott (Irish), on behalf of Kilcolgan Residents Association, on alleged breaches of the EC Directive on Strategic Environmental Assessment in connection with the approval and planning of a Liquefied Natural Gas (LNG) terminal in the proximity of Shannon Estuary (Ireland)

1. Summary of petition

The petitioner criticizes the fast-track planning procedure applied by the Irish Government in connection with the construction of a Liquefied Natural Gas (LNG) terminal in the proximity of Shannon Estuary (Ireland). He considers that the EC Directive on Strategic Environmental Assessment and the Seveso II Directive have been breached. The petitioner explains that the fast-track planning procedure has been enacted on the basis of the Planning and Development Act 2006 and it allows the approval of certain projects without any public consultation. The petitioner maintains that the project has been sliced in order to circumvent the requirements concerning the conduct of a strategic environmental assessment and asks the European Parliament to have the matter investigated.

2. Admissibility

Declared admissible on 19 June 2008. Information requested from Commission under Rule 192(4).

3. Commission reply, received on 21 October 2008.

I. The petition

CM\802681EN.doc

PE415.090REV

EN

United in diversity

EN

The petitioner criticizes the fast-track planning procedure applied by the Irish Government in connection with the construction of a Liquefied Natural Gas (LNG) terminal in the proximity of the Shannon Estuary (Ireland). He considers that the EC Directives on Strategic Environmental Assessment, on the Environmental Impact Assessment and the Seveso II Directive have been breached. The petitioner explains that the fast-track planning procedure has been enacted on the basis of the Planning and Development Act 2006 and it allows the approval of certain projects without any public consultation. The petitioner maintains that the project has been sliced up in order to circumvent the requirements concerning the conduct of a strategic environmental assessment and asks the European Parliament to have the matter investigated.

II. The Commission's comments on the petition

Project slicing

The petitioner presents arguments according to which the project has been sliced up (LNG storage, pipeline, road and electricity supply). Project slicing implies the breaking up of one project into different parts. In this case, it is the Commission's opinion that the impact assessment covers one project (the Liquefied Natural Gas). Cumulative (indirect) impacts with other projects will, of course, have to be identified in the course of the remaining impact assessments.

EIA

Council Directive 85/337/EEC¹ on the assessment of the effects of certain public and private projects on the environment (known as the Environmental Impact Assessment or "EIA Directive") as amended by Directives 97/11/EC² and 2003/35/EC³ covers the construction of thermal power stations with a heat output of 300 megawatts or more. For these projects, listed in Annex I, the directive requires that, before development consent is given, projects likely to have significant effects on the environment are made subject to an assessment of their environmental effects. During the EIA procedure, the public must be consulted and the final decision to grant or refuse development consent must take account of the results of the EIA and of public consultation.

According to the information provided by the petitioner, an EIA has been carried out, environmental aspects duly taken into account and the public was entitled to react and provide their opinion within 6 weeks. The time allocated for the public consultations is left to the discretion of the Member State.

SEA

¹ OJ L 175, 5.7.1985

² OJ L 73, 14.3.1997

³ OJ L 156, 25.6.2003

Directive 2001/42/EC¹ (the Strategic Environmental Assessment or SEA Directive) applies to plans and programmes. It determines in its Article 3(2) that land use plans (which sets the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC (EIA Directive)) are to be made subject to an SEA allowing for one exception: Art 3(3) stipulates that plans for small areas at local level could be exempted. In its national legislation, Ireland has defined this possible discretion as areas concerning a population of 10.000.

The petitioner claims that the community development plan was modified to allow a change of use from rural to industrial. It appears that the development plan was modified without the requirement of the SEA (a screening was carried out and concluded that no impact assessment was needed). Independently from this petition, the Commission has queried the conformity of Irish legislation with regard to the extent to which SEA is made discretionary rather than automatic for modifications of land-use plans of the kind referred to by the petition (Infringement N°2007/2166).

Seveso

The Seveso II Directive² applies to such terminals according to the quantity of gas present: only some requirements apply to terminals containing from 50 to 200 tonnes (lower tier establishments); all requirements apply to those terminals which contain more than 200 tonnes (upper tier establishments). For the purposes of this directive, establishment shall mean the whole area under the control of an operator where dangerous substances are present, including common or related infrastructure or activities. However, the transport of dangerous substances in pipelines outside the establishment is excluded. Several provisions of the directive already apply before the operator commences construction or operation. The land-use planning provisions require the control of siting of new establishments. Member States shall ensure that all competent authorities and planning authorities responsible for decisions in this area set up appropriate consultation procedures to ensure that technical advice on the risks arising from the establishment is available when decisions are taken.

III. Conclusions

Based on the information provided, the Commission cannot identify any breach of the EIA in relation to the procedure for the project in question.

As regards the SEA, the Commission has opened an exchange of views with the Irish authorities on compliance with Directive 2001/42/EC of the national laws which were used to deem an SEA unnecessary in this case.

4. Commission reply, received on 22 January 2010.

¹ OJ L 197, 21.7.2001, p.30

², OJ L 10, 14.1.1997, p.13

The additional documents provided by the petitioner have been analyzed by the Commission and give rise to the following comments.

SEA

Directive 2001/42/EC¹ (the Strategic Environmental Assessment or SEA Directive) applies to plans and programmes. It determines in its Article 3(2) that land use plans (which sets the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC (EIA Directive)) are to be made subject to an SEA allowing for one exception: Art 3(3) stipulates that plans for small areas at local level could be exempted from the mandatory carrying out of an SEA. Instead, a screening (an assessment as to whether an SEA is necessary) needs to be performed. In its national legislation, Ireland has defined this possible discretion as areas concerning a population of 10 000. Information provided by the petitioner demonstrates that the population affected exceeds 10 000.

A screening process was carried out at the time of the proposal to re-zone the rural lands to industrial ones. The screening process concluded that no SEA was required on the basis that *"it does not appear that there is a need for a SEA in this instance as the proposed variation is unlikely to result in development which would have significant effects on the environment"*.. The petitioner is opposing the screening decision arguing that the independent expert who carried out the screening was not aware that the zone would later be used for an activity likely to have significant impact on the environment (i.e. in this case the LNG terminal). Furthermore, 10 hectares of the zone are in SAC waters and the site is surrounded by SAC, NHA and SPA land and water. The planning authority was satisfied that "any significant environmental issue arising for any development on the lands would be resolved through an EIS"....

The Commission is also concerned by the discrepancy in the approach of the Irish authorities in dealing with the development under fast track legislation for 'strategic projects' whilst not requiring an SEA. Indeed, one issue raised by the petitioner is Ireland's use of the *Planning and Development Act 2006* (so-called "Strategic Infrastructure") in order to, according to Irish authorities, have a more efficient planning consent procedure for strategic infrastructure developments. This procedure provides for some type of infrastructure projects to be granted direct planning permission by the Planning Authority (An Bord Pleanála) and thus avoiding the step of the local authority. It also means that the public is denied of its right to participate and appeal in the planning process.

EIA

Council Directive 85/337/EEC² on the assessment of the effects of certain public and private projects on the environment (known as the Environmental Impact Assessment or "EIA

¹ OJ L 197, 21.7.2001, p.30

² OJ L 175, 5.7.1985

Directive”) as amended by Directives 97/11/EC¹ and 2003/35/EC² covers the construction of thermal power stations with a heat output of 300 megawatts or more. An EIA has been duly carried out on this project (the Liquefied Natural Gas) and public opinion sought. However, the petitioner presents arguments according to which the project has been sliced (LNG storage, pipeline, road and electricity supply). Project slicing implies the breaking up of one project into different parts. The EIA Directive requires that cumulative (indirect) impacts with other projects have to be identified in the course of the respective impact assessments to ensure that the overall impact of the projects concerned can be assessed. On the basis of the information received, it is not clear whether the cumulative effects have been taken into account in this case.

Seveso

The provisions of the Seveso II Directive relevant to this development were outlined in the previous communication to the committee. On the basis of the information received to date, no evidence indicating a breach of that directive has been found in this case.

Conclusions

On the basis of the further information provided, the Commission has decided to raise the above-mentioned issues with the Irish authorities.

¹ OJ L 73, 14.3.1997

² OJ L 156, 25.6.2003



PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
EUROPÄISCHES PARLAMENT EUROOPA PARLAMENT EΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
PARLEMENT EUROPÉEN PARLAMENTO EUROPEO EIROPAS PARLaments
EUROPOS PARLAMENTAS EURÓPAI PARLAMENT IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
PARLAMENT EUROPEJSKI PARLAMENTO EUROPEU EURÓPSKY PARLAMENT
EVROPSKI PARLAMENT EUROOPAN PARLAMENTTI EUROPAPARLAMENTET

Commission des pétitions
Le Secrétariat

303944 **04.03.2009**

Brussels,
AGV/KI[02-COM.PETI(2008)D/12569]

Mr John McElligott
Kilcolgan Residents Association
Convent Street Island View
Listowel, County Kerry
Ireland

Subject: Petition Nr. 0013/2008 (reference to be quoted in all correspondence)

Dear Mr McElligott,

I would like to inform you that your petition has been included on the agenda of the meeting of the Committee on Petitions which will take place on 31 March 2009 in Brussels. It is scheduled to be dealt with around **16.00**. The meeting will take place in the **PHS** building of the European Parliament in Brussels, in room **ASP A1E2**(rue Wiertz 60 - 1047 Brussels).

In order to prepare access badges to enter the European Parliament building, please send us your date of birth as well as the names and dates of birth of all the people accompanying you **by the 25 March 2009 at the latest**. You will be awaited by one of our secretaries at the **Accreditation Centre at 15.00**. The accreditation centre is situated on the right side of the Luxembourg entrance of the Altiero Spinelli building, at the pedestrian area next to the Luxembourg train station.

When your petition is introduced, by special permission of the Committee, you may, if you wish, make a brief statement lasting no longer than five minutes. In this case, it would be helpful if you could provide copies of your statement to the Committee secretariat so that they can be distributed to the interpreters. After this the European Commission will be invited to give information on your case, and Members will then be in a position to discuss your case.

I look forward to welcoming you to the Committee meeting.

Yours sincerely,

David Lowe
Head of Unit
Committee on Petitions

Enclosure: map of the European Parliament



KOMISJA PETYCJI
PRZEWODNICZY

Brussels,
AGV/kl[02-COM.PETI(2008)D/38784]

Mr John McElligott
Kilcolgan Residents Association
Convent Street Island View
Listowel, County Kerry
Ireland

312001 16.07.2008

Subject: Petition Nr. 0013/2008 (reference to be quoted in all correspondence)

Dear Mr. McElligott,

I would like to inform you that the Committee on Petitions considered your petition and decided that the issues which you raise are admissible in accordance with the Rules of Procedure of the European Parliament, insofar as the subject matter falls within the sphere of activities of the European Union.

The committee decided to ask the European Commission to conduct a preliminary investigation of the various aspects of the problem. Moreover, it felt that the issues raised in your petition should be submitted, also, to the Committee in the European Parliament within whose terms of reference it falls and, therefore, refer it to the Committee on Environment, Public Health and Food Safety.

I would also like to draw your attention to the document here enclosed which contains the reply given by the European Commission to petition 354/2006 which raised similar questions to those you raised with us.

I will keep you informed of any further action taken on your petition in due course.

Yours sincerely,

Marcin Libicki
Chairman
Committee on Petitions

Annexe: Notice to Members on petition 354/2006 (CM 667755EN)



PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
EUROPÄISCHES PARLAMENT EUROOPA PARLAMENT EΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
PARLEMENT EUROPÉEN PARLAMENTO EUROPEO EIROPAS PARLAMENTS
EUROPOS PARLAMENTAS EURÓPAI PARLAMENT IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
PARLAMENT EUROPEJSKI PARLAMENTO EUROPEU EURÓPSKY PARLAMENT
EVROPSKI PARLAMENT EUROOPAN PARLAMENTTI EUROPAPARLAMENTET

Directorate-General for the Presidency
Plenary Sitzings Directorate
Members' Activities

Luxembourg,

102561 06.02.2008

Mr John McElligott
Kilcolgan Residents Association
Convent Street Island View
Listowel County Kerry
Ireland

Dear Sir,

On behalf of the Secretary-General, I am writing to you to acknowledge receipt of your petition forwarded by e-mail on 06/01/2008.

Your petition has been entered in the general register as Petition No. 0013-08 and I should be most grateful if you would use that reference number in any future correspondence.

Your petition has been forwarded to the Committee on Petitions which will, first of all, take a decision on its admissibility, i.e. on whether the subject of your petition falls within the sphere of activities of the European Union. If the committee declares it admissible, it will then examine the substance of your petition.

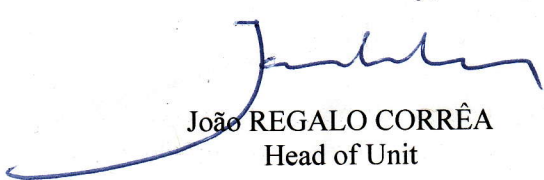
The Committee on Petitions will write to you directly to inform you of its decision on admissibility.

If your petition is declared admissible, the aforementioned committee will examine it at a meeting open to the public in accordance with the provisions of the European Parliament's internal Rules of Procedure.

May I draw your attention to the fact that the procedure for the examination of a petition may be fairly lengthy, given the large number of petitions that we receive which have to be translated into all the official languages of the European Union and then examined by the Committee on Petitions.

Please address any further correspondence on this matter to the following address: Secretariat of the Committee on Petitions, European Parliament, rue Wiertz, B-1047 Brussels. Fax.: 0032/22846844.

Yours faithfully,


João REGALO CORRÊA
Head of Unit



**Kilcolgan Residents
Association
& Safety Before LNG**
Protecting the Shannon Estuary

Safety Before LNG
Island View
5 Convent Street
Listowel
County Kerry
Ireland

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

17 April 2009

John McElligott (Irish)

On behalf of

**KILCOLGAN RESIDENTS ASSOCIATION
&
SAFETY BEFORE LNG**

Petition Number 0013/2008

On

**Breaches of, *inter alia*, the
SEA, SEVESO II, EIA, HABITATS, WATER FRAMEWORK,
EMISSIONS TRADING, ENVIRONMENTAL and IPPC Directives
in the planning and approval of a Liquefied Natural Gas (LNG)
Regasification Terminal on the Shannon Estuary, Ireland.**

The following updated information on this petition to be read in conjunction with our previous submissions dated January 6th 2008, August 1st 2008 and March 31st 2009. It proves that more than 10,000 people are affected by the rezoning of the site for the proposed LNG terminal to Industrial, which therefore should have been submitted to an SEA

European Parliament,
Committee on Petitions,
Secretariat,
Rue Wiertz,
B-1047 Brussels.
Email: IP-PETI@europarl.europa.eu

In our submission to the EU Petitions Committee of 31 March 2009 we stated that a Strategic Environmental Assessment (SEA) should have been undertaken before the land for the proposed Shannon LNG terminal was rezoned Industrial and that more than 10,000 people would be affected by the rezoning. The Commission had previously noted that, in Ireland, plans for small areas are exempted if less than 10,000 people are affected by the plan.¹

We are now attaching proof that more than 10,000 people are affected.

The Quantitative Risk Assessment undertaken by the Shannon LNG company admitted that an accident could result in an area as far away as 12.4 kilometres being affected as follows²:

*“A rule-set has been created for the QRA by considering the development of the largest cloud produced by the consequence analysis, that for catastrophic failure of a full tank in F2 weather. This cloud has a maximum downwind distance to LFL of **12.4 km.**”*

At a conservative estimate more than 17,500 people are affected by the rezoning of the land for the proposed LNG terminal due to the dangers posed by LNG tankers travelling along the Shannon Estuary to and from the site. This means that an SEA should have been implemented for the variation to the County Development Plan required for the rezoning.

Our figures have been taken from the Irish 2006 Census published by the Central Statistics Office as follows³:

APPOXIMATE POPULATION CALCULATION

Radius of 12.4 Kilometres from proposed LNG tanker Route

Kilrush Electoral Area

<u>Clooncoorha</u>	363
<u>Cooraclare</u>	548
<u>Doonbeg</u>	701
<u>Einagh</u>	299
<u>Kilballyowen</u>	297
<u>Kilfearagh</u>	328
<u>Kilkee</u>	1,325
<u>Killimer</u>	482

¹ http://www.europarl.europa.eu/meetdocs/2004_2009/documents/cm/750/750406/750406en.pdf page 3 of Committee on Petitions notice on petition 0013/2008 of October 22nd 2008

² “Land Use Planning QRA Studies of the Proposed Shannon LNG Terminal”, September 2007 Reference 0059890-R02 QRA Issue 1 Prepared by: Dr Andrew Franks http://www.shannonlngplanning.ie/files/LUP_QRA_Issue1.pdf page 32

³ [http://www.cso.ie/census/documents/Amended%20census2006 %20Volume%201%20Pop%20Classified%20by%20Area.pdf](http://www.cso.ie/census/documents/Amended%20census2006%20Volume%201%20Pop%20Classified%20by%20Area.pdf)

<u>Kilrush</u>	621
<u>Moveen</u>	83
<u>Moyarta</u>	266
<u>Querrin</u>	170
<u>Tullig</u>	144
<u>Tullycreen</u>	136

TOTAL	5,763
-------	-------

Glin Electoral Area

<u>Glin</u>	1,211
<u>Kilfergus</u>	503

TOTAL	1,714
-------	-------

Listowel Electoral Area

<u>Astee</u>	503
<u>Ballyconry</u>	435
<u>Ballyduff</u>	921
<u>Ballyhorgan</u>	405
<u>Beal</u>	162
<u>Carrig</u>	409
<u>Drommartin</u>	461
<u>Gullane</u>	220
<u>Gunsborough</u>	342
<u>Killehenry</u>	1,795
<u>Leitrim</u>	499
<u>Lislaughtin</u>	646
<u>Lisselton</u>	342
<u>NewtownSandess</u>	1,036
<u>Shronowen</u>	239
<u>Tarbert</u>	810
<u>Tarmon</u>	492
<u>Urlee</u>	356

TOTAL	10,073
-------	--------

<u>GRAND TOTAL</u>	<u>17,550</u>
---------------------------	----------------------



**Kilcolgan Residents
Association
& Safety Before LNG**
Protecting the Shannon Estuary

Kilcolgan Residents Association
Island View
5 Convent Street
Listowel
County Kerry
Ireland

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

31 March 2009

John McElligott (Irish)

On behalf of

**KILCOLGAN RESIDENTS ASSOCIATION
&
SAFETY BEFORE LNG**

Petition Number 0013/2008

On

**Breaches of, *inter alia*, the
SEA, SEVESO II, EIA, HABITATS, WATER FRAMEWORK,
EMISSIONS TRADING, ENVIRONMENTAL and IPPC Directives
in the planning and approval of a Liquefied Natural Gas (LNG)
Regasification Terminal on the Shannon Estuary, Ireland.**

The following updated information on this petition to be read in conjunction with our previous submissions dated January 6th 2008 and August 1st 2008.

European Parliament,
Committee on Petitions,
Secretariat,
Rue Wiertz,
B-1047 Brussels.
Email: IP-PETI@europarl.europa.eu

CONTENTS

Introduction
Summary
Detailed Discussion
Conclusion

Update of Petition 0013/2008, August 1st, 2008
Petition 0013/2008, lodged January 6th, 2008

Appendix Petition 1

Report to the Inspector on the proposed Shannon LNG development – Ecology, *Prepared for:* An Bord Pleanála, 64 Marlborough Street, Dublin 1. February 2008 FINAL REPORT
Prepared by: Ecological Consultancy Services Ltd (EcoServe), B19 KCR Industrial Estate, Kimmage, Dublin 12. www.ecoserve.ie

Appendix Petition 2

SHANNON LNG Hydrological and Hydrogeological Impact Assessment of the Proposed Shannon LNG (Liquid Natural Gas) Terminal Development at Ballylongford, Co. Kerry Interim Quarterly Baseline Report October to December 2007 MEL Brief: D1 MEL Doc. Ref.:1946-337 (Q3 Oct-Dec 2007) Rev. 1 & FINAL Friday 4th January, 2008

Appendix Petition 3

Technical Advice given by the Health and Safety Authority (HSA) to An Bord Pleanála as required under the Seveso II Directive.

Appendix Petition 4

Complaint to the Office of the Ombudsman concerning refusal to carry out a Strategic Environmental Assessment on variation No 7 of 2007 to Kerry County Development Plan Includes Attachments:

- 6. Notice of proposed variation to Kerry County Development Plan
- 7. Ballylongford Screening Report
- 15. SemEuro Planning for Petroleum Storage facilities

Appendix Petition 5

SemEuro application for Petroleum Storage installation and related marine facilities at Ballylongford, County Kerry.

Appendix Petition 6

Planning and Development Act 2000, Section 5 referral on whether changes to the Shannon LNG project at Tarbert, County Kerry granted permission under PA0002 constitute work on the original project which is or is not development and is or is not exempted development.

Includes Attachments:

- II) Section 5 Appendix 1. Signed Submission by MEP Ms. Kathy Sinnott.
- III) Section 5 Appendix 2. Signed Submission by ‘Friends of the Irish Environment’.
- IV) Section 5 Appendix 3. Shannon LNG Information booklet, Issue 5 November 2008.
- V) Section 5 Keely and Pierce Brosnan Signed Submission

- VI) Section 5 Susan Jordan of the California Coastal Protection Network Signed Submission
- VII) Section 5 Pobal Chill Chomain, County Mayo, submission
- VIII) Section 5 Steve Goldthorpe, Energy Analyst, submission
- IX) Section 5 reply from Kerry County Council of December 16th 2008.

Appendix Petition 7

“Single Approach to Gas Quality” Commission for Energy Regulation, Decision Paper CER/09/035 2nd March 2009

Appendix Petition 8

“Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis”, Executive Summary , Jointly commissioned by the Department of Communications, Energy and Natural Resources and the Department of Enterprise, Trade and Investment, Northern Ireland. November 2007

Appendix Petition 9

Höegh LNG and Irish Sea Offshore Gas Storage

Appendix Petition 10

Review of: “Milford Haven Port Authority: Approach to and use of Risk Assessments” by Eur.Ing. Raymond Anthony Cox 07 September 2008.

Appendix Petition 11

Request for Information from the Department of Energy, Communication and Natural Resources.under EC (Access to Information on the Environment) Regulations 2007

Appendix Petition 12

Strategic Infrastructure Development (SID)
Flowchart by An Bord Pleanála

Appendix Petition 13

THE SUPREME COURT Murray C.J. 531 & 535/04 Denham J. Geoghegan J.
Between ERIC MARTIN Applicant / Appellant -v- An Bord Pleanála, IRELAND
AND THE ATTORNEY GENERAL Respondents AND INDAVER Ireland LIMITED
NOTICE PARTY JUDGMENT of Murray C.J. delivered on the 10th day of May, 2007

Appendix Petition 14

Dr. Mary Kelly, director of Environmental Protection Agency (EPA) on enforcing a Strategic Environmental Assessment. - 5 December 2008

Appendix Petition 15

KILCOLGAN RESIDENTS ASSOCIATION & SAFETY BEFORE LNG - Submission on proposed Shannon LNG Natural Gas Pipeline and proposed compulsory acquisition of lands thereon from Kilcolgan, County Kerry to Foynes, County Limerick.
Re: GA0003 and DA0003, 7 October 2008

Appendix Petition 16

David O’Callaghan of the “Sea Energy Group”, Submission on draft County Development Plan 2009-2015, 1 September 2008.

Introduction

Since our petition began on January 6th 2008 Shannon LNG has obtained planning permission from An Bord Pleanála for an LNG terminal in Tarbert, County Kerry, Ireland. Shannon LNG separately obtained planning permission from An Bord Pleanála for a 26-kilometre pipeline from the proposed LNG terminal to the National Grid in Foynes, County Limerick.

However, this is only part of the development consent process. The following is still required:

- An Integrated Pollution and Prevention Control (IPPC) licence from the Environmental Protection Agency; (EPA).
- A Foreshore Licence from the Department of Agriculture;
- Derogation from the provision of Article 12 of the Habitats Directive by the Minister for the Environment as the project is on waters of a Special Area of Conservation (SAC).

Summary

We assert that EU Directives were breached as follows:

1. No Strategic Environmental Assessment (SEA) was undertaken when the rural lands were rezoned by a variation to the County Development plan for the proposed LNG terminal.
2. No Strategic Environmental Assessment (SEA) has been undertaken of the energy hub being created on the Shannon Estuary;
3. The LNG, once re-gassified, is partly for eventual export - an energy export plan which would require a Strategic Environmental Assessment (SEA)
4. A top-tier, SEVESO II LNG terminal is being allowed in the middle of a rural residential area on SAC waters contrary to the SEVESO II Directive, even though other alternative sites exist offshore and are currently being proposed by the Norwegian company Hoegh LNG in its Port Meridian 15 miles offshore in the Irish Sea
5. No LNG Marine Risk Assessment was completed for this project at the public consultation stage (a navigational assessment only took place after permission was given) even though we requested this vital environmental information as early as 14 November 2007;
6. No emergency plan was considered at the public consultation stage as we requested even though the consequence area is at least 12.4 kilometres from the source of an accident;
7. The new fast-track planning Act - the Strategic Infrastructure Act 2006 - prevented vital information on another dangerous petroleum storage facility by SemEuro¹ adjacent to the proposed LNG terminal from being disclosed as the public is not allowed to participate in applications for Considerations as Strategic Infrastructure lodged with An Bord Pleanála;
8. The only Irish Government policy document on LNG storage we requested was not released to the planning authority when it was making its planning decision because the government refused its release on “public interest“ grounds until a few days after planning permission was given;
9. There has been no interaction between the different statutory bodies - the EPA and An Bord Pleanála - involved in the development consent process so the pollution criteria of alternative sites cannot now be assessed by the EPA;
10. “Project Slicing” of the LNG Terminal and Associated pipeline has prevented consideration of the cumulative impacts of both the Terminal and the Pipeline;
11. A special area of conservation is not being protected as obliged under the Habitats Directive because a satisfactory alternative exists in the Irish Sea.

¹ <http://www.pleanala.ie/casenum/PC0008.htm>

Transparency International, in March 2009, in a study funded by the Irish Government Department of Justice, Equality and Law Reform, found that in Ireland, “personal relationships, patronage, political favours, and political donations are believed to influence political decisions and policy to a considerable degree.”² This “legal corruption”, as Transparency International terms it, is the root cause of our petition because we believe that a political decision was made to site the LNG terminal on the southern shores of the Shannon Estuary and now the development consent bodies are only “ticking the boxes” to give permission for this terminal without any strategic planning or concern for the environment or health and safety of the thousands of people living within the danger zone of this development.

Hess/Shannon LNG lied in its planning application when it said that an LNG spillage would evaporate rapidly³. The developer suggested that in the case of an accident, for protection, one could run away, hide behind trees or hold a newspaper to one’s face.⁴ However, LNG expert Dr. Havens said that an accident would “*have the potential to put people in harm’s way to a distance of approximately three miles from the ship*”.

To the Committee’s comments on this petition of October 2008 we reply as follows:

- a) On Project slicing: An Bord Pleanála has already stated that cumulative impact assessment is a matter for the Environmental Protection Agency (EPA)⁵ but the EPA does not assess alternative sites. This proves a lack of interaction between these two development-consent authorities;
- b) On the EIA: There is information missing in the EIA including a marine LNG risk assessment, an emergency plan evaluation, a withheld government LNG storage policy document, effects of noise of on-ship liquefaction at port on the acoustically-sensitive protected resident bottlenosed dolphins and pollution of alternative sites;
- c) On the SEA: more than 10,000 people are affected by the project due to the dangers posed by LNG tankers along the estuary. An SEA is required for rezoning and for the Energy hub being created in the Shannon Estuary - an energy plan which will provide gas partly for export;
- d) On Seveso: The jetties are part of the establishment and no marine risk assessment took place there. This site did not conform to the SEVESO Directive because alternative sites pose no risk to residents or SAC areas;
- e) Additionally, we want strict enforcement of the protection of this Special Area of Conservation under the Habitats Directive because several alternative sites exist - one being Hoegh LNG’s facility 100 miles from Dublin offshore in the Irish Sea.

We have recently learned that Hess/Shannon LNG had in fact paid nearly half a million euros to the government-owned Shannon Development before the land was even rezoned for the LNG terminal without an SEA. We believe that the Irish government has now compromised its objectivity. That is why we are asking the European Union to investigate this matter in greater

² http://www.transparency.ie/Files/NIS_Executive_Summary_Ireland_2009.pdf

³ Shannon LNG Terminal Environmental Impact Statement section 11.11.4

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_2_of_4_Issue1.pdf and Shannon LNG

⁴ day 5 of LNG terminal oral hearing at 10:53 page 34 of transcripts.

⁵ “Well all I can do is refer you to the EPA guidance documents in relation to Environmental Impact Assessment and they, I believe, set out quite clearly the scope of what is considered to be cumulative impacts and I would just draw your attention to that” - An Bord Pleanála Inspector, page 111 of transcripts of day 2 of pipeline oral hearing at 12:28

detail, to assess the detailed written update to this petition we are now submitting and to monitor and regulate more clearly the specific challenges posed by the LNG industry.

A recent EU study for DG TREN in May 2008 found that “[gas] is part of the problem with respect to global warming, not the answer”.⁶

⁶ “Study on Interoperability of LNG Facilities and Interchangeability of Gas and Advice on the Opportunity to Set-up an Action Plan for the Promotion of LNG Chain Investments” Final Report. May 2008. TREN/CC/05-2005. Part II page 5

Detailed Discussion

Issue 1: No Strategic Environmental Assessment (SEA) was undertaken when the rural lands were rezoned by a variation to the County Development plan for the proposed LNG terminal

Law:

Paragraph 10 of the recital of the SEA Directive states:

“All plans and programmes which are prepared for a number of sectors and which set a framework for future development consent of projects listed in Annexes I and II to Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment □, and all plans and programmes which have been determined to require assessment pursuant to Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna □, are likely to have significant effects on the environment, and should as a rule be made subject to systematic environmental assessment. When they determine the use of small areas at local level or are minor modifications to the above plans or programmes, they should be assessed only where Member States determine that they are likely to have significant effects on the Environment.”

This confirms that any rezoning that sets the framework for future development consent for projects that are listed in the Environmental Impact Assessment Directive – such as "surface storage of natural gas" of ANNEX II section 3(c) - must have a Strategic Environmental Assessment done before land can be rezoned for such projects.

Article 3(5) of the SEA Directive states:

“Member States shall determine whether plans or programmes referred to in paragraphs 3 and 4 are likely to have significant environmental effects either through case-by-case examination or by specifying types of plans and programmes or by combining both approaches. For this purpose Member States shall in all cases take into account relevant criteria set out in Annex II, in order to ensure that plans and programmes with likely significant effects on the environment are covered by this Directive.”

All LNG terminals also come under the SEVESO II Major Accidents Directive and as such come under the criteria specified in ANNEX II (2) - "the risks to human health or the environment (e.g. due to accidents)". The LNG project is therefore a project likely to have “significant effects on the environment” as defined by Article 3(5). This also means that an SEA was required for the rezoning of these lands for the LNG project.

Argument:

Kerry County Council claimed that since the LNG project might not have proceeded to planning application stage its decision to ignore the possibility of a Seveso II LNG terminal in the SEA screening process is justified.

This justification is contradicted by the fact that MONEY HAD ALREADY CHANGED HANDS the year before the decision to rezone without an SEA took place on March 12th 2007.

In June 2008, Shannon Foynes Port Company disclosed some of the details of the option-to-

purchase agreement between the landowner Shannon Development and Shannon LNG. They stated that it was conditional on obtaining planning permission within 2 years⁷. From Shannon LNG accounts lodged with the Companies Registration Office, for year ended 31 December 2006, it is noted that Shannon LNG had already paid at least €493,000 to Shannon Development by December 2006 (three months before the vote on March 12th 2007) and this figure rose to €1,233,000 by year end December 31st 2007⁸.

Kerry Councillor John Brassil, a director of Shannon Development at the time of the signing of the option to purchase with Shannon LNG had asked the Executive of Kerry County Council to give this LNG project “every support” in the Council Meeting of 20 June 2006. The senior management team announced at that meeting to oversee the LNG project was confirmed by the Ombudsman letter of January 5th 2009 to include the current county manager Mr. Tom Curran..

The fact that nearly half a million euros had changed hands between the developer Shannon LNG and the landowner Shannon Development (a state-owned company whose Chairman is also a Kerry County Councillor) before the decision to rezone took place proves that the LNG proposal was, at the very least, likely to go ahead and that Kerry County Council was aware of this fact at the time of the rezoning.

The zoning of the land for Industrial use was a determining factor by the inspector dealing with the planning application for the LNG Terminal when he stated:

*“In March 2007, Variation 7 of the County Development Plan rezoned 188.8 hectares of the Shannon Development land bank at Ballylongford. 105 hectares were rezoned from Rural General to Industrial and 83 hectares to the west of the application site were rezoned from Secondary Special Amenity to Industrial. The application site is thus zoned for industrial use.”*⁹

A recent EU study for DG TREN in May 2008 found that:

*“For LNG terminal projects (regasification, that is) there are potential environmental, health and safety and social impacts. These need to be analyzed within the framework of EIAs and SEAs (Strategic Environmental Assessments). Such projects include ancillary pipelines that connect the facility to the gas distribution networks. Such gas pipelines will also require the preparation of an EIA and an SEA”.*¹⁰

Because no Strategic Environmental Assessment was undertaken when the site was rezoned from rural to industrial, the public was denied their rights under European law to consider national policy and strategic alternatives.

⁷ http://www.sfpc.ie/downloads/LNG_Full%20Report.pdf Section 3.1 page 22

⁸ see Appendix Petitions 4: Complaint to The Office of the Ombudsman

⁹ see page 11 of Inspectors Report into LNG Terminal planning decision PA0002
<http://www.pleanala.ie/casenum/PA0002.htm>

¹⁰ “Study on Interoperability of LNG Facilities and Interchangeability of Gas and Advice on the Opportunity to Set-up an Action Plan for the Promotion of LNG Chain Investments” Final Report. May 2008. TREN/CC/05-2005. Part II page 11

Issue 2: No Strategic Environmental Assessment (SEA) has been undertaken of the energy hub being created on the Shannon Estuary

Law:

The SEA Directive obliges an SEA for Energy Plans and Programmes in Article 3(2), which states:

*“Subject to paragraph 3, an environmental assessment shall be carried out for all plans and programmes,
(a) which are prepared for agriculture, forestry, fisheries, **energy**, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC”.*

Argument:

An Energy Hub is being created in the Shannon Estuary¹¹ without any strategic environmental assessment which would represent integrated development.

SemEuro has proposed a one million cubic metre petroleum storage facility adjacent to the proposed LNG terminal.¹²

Atlantic Fuel Supply Company Ltd. Is constructing a 79,000 cubic metre oil terminal capable of storing 15% of the country's oil needs at Foynes¹³.

Shannon LNG has created another company (Ballylongford Electricity Company Limited) to build a gas-fired electricity generating station adjacent to the LNG terminal¹⁴.

Spanish Company Endessa has plans to convert the Tarbert Power station to Gas¹⁵.

On October 8th, 2008: Doctor Mary Kelly, director of the Environmental Protection Agency (EPA), speaking at the launch of the agency's fourth report – “2008 Ireland's Environment” - in Dublin, on October 8th, 2008¹⁶, stated:

*“In addition, Strategic Environmental Assessments (SEAs) would have to be imposed on all major projects, while the State must comply with EU environmental legislation”.*¹⁷

On October 28th 2008, the Kilcolgan Residents Association wrote to Dr. Kelly asking her if, following her statement to the media on October 8th, the EPA will be requiring that an SEA first be undertaken for this major project, which, in our opinion, is now clearly part of a larger strategy of the development of an oil and gas storage hub on the southern shores of the Shannon Estuary.

“I have noted what you say and wish to point out that the Agency does not have the power to require that an SEA be carried out in relation to any Plan or Programme.”

¹¹ see 'Sunday Business Post' article “Treasures at the Bottom of the Sea” Éibhir Mulqueen, page n15
<http://www.sbpost.ie/post/pages/p/story.aspx-qqqt=NEWS+FEATURES-qqqm=nav-qqqid=40466-qqqx=1.asp>

¹² See <http://www.kerryman.ie/news/oil-storage-facility-proposals-withdrawn-1685137.html>
<http://www.pleanala.ie/casenum/PC0008.htm> and Appendix Petitions 5 - SemEuro Petroleum Storage Facility on Shannon Estuary

¹³ see point 13 of our updated submission dated 1 August 2008 below

¹⁴ <http://www.kerryman.ie/news/company-formed-to-run-electricity-plant-on-lng-site-1553572.html> Kerryman, November 26, 2008

¹⁵ see 'Sunday Business Post' article “Treasures at the Bottom of the Sea” Éibhir Mulqueen, page n15

¹⁶ <http://www.epa.ie/news/pr/2008/name.25271.en.html>

¹⁷ See “Irish Times” Thursday October 9, 2008 page 7
<http://www.irishtimes.com/newspaper/ireland/2008/1009/1223445617602.html>

If the EPA cannot force an SEA to be carried out, we request that the EU please oblige enforcement of the SEA Directive in this case.

David O'Callaghan of the Sea Energy group has stated in his submission to the Kerry County Development Plan¹⁸ that his project would be sterilised by the LNG project as follows:

"JOINTLY WITH SHANNON DEVELOPMENT WE MADE A SUBMISSION TO SUSTAINABLE ENERGY IRELAND TO CREATE A FACILITY AT BALLYLONGFORD FOR THE DEVELOPMENT OF CAL TECHNOLOGIES AND THE CREATION OF RENEWABLE ENERGY MODULES FOR HARNESSING SEA ENERGY (TIDAL FLOW OFFSHORE WIND AND WAVE.)

THE BALLYLONGFORD SITE IS BY FAR THE BEST SITE IN IRELAND IF NOT IN EUROPE FOR THIS ACTIVITY BECAUSE OF ITS SHELTERED LOW WAVE ENVIRONMENT AND, IN PARTICULAR, ITS UNIQUE INSHORE DEEP WATER. IT HAS THE POTENTIAL TO PROVIDE SOME 2000 WELL PAID AND LONG TERM JOBS IN THE NEAR FUTURE AND SHOULD NOT BE "GIVEN AWAY" TO AN AMERICAN COMPANY WITH A MONOPOLY IN IRELAND FOR THE PROVISION OF LNG AND CAUSING A ONGOING DANGER TO THE SURROUNDING COMMUNITIES (INCLUDING LIMERICK CITY WHICH IS DOWN WIND). AN LNG TERMINAL CAN BE BETTER LOCATED OFFSHORE WHERE LAND IS NOT REQUIRED AND WHERE RISK IS LOW SHOULD THINGS GO WRONG. SIGNIFICANTLY COSTS ARE LESS IN THE LONGER TERM DUE TO A REDUCED TURNAROUND TIME FOR BULK CARRIERS AND A DANGER ALLOWANCE WILL NOT BE REQUIRED BY TRADE UNIONS FOR WORKERS IN THE PROPOSED ADJOINING INDUSTRIAL DEVELOPMENT SITES.

YOUR DRAFT PLAN STATES :

"Aside from the deepwater asset it is hoped that the presence of the LNG plant, the availability of natural gas, the proximity to the national grid and the potential for refrigeration from the regasification process, combined with the additional physical infrastructure in terms of roads and water will make this a very attractive location for other industries to locate in the future.

THIS STATEMENT IS MISLEADING BECAUSE :

- THE DEEP WATER ASSET WILL BE COMPROMISED THROUGH LOCATING AN LNG TERMINAL ON THE SHORE.*
- OFF THE WATERFORD-WEXFORD COAST THE NATIONAL GAS GRID IS CLOSER AND THE PREVAILING WIND IS IN AN OFFSHORE DIRECTION.*
- IN ANY EVENT A GAS SUPPLY WILL BE IMPORTED TO PROVIDE GAS FOR THE SOON TO BE CONVERTED TARBERT POWER STATION*
- TO STATE THAT THERE IS POTENTIAL FOR REFRIGERATION IGNORES THE COST OF SUCH AN ADAPTATION.*
- USING 100 M GALLONS OF WATER A DAY FROM THE SHANNON WILL HAVE A SIGNIFICANT EFFECT ON THE LOCAL ENVIRONMENT*
- THE PRESENCE OF AN LNG TERMINAL WILL OVERWHELM ANY ADVANTAGE BEING GAINED FROM NEW ROADS AND SERVICES."*

¹⁸ See Appendix Petition 16 - Submission of Sea Energy Group to Kerry County Draft Development Plan 2009-2015, September 2008.

Issue 3: The LNG, once re-gassified, is partly for eventual export - an energy export plan which would require a Strategic Environmental Assessment (SEA)

Law:

The SEA Directive obliges an SEA for Energy Plans and Programmes in Article 3(2), which states:

*“Subject to paragraph 3, an environmental assessment shall be carried out for all plans and programmes,
(a) which are prepared for agriculture, forestry, fisheries, **energy**, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC”.*

Argument:

Energy Analyst, Stephen Goldthorpe, found that “the entire supply of natural gas for power generation in Ireland in 2007 would correspond to 38 shiploads of LNG per year”¹⁹

As Shannon LNG plan 125 ships a year²⁰ then the extra LNG, once re-gassified, must be for export.

125 ship loads of LNG represent approximately 346 PJ per year into the terminal.²¹

The 2007 energy data from Sustainable Energy Ireland indicates that the total natural gas consumption of 180 PJ (65 shiploads) was distributed as 105 PJ (38 shiploads) for power generation and 75 PJ (27 shiploads) for industrial and other uses. The SEI data indicates that 16 PJ (6 shiploads) was indigenous and 164 PJ (59 shiploads) was imported through the gas pipelines from the UK.

If 346 PJ (125 shiploads) is imported each year then, at the 2007 consumption rates, 180 PJ (65 shiploads) would be consumed for power and other uses. The other 166 PJ (60 shiploads) would have to be exported from Ireland to the UK through the undersea pipelines as compressed gas (not in the form of LNG which is forbidden to leave the terminal by ship as a condition of planning).

No discussion has been presented by Shannon LNG on what might happen to all the extra gas; whether it is expected to be used in Ireland once more capital infrastructure investment takes place to consume all this extra gas or whether it is expected to be for export to the UK. Either way, this is an “energy plan” which requires a Strategic Environmental Assessment.

The Government policy document on LNG Storage - “Study on Common Approach to Natural

¹⁹ See attached submission by Stephen Henry Goldthorpe on Section 5 referral to An Bord Pleanála on project splitting page 3, Appendix Petitions P6

²⁰ Shannon LNG Terminal Environmental Impact Statement page 3 of Volume 1 - Non Technical Summary http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf

²¹ Assuming an LNG tanker contains 130,000 cubic metres of LNG with a density of 0.424 kg/litre and an energy content of 50.1 MJ/kg on a lower heating value basis

Gas Storage and Liquefied Natural Gas on an All Island Basis – November 2007”²² found that Ireland is already in compliance with all its EU obligations as per Directive 2004/67/EC concerning measures to safeguard security of natural gas supply because Ireland is required to protect domestic customers only as follows:

“The only formal supply security requirement on EU Members is to comply with Council Directive 2004/67/EC, which requires provisions to protect domestic customers. There is no requirement that such protection should be within national borders and on the basis that the island of Ireland is part of a wider British Isles market, the island of Ireland would seem to be in compliance. On this strictly legal basis, there would seem to be no external imperative for government intervention on the island of Ireland to ensure gas storage and/or LNG supplies are in place on the island of Ireland”.

Another consequence of this policy is that LNG will flood the Irish market with fossil fuels leaving the renewable energy sector unable to compete, preventing compliance with the Kyoto Protocol and the EMISSIONS TRADING Directive (Paragraph 25 of Recital²³). This is also an energy plan which would require an SEA in any case.

If the plan is to have LNG terminals situated in Ireland for export of LNG-sourced Natural Gas to other parts of Europe (e.g. UK) to support the EU Security of Energy then that is therefore an energy plan which would require a Strategic Environmental Assessment.

The Government policy document on LNG Storage - “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis – November 2007”²⁴ also noted the possibility of Government “facilitation” of the LNG project which would equally require an SEA as it would be an energy plan:

“As noted above, the situation with regard to supply of gas to the island will change over the period covered by this report. Some of these changes are reasonably predictable (e.g. Corrib), some might or might not occur with or without government intervention or facilitation (e.g. Shannon LNG, commercial gas storage in the Celtic Sea or in salt caverns in Northern Ireland).”

The “Commission for Energy Regulation”, the Irish Gas and Electricity Regulator, is preparing to facilitate the physical flow of gas from Ireland to the UK as discovered in a recently published decision paper on gas quality.²⁵ This is an energy plan which also requires an SEA.

It stated that:

“Based on the substantial body of research currently available, particularly in relation to domestic appliances in the UK and Ireland, and the responses of power generators the

²² <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> page 8. See Appendix Petition 8 “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis”, November 2007 Petition 0013/2008

²³ see point 2 of our updated submission dated 1 August 2008 below

²⁴ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> page 10 See Appendix Petition 8 “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis”, November 2007

²⁵ www.cer.ie/GetAttachment.aspx?id=a63f5d62-6022-4ed7-96bb-b1dd742dd482 Commission for Energy Regulation, “Single Approach to Gas Quality”, 2nd March 2009 See Appendix Petition 7

*Group concluded that the current gas quality specification stated in the Code of Operations is too wide and should be narrowed. In narrowing the specification the general view was that aligning with the GS(M)R would be most appropriate, given that this is effectively the specification of the gas currently being delivered to the ROI transportation system and would ensure harmonisation with the gas quality specification in NI, **facilitating the physical flow of gas between both jurisdictions**. It should be noted however that there was a difference of opinion amongst the Group as to whether there was a need to make a decision on gas quality in advance of LNG being available in Ireland. The Commission supports this conclusion, and supports the view that a decision should not be deferred any further“.*

It went on to state:

*“The Report recommends the adoption of the GS(M)R limit on oxygen; the main reason being that it provides additional options for the treatment of gas, particularly in the case of LNG. The Group was of the opinion that the limit of 0.2%mol, as opposed to the proposed 0.001%mol, would not give rise to any safety or pipeline integrity issues. However the Report recommends an examination of the relationship between the water content and oxygen limit with a view to revising the water content limit to a limit appropriate to an oxygen limit of 0.2% mol. The Commission supports this recommendation but notes that while the GS(M)R oxygen limit meets the objectives of the CAG it is not within the very tight NTS entry specification limits³. **Therefore it may not be possible to flow gas from the island to Great Britain without further treatment.** The Regulatory Authorities will re-examine the oxygen limit as part of the further work to be undertaken by the Gas Quality Industry Group. This group will continue to meet regularly to review gas quality issues and the oxygen limit may be revised downwards in the future should it be considered necessary to align to the entry specifications in both jurisdictions with those of National Grid “.*

In summary, an outcome of the operation of an LNG terminal handling 125 LNG ships per year would be to reverse the direction of flow of compressed natural gas through the undersea pipelines between the island of Ireland and the UK. That has major technical, commercial and strategic implications and constitutes a major energy plan.

An Energy Plan requires a Strategic Environmental Assessment.

Issue 4: A top-tier, SEVESO II LNG terminal is being allowed in the middle of a rural residential area on SAC waters contrary to the SEVESO II Directive, even though other alternative sites exist offshore and are currently being proposed by the Norwegian company Hoegh LNG 15 miles offshore in the Irish Sea

Law:

Article 12.1 of the SEVESO Directive states:

“Member States shall ensure that their land-use and/or other relevant policies and the procedures for implementing those policies take account of the need, in the long term, to maintain appropriate distances between establishments covered by this Directive and residential areas, areas of public use and areas of particular natural sensitivity or interest, and, in the case of existing establishments, of the need for additional technical measures in accordance with Article 5 so as not to increase the risks to people.

Argument:

As explained in greater detail in my submission of August 1st, 2008 below²⁶ there are alternative sites which are more appropriate, do not increase risk to residents, have an appropriate separation distance from residential areas and special areas of particular natural sensitivity. The Seveso II Directive is being breached in spirit and in fact because alternatives exist for LNG storage that do not have any of the consequences of the Shannon LNG proposal.. They are in the Irish and Celtic Sea, in the near-depleted Kinsale Gas Fields, in Salt Caverns and LNG Re-gasification vessels. One such proposal is that currently being developed by Norwegian LNG company Hoegh LNG in its Port Meridian Offshore Morecambe Bay - an LNG Deepwater Port 15 miles offshore UK in the Irish Sea²⁷.

²⁶ See update of this petition of August 1st, 2008 points 9-13

²⁷ See www.portmeridian.com and Appendix Petition P9 - Hoegh LNG project in the Irish Sea.

Issue 5: No LNG Marine Risk Assessment was completed for this project at the public consultation stage (a navigational assessment only took place after permission was given) even though we requested this vital environmental information as early as 14 November 2007

Law:

See breach of EIA Directive in Issue 8 below.

Argument:

In a review of the Milford Haven risk assessments²⁸, LNG expert, Dr. Raymond Anthony Cox found that:

“there has been no proper analysis of the risks to the shore-based population due to marine LNG spills that was made available to the decision making authorities. Approvals were therefore granted to the terminals without this critical information”

This is also the case with the Shannon LNG project: A Navigational Assessment was undertaken which did not deal with the LNG cargo hazard. This was Marine LNG Spill information needed at the public consultation stage, the lack of which prevented us from participating effectively in the planning process.

The channel at the entrance to the estuary is no wider than 350 metres in places²⁹ and the specific risks of this fact for LNG tankers, which are high in the water and more susceptible to wind factors, has not been assessed either.

²⁸ Review of: “Milford Haven Port Authority: Approach to and use of Risk Assessments” by Eur.Ing. Raymond Anthony Cox 07 September 2008. See Appendix Petition P10

²⁹ see ‘Sunday Business Post’ article “Treasures at the Bottom of the Sea” Éibhir Mulqueen, page n15
<http://www.sbpst.ie/post/pages/p/story.aspx-qqqt=NEWS+FEATURES-qqqm=nav-qqqid=40466-qqqx=1.asp>

Issue 6: No emergency plan was considered at the public consultation stage even though the consequence area is at least 12.4 kilometres from the source of an accident

Law:

See breach of EIA Directive in Issue 8 below.

Argument:

At the public consultation stage we asked for the Emergency plan to be furnished which would provide more detailed environmental information given the specific characteristics of LNG. However, the An Bord Pleanála inspector stated in her report on the LNG pipeline that:

“I do not, however, consider that the details of an emergency plan are relevant to the consideration of this application”³⁰

³⁰ See Page 33 of Inspector’s report RGA0003 Report 1 into Shannon LNG pipeline.
<http://www.pleanala.ie/casenum/GA0003.htm>

Issue 7: The new fast-track planning Act - the Strategic Infrastructure Act 2006 - prevented vital information on another dangerous petroleum storage facility by SemEuro³¹ adjacent to the proposed LNG terminal from being disclosed as the public is not allowed to participate in applications for Considerations as Strategic Infrastructure lodged with An Bord Pleanála

Law:

See breach of EIA Directive in Issue 8 below.

Argument:

At the public consultation stage we asked for the further information on the SemEuro project which had applied for Fast Track planning. As it was for a petroleum storage facility adjacent to the proposed LNG terminal we needed to know effects that project might have on the LNG project. However, An Bord Pleanála refused to divulge that information as follows by email on 22 November 2007:

“To reply in short to your telephone query, the site currently being discussed at pre-consultation stage is proposed for an adjacent site to the Shannon LNG proposed development. In relation to your request for information on pre-consultation meetings on PC0008, this is not a decided case and thus cannot be made available For public access. This is not available under the Freedom of Information Act. The complete file will be available for public viewing once a decision has been made.”³²

This information was withheld from 20 March 2007 until the application was withdrawn on 9 December 2008, that is over one year and eight months later.

The fast track planning process has prevented vital information from being obtained at a local level.³³

³¹ <http://www.pleanala.ie/casenum/PC0008.htm>

³² See Appendix Petitions 4 complaint to Ombudsman (attachment 15). Also see <http://www.pleanala.ie/casenum/PC0008.htm>

³³ Also see petition letter of January 6th, 2008 below.

Issue 8: The only Irish Government policy document on LNG storage we requested was not released to the planning authority when it made its planning decision because the government refused its release on “public interest” grounds until a few days after planning permission was given

Law:

EIA DIRECTIVE:

The LNG project is an ANNEX I project from the criteria of ANNEX I (8)(b):

“Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 350 tonnes”

The LNG project is also an ANNEX I project from the criteria of ANNEX I (21)

“installations for storage of petroleum, petrochemical or chemical products with a capacity of 2000 000 tonnes or more”.

In any case the LNG project is also an ANNEX III project due to the characteristics of the project such as size and risk of accidents, due to its location in an environmentally-sensitive area, and due to the potential impact of an accident.

An ANNEX I projects mean Article 4(1) applies:

“Subject to Article 2(3), projects listed in Annex I shall be made subject to an assessment in accordance with Articles 5 to 10”.

This means Article 6(3)(c) applies:

“Member States shall ensure that, within reasonable time-frames, the following is made available to the public concerned Information other than that referred to in paragraph 2 of this Article which is relevant for the decision in accordance with Article 8 and which only becomes available after the time the public concerned was informed in accordance with paragraph 2 of this Article”.

Also, Article 6(4) states that:

“The public concerned shall be given early and effective opportunities to participate in the environmental decision-making procedures referred to in Article 2(2)”.

The public was not given an opportunity to participate effectively in the planning process because of five vital missing bits of information:

- 1) there was no LNG Marine risk assessment;
- 2) no details of the emergency plan;
- 3) no details of the SemEuro Petroleum Storage facility planned adjacent to LNG Terminal;
- 4) the only government policy document on gas and LNG storage was being withheld from the public and the planning authorities until after planning permission was given and
- 5) there had been no interaction whatsoever with the Environmental Protection Authority on the pollution risks on alternative sites.

Because these five pieces of information were missing then Article 3, was also contravened because the information was not available in the EIA:

“The environmental impact assessment shall identify, describe and assess in an appropriate manner, in the light of each individual case and in accordance with Articles 4

to 11, the direct and indirect effects of a project on the following factors:

- human beings, fauna and flora;*
- soil, water, air, climate and the landscape;*
- material assets and the cultural heritage;*
- the interaction between the factors mentioned in the first, second and third indents“.*

Article 5(1) states:

“In the case of projects which, pursuant to Article 4, must be subjected to an environmental impact assessment in accordance with Articles 5 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV in as much as:

(a) the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of project and of the environmental features likely to be affected;

(b) the Member States consider that a developer may reasonably be required to compile this information having regard inter alia to current knowledge and methods of assessment.”

Article 5 (1) was breached because the missing information was relevant at the An Bord Pleanála stage of the consent process.

ANNEX IV (4):

“A description of the likely significant effects of the proposed project on the environment resulting from - the existence of the project”

This ANNEX IV(4) is contravened because since no LNG Marine Risk Assessment or SEA has taken place then it is not possible to give a description of the project where the Directive defines “description” in the same Annex as:

“This description should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project.”

It was never discussed that the LNG Terminal, if it goes ahead, will create a precedent for other dirty and dangerous projects which will destroy the environmentally-sensitive Shannon Estuary.

Article 5(4) of the EIA Directive states

“Member States shall, if necessary, ensure that any authorities holding relevant information, with particular reference to Article 3, shall make this information available to the developer“.

As the Irish Department of Energy confirmed in writing that it was refusing to release the relevant policy document on LNG Storage (Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis – November 2007) - eventually not released until after planning permission was given by An Bord Pleanála - then Article 5(4) of the EIA Directive was blatantly breached.

Argument:

On January 28th 2008 the Department of Energy, Communication and Natural Resources refused to release the Government policy document on LNG Storage - “Study on Common Approach to

Natural Gas Storage and Liquefied Natural Gas on an All Island Basis – November 2007”³⁴ on the grounds that “the public interest would not be served by disclosure of the document”. An Bord Pleanála therefore could not make an informed decision as all the environmental information was not at its disposal even though we had requested that, at the least, the government should have given it to An Bord Pleanála so that a planning decision could be made in conformity with government policy.

The Department of Energy responded on 18 January 2008 to the request for disclosure of the Policy Document requested under the European Communities (Access to Information on the Environment) Regulations 2007 as follows³⁵:

“All information on the All-Island Gas Storage Consultancy Study completed before Christmas

In early 2007, the then Department of Communications, Marine and Natural Resources(DCMNR) and the Department of Enterprise, Trade and Investment for Northern Ireland (DETINI) commissioned a joint study on a common approach on natural gas storage and liquefied natural gas (LNG) on an All-Island basis. This study stems from the strategic objectives set down in the All-Island Energy Market Development Framework, which identified the need for a common approach on natural gas storage and LNG.

The objective of the study was to assess the medium to long-term position with regard to security of natural gas supply on an all-island basis, to consider the scope for a common approach on natural gas storage and LNG with a view to optimising that position, and to make recommendations accordingly. Critical aspects of the study centre on security of supply and our heavy reliance on gas imports via undersea pipeline from the UK. The results of the study are currently under consideration in both Departments and the recommendations contained in the study, including North/South implications, will inform further initiatives and policy decisions as regards strategic storage.

Having considered your request, I have decided that: given the nature of the report as a joint initiative by this Department and its Northern Ireland counterpart, the type of information contained therein (including, but not limited to security of national gas supply and information about interconnection with the UK), and the consultation process involved, which included commercially sensitive information provided by commercial entities in strictest confidence,

- the public interest would not be served by disclosure of the document as per your request. Your request to make the record available is refused under Regulations 8(a)(ii) and 9(1)(a) and (c) of the Regulations”

Grounds that, subject to article 10, mandate a refusal

8. A public authority shall not make available environmental information in accordance with

³⁴ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> See Appendix Petition 8 “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis”, November 2007

³⁵ See Appendix Petition 11 - Request for information from the Department of Energy

article 7 where disclosure of the information—

(a) would adversely affect—

(ii) the interests of any person who, voluntarily and without being under, or capable of being put under, a legal obligation to do so, supplied the information requested, unless that person has consented to the release of that information,

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

(a) international relations, national defence or public security,

(c) commercial or industrial confidentiality, where such confidentiality is provided for in national or Community law to protect a legitimate economic interest.”

Issue 9: There has been no interaction between the different statutory bodies - the EPA and An Bord Pleanála - involved in the development consent process so the pollution criteria of alternative sites cannot now be assessed by the EPA

Law:

Article 7 of the IPPC Directive deals with the requirement of an Integrated approach to issuing permits as follows:

“Member States shall take the measures necessary to ensure that the conditions of, and procedure for the grant of, the permit are fully coordinated where more than one competent authority is involved, in order to guarantee an effective integrated approach by all authorities competent for this procedure.”

Also, see breach of EIA Directive in Issue 8 above.

Argument:

An Bord Pleanála is a competent authority as defined in the IPPC directive because it has originally screened the LNG site for permission and this is the only site that the EPA can assess for an IPPC licence. No alternative sites will be assessed.

The recent Supreme Court ruling in Ireland (Martin v. An Bord Pleanála & others³⁶) found that it was acceptable to have separate bodies (An Bord Pleanála and the EPA) assessing the development consent because Article 1 of the EIA directive defines development consent as:

“the decision of the competent authority or authorities which entitles the developer to proceed with the project”.

The Supreme Court went on to note that *“the term “integrated assessment” does not appear at all in the [EPA]Directive”.*

However, this case does not deal with the fact that it is not possible to assess the pollution consequences of **alternative** sites and that this is in contradiction to Article 7 of the IPPC directive, where the words “effective integrated approach” do appear.

This lack of interaction between the EPA and An Bord Pleanála in assessing the pollution information from alternative sites at the An Bord Pleanála consent stage is also contrary to Article 5 (1) of the EIA directive which states:

“In the case of projects which, pursuant to Article 4, must be subjected to an environmental impact assessment in accordance with Articles 5 to 10, Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV in as much as:

(a) the Member States consider that the information is relevant to a given stage of the consent procedure and to the specific characteristics of a particular project or type of

³⁶ <http://www.supremecourt.ie/Judgments.nsf/1b0757edc371032e802572ea0061450e/dd911d2c4ba125d7802572d7003568af?Open Document> and see Appendix Petition 13 Supreme Court Ruling on Martin v. An Bord Pleanála and ors. May 10th, 2007

project and of the environmental features likely to be affected;

And contrary to Article 5(3) of the EIA Directive which states:

“The information to be provided by the developer in accordance with paragraph 1 shall include at least:

- a description of the project comprising information on the site, design and size of the project,*
- a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects,*
- the data required to identify and assess the main effects which the project is likely to have on the environment,*
- an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects,*
- a non-technical summary of the information mentioned in the previous indents.”*

The planning permission was given for the Pipeline from the LNG Terminal on the understanding that planning permission had been obtained for the LNG Terminal as stated by the inspector as follows:

“The proposed route of the pipeline commences at the permitted Shannon LNG Terminal site at Ralappane, some 4 km west of Tarbert on the north Kerry coast”³⁷

However, full development consent has not yet been obtained for the Shannon LNG terminal, therefore the basis on which planning permission was given for the pipeline - namely that the LNG terminal is permitted - is false.

Furthermore, An Bord Pleanála states on its website that

“If development relates to IPPC / Waste matters, or Major Accidents Directive, seek observations from EPA or HSA”³⁸

This means that even An Bord Pleanála accepts that it should seek observations from the EPA, it did not do so in this case.

³⁷ See Section 2.3 of Inspector’s report RGA0003 Report 1 into Shannon LNG pipeline.

<http://www.pleanala.ie/casenum/GA0003.htm>

³⁸ <http://www.pleanala.ie/sid/flowchart.htm> and Appendix P12 - Strategic Infrastructure Flowchart

Issue 10: “Project Slicing” of the LNG Terminal and Associated pipeline has prevented consideration of the cumulative impacts of both the Terminal and the Pipeline

Law:

We already have had a ruling from An Bord Pleanála that the planning application for the pipeline did not represent a material change to the permitted LNG terminal but the Bord refused to giving a ruling on whether the project splitting was legal as follows:

“I consider that all of the other arguments put forward in the lengthy submission are not within the ambit of Section 5, and many would appear to be legal in nature, and hence a matter for the courts.”³⁹

We therefore petition that the EU rules on whether or not this project splitting is contrary to EU law.

Also, it must be noted that the LNG terminal has not yet received full development consent and so it is premature to be giving planning permission for a pipeline to serve an LNG terminal that has not received full development consent.

Argument:

Ralappane House (in the picture below, closest to the blue square entitled “candidate special area of conservation”) had an LNG Terminal approved with 4 20-story tanks behind the house. With the planning permission for the pipeline from the LNG Terminal a pipeline to the east of the house was approved. However, the cumulative impacts of both the Terminal and the Pipeline - parts of the same project has not been assessed.

³⁹ See Appendix Petition P6 - Section 5 referral to An Bord Pleanála on whether changes to the Shannon LNG project at Tarbert, County Kerry granted permission under PA0002 constitute work on the original project which is or is not development and is or is not exempted development.



The An Bord Pleanála inspector assessing the pipeline application stated:

*“In relation to architectural heritage, the observers have expressed concern that the pipeline will destroy Ralappane House, which it is stated, is currently under consideration as a protected structure. Ralappane House is a farmhouse, located some 300m from the proposed Shannon AGI, and c.100m from the proposed route of the pipeline (Ref. Strip Map 1). Given the separation distance, neither the house nor its curtilage will be affected by either the pipeline itself, or the 30m wide construction spread. There is also no evidence that the building is being considered as a protected structure, and the building is not contained within the National Inventory of Architectural Heritage for County Kerry. The applicant argued at the oral hearing that there will be no longer-term impacts on Ralappane House once the pipeline is constructed and the route reinstated, and I am in agreement with this assessment. I am satisfied that the proposed development will not, therefore, be unacceptable in relation to archaeology or architectural heritage“.*⁴⁰

⁴⁰ Section 6.10 of Inspector’s Report 1 into Shannon LNG Pipeline reference GA0003 by Anne Marie O’Connor 21 Jan. 2009. See <http://www.pleanala.ie/casenum/GA0003.htm>

However, Kerry County Council on February 11th, 2009 confirmed that “it is proposed that Rallapane House is included as a proposed protected structure⁴¹ for the following reason:

Planning Authority: Kerry County Council

Address: Ralappane, Kilnaughtin, Tarbert

Description: Four bay, hipped roof, one and a half storey building with four dormers to front facade.

Ordnance Survey Map: 5588C

National Grid co-ordinates: 84,181m, 112,836m

Location Map (not to scale)

Appraisal : This building and associated outbuildings is of special architectural interest because it makes a positive contribution to its setting in the landscape. The building is also of special historic interest as it is believed to date back over 300 years, which would make it one of the oldest surviving structures in this part of the county. It represents an important element of the early eighteenth century architectural legacy of County Kerry.



In our submission on proposed Shannon LNG Natural Gas Pipeline and proposed compulsory acquisition of lands thereon from Kilcolgan, County Kerry to Foynes, County Limerick⁴², we also

⁴¹ Proposed Amendments to the Kerry County Development Plan 2009 - 2015 Protected Structures”
[http://www.kerrycoco.ie/planning/Proposed%20Amendments%20\(Protected%20Structures\).pdf](http://www.kerrycoco.ie/planning/Proposed%20Amendments%20(Protected%20Structures).pdf)

⁴² See Appendix Petition 15 : KILCOLGAN RESIDENTS ASSOCIATION & SAFETY BEFORE LNG - Submission on proposed Shannon LNG Natural Gas Pipeline and proposed compulsory acquisition of lands thereon from Kilcolgan, County Kerry to Foynes, County Limerick

highlighted the issue where there has been no assessment of how the proposed pipeline would integrate into the other developments in the vicinity. The route chosen is furthest away from the Tarbert power station which is proposed to be converted into gas by new Spanish owners, Endessa.

This submission also highlights that there has been one EIA for the LNG Terminal and then another EIA for the Pipeline, but no EIA for both parts together which we believe is contrary to EU law as shown in the case of the Commission of the European Communities v. Ireland of July 3rd 2008.⁴³

We also complain in our submission that a private company, Shannon LNG, with no interest in the common good is able to apply for and obtain compulsory acquisition on private property.

⁴³ [http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher\\$docrequire=alldocs&numaff=C-215/06&datefs=&datefe=&nomusuel=&domaine=&m](http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher$docrequire=alldocs&numaff=C-215/06&datefs=&datefe=&nomusuel=&domaine=&m)

Issue 11: A special area of conservation is not being protected as obliged under the HABITATS Directive because a satisfactory alternative exists in the Irish Sea

Law:

HABITATS DIRECTIVE

Article 12:

“1. Member States shall take the requisite measures to establish a system of strict protection for the animal species listed in Annex IV (a) in their natural range, prohibiting:
(a) all forms of deliberate capture or killing of specimens of these species in the wild;
(b) deliberate disturbance of these species, particularly during the period of breeding, rearing, hibernation and migration;
(c) deliberate destruction or taking of eggs from the wild;
(d) deterioration or destruction of breeding sites or resting places.
2. For these species, Member States shall prohibit the keeping, transport and sale or exchange, and offering for sale or exchange, of specimens taken from the wild, except for those taken legally before this Directive is implemented.
3. The prohibition referred to in paragraph 1 (a) and (b) and paragraph 2 shall apply to all stages of life of the animals to which this Article applies.
4. Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned.”.

Article 16

1. Provided that there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range, Member States may derogate from the provisions of Articles 12, 13, 14 and 15 (a) and (b):
(a) in the interest of protecting wild fauna and flora and conserving natural habitats;
(b) to prevent serious damage, in particular to crops, livestock, forests, fisheries and water and other types of property;
(c) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment;
(d) for the purpose of research and education, of repopulating and re-introducing these species and for the breedings operations necessary for these purposes, including the artificial propagation of plants;
(e) to allow, under strictly supervised conditions, on a selective basis and to a limited extent, the taking or keeping of certain specimens of the species listed in Annex IV in limited numbers specified by the competent national authorities.
2. Member States shall forward to the Commission every two years a report in accordance with the format established by the Committee on the derogations applied under paragraph 1. The Commission shall give its opinion on these derogations within a maximum time limit of 12 months following receipt of the report and shall give an account to the Committee.
3. The reports shall specify:
(a) the species which are subject to the derogations and the reason for the derogation,

including the nature of the risk, with, if appropriate, a reference to alternatives rejected and scientific data used;
(b) the means, devices or methods authorized for the capture or killing of animal species and the reasons for their use;
(c) the circumstances of when and where such derogations are granted;
(d) the authority empowered to declare and check that the required conditions obtain and to decide what means, devices or methods may be used, within what limits and by what agencies, and which persons are to carry out the task;
(e) the supervisory measures used and the results obtained.
Information

Argument:

Articles 12 and 16 have been contravened.

Article 16 of the Habitats Directive allows a derogation to the provisions of Article 12, provided that there is no satisfactory alternative. However, there is a viable alternative that is already currently being developed by Norwegian LNG company Hoegh LNG in its Port Meridian Offshore Morecambe Bay - an LNG Deepwater Port 15 miles offshore UK in the Irish Sea⁴⁴.

Dr. Berrow, coordinator of the Irish Whale and Dolphin Group, who appeared at the Oral Hearing into the LNG Terminal, paid to do so by the developer, has warned in regard to the protected resident bottlenosed dolphins (*Tursiops truncatus*) in the Shannon Estuary that:

“any development has to be done in a sensitive way....You have to be more stringent on the Shannon....By allowing them to leave, you would be forcing the dolphins to do something they do not want to do”⁴⁵.

Also, pumping 105 million gallons a day of chemically-modified 12 degrees cooler water into the estuary will have a negative effect on the smallest species affecting the food chain for the protected species.

The An Bord Pleanála decision on the LNG Terminal only obliges monitoring of the effects of the project on the protected species. It does not make any ruling on what must be done if the monitoring shows total devastation of the protected species.

The EIA completed by the developer did not consider the effects on the protected dolphins of the noise from the re-liquefaction compressors on the LNG tankers. This has been highlighted from the first LNG tanker to arrive at South Hook LNG terminal in Milford Haven in Wales as follows:

“LNG super tanker noise 'temporary', residents are told

Mar 23 2009 By Rachael Misstear

RESIDENTS living near the South Hook LNG site in Pembrokeshire have been assured that noise coming from recently berthed LNG super tanker is a temporary problem.

The massive Tembik carrying super-cooled gas from the Middle East to one of two new

⁴⁴ See www.portmeridian.com and Appendix Petition P9 - Hoegh LNG project in the Irish Sea.

⁴⁵ <http://www.sbpost.ie/post/pages/p/story.aspx-qqqt=NEWS+FEATURES-qqqm=nav-qqqid=40466-qqqx=1.asp>

terminals in the county arrived on Friday afternoon, carrying the first shipment of LNG into Milford Haven

Since then a noise, described as sounding like a droning helicopter, has emanated from the vessel.

The sound is caused by the reliquefaction plant compressors on the Tembek as she is waiting to offload her cargo of liquified natural gas.

A spokesman from South Hook LNG said: "South Hook would like to apologise for any inconvenience caused by the sound local residents may have heard coming from the LNG Carrier the Tembek since its berthing on Friday.

"This is due only to this particular phase of the initial commissioning as she is keeping her cargo in a liquefied state.

"In the meantime, the Master of the Tembek will do everything he can to minimise the impact of the sound on local residents."

Anyone with concerns can contact South Hook on 01437 78 2000 or the LNG public relations manager on 07778 807 820."⁴⁶

The Developer, Shannon LNG, only stated in the EIA submitted that:

*"The noise level is measured 1.0 m above any deck in the most extreme condition which is during cargo pumping operations with hydraulic deck machinery in operation"*⁴⁷

While not assessing the noise from the reliquefaction equipment the developer was aware of what it was as it stated in the EIA:

*"Some of the larger new ships are powered by conventional diesel engines and employ on-board reliquefaction equipment which converts any boil-off gas back into LNG and returns it to the cargo tanks".*⁴⁸

Because the engines are low down in the ship residents in Wales have stated that there is a constant throbbing noise which travels very easily in the water.

Dolphins are extremely acoustically-sensitive and this source of noise has not been assessed.

On October 8th, 2008: Doctor Mary Kelly, director of the Environmental Protection Agency (EPA), spoke at the launch of the agency's fourth report – "2008 Ireland's Environment" - in Dublin, on October 8th, 2008⁴⁹, which highlights that:

"The European Court of Justice rule in 2007 that Ireland did not have in place a system of strict protection for specific protected species. In 2008 the conservation status of key habitats that Ireland is required to protect under the EU Habitats Directive were assessed as being far from satisfactory".

⁴⁶ <http://www.walesonline.co.uk/news/wales-news/2009/03/23/lng-super-tanker-noise-temporary-residents-are-told-91466-23213244/>

⁴⁷ Shannon LNG Terminal Environmental Impact Statement section 9.5.2.4
http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_2_of_4_Issue1.pdf

⁴⁸ Shannon LNG Terminal Environmental Impact Statement section 3.6.2.2
http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_2_of_4_Issue1.pdf

⁴⁹ <http://www.epa.ie/news/pr/2008/name.25271.en.html>

Conclusion:

We are of the opinion that the LNG project, the first of its kind in Ireland, involves such specific health and safety, environmental and strategic planning issues that consideration should be given, at a European level, to monitoring and regulating the specific challenges posed by the LNG industry.

We therefore petition for condemnation of the breaches of EU Directives in the planning of the Shannon LNG project.



Mr John McElligott
Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry
Ireland

Phone: 068-23730
Mob: 087-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

August 1st 2008

Secretariat of the Committee on Petitions,
European Parliament,
Rue Wiertz
B-1047 BRUSSELS

Re: New information on Petition Number 0013 / 2008

Dear Sir / Madam,

I hereby ask you to please accept the following supplementary points in the consideration of our petition reference 0013 / 2008, giving new information and further clarification on how nine different EU Directives are being breached.

The Irish planning authorities seem to be of the opinion that they are allowed to breach Directives using a subjective level of reasoning on an "acceptable" level of non-compliance. Either they are in compliance or they are not.

I am once again asking that the Committee on Petitions condemn all these breaches of EU Directives which separately and cumulatively amount to a total disregard for EU law in the Strategic Infrastructure Act 2006 and in the planning for the top-tier Seveso II Shannon LNG regasification terminal on the environmentally-sensitive area of the Lower Shannon Estuary in Ireland.

It is now blatantly clear that the Strategic Infrastructure Act 2006 is being used to fast-track large infrastructure projects contravening EU law. There is no right of participation to the general public at the pre-consultation stage under this act and any pre-consultation discussions containing relevant environmental information are not allowed to be disclosed to the general public for an adjacent top-tier Seveso II LNG development. The Seveso II Directive is being breached in that the competent body for giving technical advice to the planning authorities regarding the maintenance of separation distances between the LNG site and nearby residential and environmentally-sensitive areas (the Health and Safety Authority) is not giving any technical advice whatsoever, but making a decision with the terse statement that "it does not advise against the project".

It is also blatantly clear that an SEA should have been undertaken for the variation to the county development plan that rezoned the LNG site from 'rural general' and 'secondary special amenity' status to 'industrial', which must be condemned. It is also our contention that an SEA should still be undertaken on the types and scale of industrialisation planned for the Shannon Estuary and that an SEA should be undertaken on the Energy Sector plans for oil and gas storage in general, for the development of top-tier Seveso II sites and for LNG storage facilities in particular as they are all plans and programs that are being instigated from the highest level of government down.

Finally, this LNG project is one more example of project splitting, the aim of which is to accord planning for one dirty industry in a beautiful environmentally-sensitive rural part of western Europe so that the precedent will be set which will allow other dirty and dangerous

industries to follow. This does not represent any semblance of internationally-accepted integrated planning and development procedures.

We beseech the EU Petitions Committee to find in agreement with the preceding statements and will now further explain some of the ways nine EU Directives are being breached. We do not have the funding to fight this injustice at the level it would require and beseech you to use your powers to stand up for the disenfranchisement that we are suffering from in the defence of the safety and environmental concerns of our region. If you do not help us, then no one else will.

WATER FRAMEWORK DIRECTIVE (2000/60/EC):

1. Planning permission was given by the Irish Planning Authority (An Bord Pleanála) to Shannon LNG to construct the LNG terminal on March 31st 2008 after an eight-day oral hearing in Tralee, County Kerry from January 21st to January 30th 2008¹. The inspector's report² from An Bord Pleanála highlights concerns about breaches of the Water Framework Directive raised by the ecologist, Mr. John Brophy of Ecological Consultancy Services Ltd (EcoServe), hired by An Bord Pleanála in an advisory role. The inspector's report determined the following:

"A concern raised in the consultant's report³ relates to the impoundment of the stream to form a pond, primarily for the hydro-testing of the LNG storage tanks. This would alter the morphology and ecology of the watercourse, as well as being likely to change the physical and chemical character of the water. He holds that this may not be in line with the European Water Framework Directive (2000/60/EC). He notes that a member state would not be considered to be in breach of the Directive, if the reason for not meeting its requirements for a water body complies with the conditions set out in article 4, paragraph 7 of the Directive. He is unclear as to whether the proposed development satisfies these conditions, in particular, as the River Basin Management Plan for the Shannon River Basin District has yet to be published.

The consultant's report questions whether the stream should be considered a water body for the purposes of the Water Framework Directive. It may be too small. Annex (ii) of the Directive outlines two alternative systems for characterising surface water bodies. System A does not assign a typology to rivers with a catchment area of less than ten square kilometres. However, Ireland has adopted system B which classifies rivers on the basis of geology (water hardness) and slope, but does not consider size. The European Commission Guidance Document "Common Implementation Strategy for The Water Framework Directive (2000/60/EC). Identification of Water Bodies. Guidance Document No. 2. Working Group on Water Bodies", suggests that a very small water body which is not significant in the context of the Directive's purpose and objectives, need not be identified as such, but rather protected and enhanced, where necessary, in order not to compromise the achievement of objectives in other water bodies. The consultant's report holds that the stream should not be considered to have a high ecological value and points out that its area falls below the 10 square kilometre threshold set out in System A. The consultant's report states that it could be argued that the stream is not of sufficient size or importance

¹ Planning Application Reference Number PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm>

² Planning Application Reference Number PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm> Inspector's Report page 61

³ Report to the Inspector on the proposed Shannon LNG development – Ecology, Prepared for: An Bord Pleanála, 64 Marlborough Street, Dublin 1. February 2008 FINAL REPORT Prepared by: Ecological Consultancy Services Ltd (EcoServe), B19 KCR Industrial Estate, Kimmage, Dublin 12. www.ecoserve.ie (see Appendix 1)

to constitute a water body and that its protection should be viewed in the light of potential impacts on other water bodies.

I consider that the Board should take the view that the stream is not of sufficient size or importance to constitute a water body and that the proposed development would not affect the stream in a manner which would compromise the achievement of the Water Framework Directive's objectives in relation to the River Shannon. However, should the Board take the view that the stream does, in fact, constitute a water body under the Directive and that it therefore requires protection as such, the alternative, suggested in the consultant's report, of a redesign of the proposed impoundment restricting it to the southwest of the existing stream, only, with the probability of additional excavation, as well as alternative means of undertaking the hydro-tests e.g. the use of seawater (dismissed in the EIS (Volume 2, Section 2, page 2-23, despite being used elsewhere, e.g. Zeebrugge) or desalination (dismissed on the grounds of cost) would need to be explored further by way of a request under Section 37F of the Planning and Development Act, 2000, as amended by the Planning and Development (Strategic Infrastructure) Act, 2006."

I (John McElligott) am petitioning against this determination by An Bord Pleanála to the Petitions Committee because the following information concerning the stream was not disclosed or discussed in arriving at this conclusion:

- a) The stream is approximately 3 kilometres long originating near what is locally-known as Lough Lee⁴ near Cockhill, Tarbert;
- b) The mouth of the stream is itself specifically designated as a candidate special area of conservation (SAC) and a proposed Natural Heritage Area (pNHA), designations that by their very definitions cannot allow the planning authority to "*take the view that the stream is not of sufficient size or importance to constitute a water body*". These areas are protected under at least Article 4 of the Directive.
- c) The River Basin Management Plan for the Shannon River Basin District has yet to be published⁵.
- d) The drinking water of nearby neighbours, such as that of Tom and Kathleen O'Connor of Ardmore and of Pat, Catriona and Chloe Griffin of Carhoonakilla, Tarbert will be affected as was accepted at the oral hearing in Tralee on January 2008⁶. In fact, as pointed out by Catriona Griffin at the same oral hearing, the majority of people in the area have their own wells as **their only source of drinking water** as there is no water scheme reaching their homes from either the Tarbert or the Ballylongford villages. Furthermore, artesian upwelling conditions were noted by Minerex Environmental Limited in its report on the site⁷. Drinking water is protected under Article 7 of the

⁴ Shannon LNG EIS volume 3 figure 6.1 www.shannonlngplanning.ie

⁵ <http://www.galway.ie/en/Services/PublicNotices/TheFile.6700.en.pdf>

⁶ Day 5 of oral hearing into proposed LNG terminal, January 25th 2008, 12:45 pm.

⁷ SHANNON LNG Hydrological and Hydrogeological Impact Assessment of the Proposed Shannon LNG (Liquid Natural Gas) Terminal Development at Ballylongford, Co. Kerry Interim Quarterly Baseline Report October to December 2007 MEL Brief: D1 MEL Doc. Ref.:1946-337 (Q3 Oct-Dec 2007) Rev. 1 & FINAL Friday 4th January, 2008 (and appendix 2).

Directive. Not only will drinking water, both surface and groundwater, be affected by the stream impoundment, but it will also be affected by the sheer massive levels of ground work that will take place over 104 hectares.

e) Conditions in Article 4, paragraph 7 of the Directive are not met which would allow a Member State not to be in breach of this directive (as there is no published River Basin Management Plan for the Shannon River District and these modifications are not of overriding public interest or of benefit to the environment - to name but a few modifications).

f) The environmental objectives of article 4 of the directive are being completely ignored

g) Article 11 of the Directive requires that “Each Member State shall ensure the establishment for each river basin district, or for the part of an international river basin district within its territory, of a programme of measures, taking account of the results of the analyses required under Article 5, in order to achieve the objectives established under Article 4.” This programme of measures would therefore require a strategic environmental assessment to be undertaken under the SEA Directive, and none has yet been undertaken for the Shannon River Basin District.

h) The Irish statutory “Environmental Protection Agency” (EPA), in its 2006 policy document- “Water Quality in Ireland”⁸ highlighted risk to the Estuary waters. It stated:

“The challenge, under the Water Framework Directive (WFD) (2000/60/EC), is to have all waters, both surface and groundwater, in good or higher status by 2015.* The recorded annual incremental improvement in surface water quality, based on that occurring between 2005 and 2006 and indeed for the three-year period since 2004, would, if maintained, leave Ireland potentially falling short of the WFD target in the time left for remediation; unless an all-out effort by all, stakeholders and policy makers, involved in the process was invested in a co-operative approach, in applying programmes of measures, to retrieve the situation. A recent study concluded that if current land uses continue unchanged, it will be very difficult to meet the demands of the WFD (Donohue *et al.*, 2006).”

EMISSIONS TRADING DIRECTIVE (2003/87/EC):

2. Paragraph 25 of the recital of the Emissions Trading Directive stresses that “policies and measures should be implemented at Member State and Community level across all sectors of the EU Economy, and not only within the industry and energy sectors, in order to generate substantial emissions reduction. The Commission should, in particular, consider policies and measures at Community level in order that the transport sector makes a substantial contribution to the Community and its Member States meeting their climate change obligations under the Kyoto Protocol.” This therefore requires strategic planning and public participation and consequently a Strategic Environmental Assessment of the energy sector as per the SEA Directive, which has not taken place.

ENVIRONMENTAL LIABILITY DIRECTIVE (2004/35/EC):

3. The Environmental Liability Directive has not yet been transposed into Irish Law⁹.
4. Since the objective of this Directive is the prevention and remedying of environmental damage at a reasonable cost to society through the “polluter pays” principle, the

⁸ “Water Quality in Ireland 2006 Key Indicators of the aquatic Environment” Compiled by JOHN LUCEY, Aquatic Environment, Office of Environmental Assessment, Environmental Protection Agency, An Ghníomhaireacht um Chaomhnú Comhshaoil, Johnstown Castle Wexford Ireland Web site: www.epa.ie

⁹ <http://www.environ.ie/en/Environment/EnvironmentalLiabilityDirectiveConsultationProcess/>

proposed LNG terminal is in breach of this Directive because alternative LNG locations (such as offshore), which would have achieved the same goals but with less damage to the environment were not given priority. In effect, the first application for an LNG terminal was accepted as the only one – a “first come, first served” approach. This view was even supported by the An Bord Pleanála inspector in his report when he stated “Overall, it is difficult to avoid the suspicion, as in the case of many other site selection processes that the entire process has been retrospective, rather than having been carried out from first principles.”¹⁰

5. World-renowned LNG expert, Dr. Jerry Havens, highlighted at the oral hearing how a catastrophic LNG accident has the potential to put people in harm’s way to a distance of approximately three miles from the source of the accident. This presents a potential and actual risk for human health and the environment which, under paragraph 8 of the recital of the Directive, obliges alternatives which avoid this potential and actual risks to be chosen in preference to the present location. The potential consequences of a major LNG accident at the present location has frightened the local residents to such an extent that it will have a detrimental effect on people’s mental health due to pressure from the omnipresent idea of having to live with the thought of an accident, however remote, for the next number of decades. Allowing explosives to be used to remove rocks from the site is also a cause of great anguish, as was witnessed at the oral hearing. This is therefore a breach of the Environmental Liability Directive.
6. Paragraph 18 of the recital states: “According to the ‘polluter-pays’ principle, an operator causing environmental damage or creating an imminent threat of such damage should, in principle, bear the cost of the necessary preventive or remedial measures. In cases where a competent authority acts, itself or through a third party, in the place of an operator, that authority should ensure that the cost incurred by it is recovered from the operator. It is also appropriate that the operators should ultimately bear the cost of assessing environmental damage and, as the case may be, assessing an imminent threat of such damage occurring.” No condition has been attached to the planning permission obliging the developer to pay for the costs of assessing environmental damage, contrary to the Directive.
7. Shannon LNG is a subsidiary of Hess LNG, a company registered in the Cayman Islands. In the event of an environmental disaster at the plant Shannon LNG would be liable for the costs of any loss to property and human health. However, Shannon LNG has no assets of note to date. This can lead to problems in litigation where cases can go on for decades as attempts are made in the courts to apportion blame and liability. Companies can deny liability by creating companies in different jurisdictions, where ownership of the land is shared among some companies and ownership of the operations is shared out among other companies – all in different jurisdictions with different litigation laws. Without the mother company, Hess Corporation, with its sufficient assets accepting ultimate responsibility then the Directive is being breached as this would motivate the company to prevent all environmental and human health damage.
8. This Directive has not yet been transposed into Irish Law and was not even referred to in any of the planning hearings proving the inspector has not taken its consequences into account.

SEVESO II DIRECTIVE (96/82/EC):

9. The Welsh petition (Petition 0354/2006 by Mr. Rodney Maile (British), on alleged pollution along side the Cleddau Estuary as a result of the activity of the two companies Exxon and Qater) failed because Seveso II did not apply to ‘the transport of dangerous substances and intermediate temporary storage by road, rail, internal waterways, sea or air, outside the establishments covered by this Directive, including loading and unloading and transport to and from another means of transport at docks, wharves and marshalling yards’.¹¹

¹⁰ Planning Application Reference Number PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm> Inspector’s Report page 39

¹¹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-388.747+02+DOC+PDF+V0//EN&language=EN>

This petition is concentrating on the risks to nearby residents from within the Establishment (e.g. the vaporisation process within the establishment, the proximity of the residents to the establishment, the proximity of the proposed Gas powerstation, the proximity of the SemEuro oil storage facility, the proximity of the part of the proposed pipeline within the establishment) as well as on the Strategic Environmental Assessment which was not included in the Welsh petition 0354/2006.

10. Article 12.1 of the Directive states that

“Member States shall ensure that their land-use and/or other relevant policies and the procedures for implementing those policies take account of the need, in the long term, to maintain appropriate distances between establishments covered by this Directive and residential areas, areas of public use and areas of particular natural sensitivity or interest, and, in the case of existing establishments, of the need for additional technical measures in accordance with Article 5 so as not to increase the risks to people.

In its notice to An Bord Pleanála¹², the Irish Health and Safety Authority (HSA) states that it “considers only credible major accident scenarios”. However, world renowned LNG expert Dr. Jerry Havens attended the oral hearing and stated on oral hearing day 3 at 14:18 that:

“Sandia, not me, Sandia has said ‘we believe it is credible that there might occur a 12,500 metre spill’ -- that’s one-half of one tank -- ‘on to water’.”

He went on to say:

“If an LNGC were to be attacked in the proximity of the shoreline, either while docked at the terminal or in passage in or out of the estuary, and cascading failures of the ship’s containments were to occur, it could result in a pool fire on water with magnitude beyond anything that has been experienced to my knowledge, and in my opinion could have the potential to put people in harm’s way to a distance of approximately three miles from the ship. I have testified repeatedly that I believe that the parties that live in areas where this threat could affect them deserve to have a rational, science-based determination made of the potential for such occurrences, no matter how unlikely they may be considered.”

This LNG terminal therefore contravenes Article 12(1) of the Seveso II Directive because:

- a) a credible event having an effect up to three miles away is not an “appropriate” distance for the numerous people living within this distance
- b) As the word “appropriate” does not have any other specific definition inserted in the Directive to contradict the literal meaning of the word then the fact that residents within the effected area object due to an increased risk, no matter how low the risk, then the distance must be considered inappropriate;
- c) the risks to nearby residents are being increased above what they would be if there was no LNG plant nearby as the area is rural and without any nearby industry
- d) There is no separation distance at all between the site and the Lower Shannon SAC area as 25 acres of the project (the jetties) is in actual SAC waters and the site also surrounds another part of the SAC area and pNHA area. A separation distance should at least be greater than zero, otherwise there is no distance at all being maintained between the establishment and the SAC waters
- e) The Directive does not provide for the Seveso Directive to be breached in a planning decision if the criteria specified in Article 12 exist of the risk

¹² See Appendix 3 (HSA Technical Advice to An Bord Pleanála)

being increased to people in the area – no matter how low that risk is – because the area is not industrial and has no similar Seveso II sites in the vicinity.

- f) The HSA refused to insist on the production of the emergency plan of Article 11 as requested by the Kilcolgan Residents to enable them to understand the area that would be affected in the event of an accident and to have this knowledge at the planning-decision phase and this is information that should have been made available to them according to the EIA Directive.
- g) “Establishment” is defined in Article 3 of the Directive as the “*whole area under the control of an operator where dangerous substances are present in one or more installations, including common or related infrastructures or activities*”. The jetty on the 25 acres of SAC waters are also, therefore, part of the establishment as defined in the Directive. This means that there is no distance between the EU protected SAC waters of the Lower Shannon and the establishment and therefore this automatically contravenes Article 12(1).
- h) An Bord Pleanála also refused new information from the KRA which the HSA had offered to assess and advise An Bord Pleanála about on March 27th 2008 although it was informed by the HSA in its decision of January 9th that “the advice is only applicable to the specific circumstances of this proposal at this point in time”. An Bord Pleanála stated when making its decision on March 28th 2008 that:

“The Board noted the submission of 26th March 2008 received from the Kilcolgan Residents Association and considered that these matters should have been raised at the oral hearing and, in any event, do not provide any new relevant information”

This contravened its duties under Article 12(1) and (2) because a decision had not yet been made and the information was information that was not known at the time of the oral hearing and they had a duty to obtain technical advice. This new information included a new peer-reviewed article by Dr. Jerry Havens and Dr. James Venart accepted for publication by “The Journal of Hazardous Materials” only on 7 February 2008 (more than a week after the oral hearing finished on January 30th 2008) entitled “Fire Performance of LNG Carriers Insulated with Polystyrene Foam”¹³ which dealt with new safety concerns on LNG Marine Incident consequences.

11. It is also my opinion that the Irish Health and Safety Authority (HSA) failed to give proper technical advice to the planning authority An Bord Pleanála on the control of major accident hazards relating to the proposed development as required by the Seveso II Directive. The HSA's consequent technical advice on the development was inadequate as it amounted only to a simple statement that the HSA did “not advise against” the proposed development¹⁴. This is contrary to article 12(2) of the Directive which states that:

“Member States shall ensure that all competent authorities and planning authorities responsible for decisions in this area set up appropriate consultation procedures to facilitate implementation of the policies established under paragraph 1. The procedures shall be designed to ensure that technical advice on the risks arising from the establishment is available, either on a case-by-case or on a generic basis, when decisions are taken.”

- a) Even if the HSA based its letter to An Bord Pleanála on technical knowledge, the advice given to the planning authority did not contain any technical advice;

¹³ “Fire Performance of LNG Carriers Insulated with Polystyrene” -The Journal of Hazardous Materials” Dr. Jerry Havens and Dr. James Venart - 7 February 2008
http://www.sciencedirect.com/science?_ob=ArticleListURL&_method=list&_ArticleListID=700699788&_sort=d&view=c&_acct=C000050221&_version=1&_urlVersion=0&_userid=10&md5=352f79060b0cb41cfefab5cdeedab92a

¹⁴ See Appendix 3 (HSA Technical Advice to An Bord Pleanála)

- b) It was not specified in the “technical advice” that the HSA was not considering LNG spills on water, not considering a Marine Risk Assessment and not considering a terrorist threat even though “risk” is defined in Article 3 as “*the likelihood of a specific effect occurring within a specified period or in specified circumstances*”
- c) As the technical advice was terse in the extreme, the planning authority had no choice but to accept the “not advising against” decision of the HSA as no questions or issues whatsoever were raised by the HSA. This amounted to a decision being made by the HSA as opposed to advice being given which was not the role of the HSA under this Directive. An Bord Pleanála had to blindly accept what they received as the HSA was the body charged with giving the technical advice.
- d) The technical advice did not consider or advise on any alternatives, even though such action would have reduced risks to nearby residents and area of special protection.

GAS DIRECTIVE (2003/55/EC):

12. This Directive does not take into account the consequences of LNG accidents in the investment decision-making process of Article 22 of the Directive. This means that more importance cannot be put on maintaining the functioning of the internal gas market, even if the safety of residents is threatened as this would conflict with Article 12 of the Seveso II Directive

EIA DIRECTIVE:

13. The All-Island Strategy document for Gas Storage - “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis – November 2007”¹⁵ jointly commissioned by the Department of Communications, Energy and Natural Resources and the Department of Enterprise, Trade and Investment, Northern Ireland, was published in November 2007 but only released in Executive Summary format to the general public on March 2008. This national plan represents a serious breach of Article 3 of the EIA Directive because it contained valuable information on high potential alternative storage sites and strategies.

- a) The “North Celtic Sea Basin” and the “East Irish Sea Basin” were identified in the strategy document as high potential offshore gas storage options¹⁶; This potential is already being harnessed in the UK part of the East Irish Sea by the Norwegian Høegh LNG company in its proposed PORT MERIDIAN OFFSHORE LNG TERMINAL¹⁷ and by Stag Energy in its GATEWAY GAS STORAGE PROJECT¹⁸
- b) The offshore depleted gas fields of the Kinsale gas field represent a storage capacity almost three times the size of the proposed LNG Storage tanks at Kilcolgan;
- c) Other storage options such as Salt Caverns and LNG Re-gasification vessels are also considered.

At the oral hearing we requested that the planning authority await the publication of this strategy document publication as it would represent a government policy document that would be a statutory basis for a planning decision. At the oral hearing the inspector was at a loss on who to believe about the alternative sites and options available and we feel that he came under undue pressure to make a decision due to the fast-track planning process without all environmental facts at his, or the general public’s, disposal, contrary to the EIA Directive.

¹⁵ <http://www.dcmnr.gov.ie/NR/ronlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf>

¹⁶ <http://www.dcmnr.gov.ie/NR/ronlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> page 5

¹⁷ http://www.hoegh.com/lng/business_development/focus/

¹⁸ <http://www.stagenergy.com/Gateway/index.html>

SEA DIRECTIVE (2001/42/EC):

14. New information has come to light on the proposed oil storage facilities along the southern shore of the Shannon Estuary from the “Shannon and Foynes Port Authority” Marine Risk Assessment¹⁹, showing there are already plans for a massive increase of 610 oil and LNG tanker movements in the Shannon Estuary every year.

The Assessment expects these tanker movements in the Estuary to rise significantly with the completion of additional fuel and gas storage tanks along the southern bank of the Shannon Estuary.

An increase of 160 tanker movements a year is projected for a new oil storage facility in Foynes²⁰. An additional increase of 200 oil tanker movements per year is projected for the proposed SemEuro oil storage facility immediately adjacent to the proposed LNG terminal at Kilcolgan²¹. With the ultimate 250 LNG tanker movements per year this brings the total proposed increase in tanker movements to 610 per year for these 3 sites alone. On top of this, a significant increase from the current one tanker monthly is also noted as one possibility if the jetty and holding tanks at Tarbert Island are used for storing and distributing fuel oil as part of the national strategic review of power generation facilities. There are now increasing signs that the face of the southern bank of the Shannon Estuary will be changed forever to transform it into an oil and gas storage hub – contrary to EU and domestic law. The sensitive eco-system of the Lower Shannon Estuary is protected under the EU Habitats and Water Framework Directives. A national strategic plan to transform it into a massive oil and gas storage hub requires the minimum of a Strategic Environmental Assessment as obliged by the SEA Directive.

15. The All-Island Strategy document for Gas Storage - “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis – November 2007”²² jointly commissioned by the Department of Communications, Energy and Natural Resources and the Department of Enterprise, Trade and Investment, Northern Ireland, was published in November 2007 but only released in Executive Summary format to the general public on March 2008. This national plan represents a serious breach of the SEA Directive on two levels, a) in rezoning the lands at Kilcolgan to Industrial in a variation to the County Development Plan without an SEA and b) in according planning permission for part of an energy programme without completing an SEA.

¹⁹ “Risk Assessment of Marine Operations at LNG Terminal for Shannon Estuary”, Bruce Richardson, Jonathon Pearce, Marine and Risk Consultants Limited, MARICO House, Bramshaw, Southampton, SO43 7JB +44 23 8081 1133 June 2008 http://www.sfpc.ie/operations_LNGRisk.html

²⁰ Atlantic Fuel Supply Company Ltd: fuel storage facility at Foynes is currently at the fast-track strategic infrastructure pre-consultation stage at An Bord Pleanála (<http://www.pleanala.ie/casenum/PC0049.htm>). See also: http://www.lcc.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=08372: a Bulk Liquid Warehouse and Oil Terminal. This application is an amendment to a previous successful application granted under ref. 05/789. The facility will be used for the warehousing and distribution by road and ship of petroleum Class 1, Class 11 and Class 111 and will consist of 16 no. oil storage tanks with a capacity of 79,000 cubic metres within two impervious bund areas totalling 1.65 Ha, loading yard area 0.87 Ha, fire lane 0.24 Ha, all with interceptor and outfall to estuary, truck loading bay, car parking, truck parking, foam storage tank, two storey operations building with proprietary foul water treatment unit and outfall to estuary, single storey electrical service building with electrical sub-station and boiler house with flue, perimeter security fence and gating, soft landscaping, oil pipelines and associated fittings within the harbour. The facility will come within the maning of Part 11 of the Planning Regulations. This is a second application following on from a successful one: 05/789:

http://www.lcc.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=05789 (construction of a bulk liquid warehouse and oil terminal consisting of 14 no. oil storage tanks, loading yard area, truck wash facility, truck loading bay, car & truck parking, water storage tank, two storey operations building with proprietary foul water treatment system & outfall to estuary, single storey electrical service building with electrical sub-station and boiler house, perimeter security fence and gating, landscaping, oil pipelines and associated fittings)

²¹ SemEuro oil storage facility at Kilcolgan is currently at the fast-track strategic infrastructure pre-consultation stage at An Bord Pleanála <http://www.pleanala.ie/casenum/PC0008.htm>

²² <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf>

Furthermore, following the release of this document a further report published by the Commission for Energy Regulation on the Common Arrangements for Gas Projects on an All-Island²³ basis noted the following:

“A report has recently been completed on behalf of the relevant departments in Ireland and Northern Ireland reviewing the current options for storage on an all island basis. If it is decided that strategic storage is to be provided for the island then there is potential to make a cost saving of €100-€200 million. This is based on the average market cost of constructing a storage plant being between €400 million-€1 billion and the assumption that it would cost €400 million to build a strategic storage facility in each jurisdiction. Given the economies of scale involved in building strategic storage facilities, a facility to accommodate the demand in Ireland and Northern Ireland over a 10 day continuous period, as recommended by the report, is likely to cost €500 - €600 million, giving rise to a once-off capital saving of €100-€200 million across the two jurisdictions. As no decision has yet been made regarding the requirement or size for strategic storage these figures have not been included in the overall analysis.”

Given this policy statement from a statutory body that a larger storage facility might be better built that would serve the whole island, it is inconceivable that planning would be given for an LNG storage facility that might not best serve the national interest. This is one more example of the need to have an SEA carried out. Planning permission was given for up to 4 LNG tanks but the developer only plans to build 2 tanks initially. This is serving the developer's interest and it may have been more in the national interest to oblige the developer to build the 4 tanks simultaneously (if the site had been a suitable one – which is not the situation in any case).

16. Sustainable Energy Ireland (SEI), formerly the Irish Energy Centre, was set up by the Irish government in 2002 as Ireland's national energy agency. Its mission is to promote and assist the development of sustainable energy. In its report “Tidal & Current Energy Resources in Ireland”²⁴ SEI found that:

“A significant proportion of the tidal and marine current energy resource is to be found on the east coast of Ireland. The resource on the west coast is concentrated in the Shannon Estuary ... Although the Shannon sites lie on or near shipping zones the resource has not been restricted because it is expected that the required number of turbines can be installed... An installation, especially in a sheltered location such as the Shannon Estuary, has the capability of being operated for much longer (albeit with replacement of major drive train components every ten years). . The only sizable resource on the west coast of Ireland is located in the Shannon Estuary.”

There has already been commercial expressions of interest in developing the Estuary as a tidal and marine current energy source. However, an increase in tanker movements in the estuary could possibly sterilise the estuary for tidal and marine current energy projects. Only an SEA will be able to assess the strategic impacts of any LNG development on the estuary.

HABITATS DIRECTIVE:

17. The planning conditions attached to the planning permission accorded by An Bord Pleanála only recommend that the protected species, flora and fauna, be “monitored” with no conditions on any sanctions if environmental damage is proved catastrophic.
18. The New information which has come to light on the proposed oil storage facilities along the southern shore of the Shannon Estuary from the “Shannon and Foynes Port Authority” Marine Risk Assessment²⁵, showing there are already plans for a massive

²³ “Common Arrangements for Gas Project - Preliminary Cost Benefit Analysis”, Commission for Energy Regulation, 30th July 2008 www.cer.ie/GetAttachment.aspx?id=35b7009b-2cb0-4596-a923-ff3926a49fd4

²⁴ www.sei.ie/getFile.asp?FC_ID=2296&docID=59

²⁵ “Risk Assessment of Marine Operations at LNG Terminal for Shannon Estuary”, Bruce Richardson, Jonathon Pearce, Marine and Risk Consultants Limited, MARICO House, Bramshaw, Southampton, SO43 7JB +44 23 8081 1133 June 2008 http://www.sfpc.ie/operations_LNGRisk.html

increase of 610 oil and LNG tanker movements in the Shannon Estuary every year was not undertaken before the planning decision was made and the effects on the SAC area of the Lower Shannon has not been assessed for the planning decision (even though we requested that the inspector await the outcome of this assessment before making a decision).

19. 2 Salmonid waters (the Feale and the Fergus) flow into the River Shannon²⁶ and the effects on these rivers have not been assessed following the Marine Risk Assessment.
20. Condition 24 of the planning permission states:
“The design of the water intake shall be based on best available technology and shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. A monitoring programme shall be implemented following the commissioning of the water intake over the course of 2 years to provide an estimate of the numbers of impinged and entrained organisms, particularly fish and macro-crustaceans. The results of this monitoring programme shall be submitted to the planning authority at 12 monthly intervals and every effort shall be made to facilitate any changes, which may be deemed necessary to reduce the numbers of impinged and entrained organisms. Reason: In the interest of wildlife protection.”

A simple monitoring exercise does not constitute protection as there is an alternative means of heating the LNG that does not involve the Shannon waters – namely using the heat from some of the LNG itself (but this can prove more costly for the developer).

21. Intermediate Fluid Vaporizer (IFV) technology using the Shannon seawater as a heat source is the intended method by which Shannon LNG will convert the liquid LNG to gas. The EIS²⁷ notes that up to 5 pumps will be used to circulate up to 20,000 cubic metres of water per hour. This equates to 4.4 million gallons per hour and this will cause serious environmental damage to the eco-system of this SAC area. To prevent marine growth (bio-fouling) within the system, sodium hypochlorite (bleach, an oxidiser) will be added to the seawater on a continual basis. As it exchanges heat with the glycol solution, the seawater will be cooled such that at discharge it is cooler than the ambient seawater. The withdrawal and discharge of huge volumes of seawater (**over 100 million gallons on a daily basis**) would affect marine life by killing ichthyoplankton unable to escape from the intake area²⁸. Further, the discharge of cooled and chemically-treated seawater would also affect marine life and water quality. For this reason, open-loop technology (and the Shannon LNG proposal is still an open-loop seawater technology even if it is using a closed-loop glycol system) has been successfully opposed continuously by government bodies due to its negative environmental impact. This is because IFV technology poses the same environmental problems faced by Open Rack Vaporiser (ORV) technology which also relies on huge quantities of seawater²⁹. It must be remembered that the Lower Shannon waters (including the 25 acres offshore of the proposed LNG site) are in a Special Area of Conservation (SAC) designated area (Site

²⁶ <http://mida.ucc.ie/pages/information/mgmt/protectedAreas/eu/details.htm>

²⁷ Shannon LNG EIS volume 2 page 63, section 3.6.3.2),

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_2_of_4_Issue1.pdf

²⁸ “LNG in the Gulf of Mexico”, presentation by Jeff Rester of the “Gulf States Marine Fisheries Commission” http://www.seagrantfish.lsu.edu/pdfs/biloxi_07/JeffRester.pdf The Gulf States Marine Fisheries Commission (GSMFC) is an organization of the five states (Texas, Louisiana, Mississippi, Alabama, and Florida), whose coastal waters are the Gulf of Mexico. This compact, authorised under Public Law 81-66, was signed by the representatives of the Governors of the five Gulf States on July 16, 1949, at Mobile, Alabama. It has as its principal objective the conservation, development, and full utilization of the fishery resources of the Gulf of Mexico, to provide food, employment, income, and recreation to the people of these United States. To visit their homepage: <http://www.gsmfc.org/gsmfc.html>

²⁹ Draft Environmental Impact Statement for Bayou Casotte Energy, LLC's Casotte Landing LNG Project under CP05-420 et al. Accession Number: 20060519-4002 Section 3.5.2.3 Alternatives
http://elibrary.ferc.gov/idmws/file_list.asp?document_id=4405730%20

Code 02165)³⁰ – therefore constituting waters that must be protected under the EU habitats directive, but which is now being breached by the proposed LNG terminal. The site is a candidate SAC selected for lagoons and alluvial wet woodlands, both habitats listed on Annex I of the E.U. Habitats Directive. The site is also selected for floating river vegetation, *Molinia* meadows, estuaries, tidal mudflats, Atlantic salt meadows, Mediterranean salt meadows, *Salicornia* mudflats, sand banks, perennial vegetation of stony banks, sea cliffs, reefs and large shallow inlets and bays all habitats listed on Annex I of the E.U. Habitats Directive. The site is also selected for the following species listed on Annex II of the same directive – Bottle-nosed Dolphin, Sea Lamprey, River Lamprey, Brook Lamprey, Freshwater Pearl Mussel, Atlantic Salmon and Otter. Please see the site synopsis³¹ for a more detailed listing of the Lower Shannon’s environmental wealth.

IPPC DIRECTIVE (96/61/EC):

22. Article 7 of the Directive deals with the requirement of an Integrated approach to issuing permits as follows:

“Member States shall take the measures necessary to ensure that the conditions of, and procedure for the grant of, the permit are fully coordinated where more than one competent authority is involved, in order to guarantee an effective integrated approach by all authorities competent for this procedure.”

The planning permission was not granted subject to any other permits being obtained. This is contrary to article 7 of the IPPC Directive.

23. Article 10 of the Directive deals with the Best available techniques and environmental quality standards as follows:

“Where an environmental quality standard requires stricter conditions than those achievable by the use of the best available techniques, additional measures shall in particular be required in the permit, without prejudice to other measures which might be taken to comply with environmental quality standards.”

This article 10 is being breached because pumping over 100 million gallons of chemically-modified water daily into the Shannon Estuary can be avoided by using some of the LNG to gassify the LNG

24. Submissions were received on foot of the public consultation on the Heads of the Petroleum Exploration and Extraction Bill, 2008 in Ireland³² which brought into public focus serious flaws in the existing gas sector in Ireland. The Kilcolgan Residents Association made submissions as did Marathon Oil who highlighted an issue of common concern to us, namely that there is not a clear demarcation of the Irish statutory body the Commission for Energy Regulation (CER)’s proposed role and the role of the existing regulatory agencies such as the Safety Authority and Maritime Safety Directorates.

The Irish Offshore Operator’s Association (IOOA), in its submission commented that:

“IOOA would be concerned that adequate expertise and guidance is available within the CER to support the proposed Safety Framework. For example, taking the UK Safety Case regime as a point of reference, the legislation is supported by a number of additional regulations specific to the offshore industry e.g.. Prevention of Fire, Explosion and Emergency Response (PFEER) and Offshore Installations and Wells Design & Const Regulations (DCR) etc. (Head 3) . The proposed linkage between the safety permit and other E&P Licenses is unclear - any such linkage needs to be clearly defined to avoid negative impacts on what is already a convoluted permitting regime (Head 15).”

This indictment of the existing system is a breach of the IPPC Directive.

³⁰ “Lower River Shannon” Special Area of Conservation (SAC) Site Synopsis by the National Parks and Wildlife Service Internet Reference: <http://www.npws.ie/en/media/Media.4177.en.pdf>

³¹ “Lower River Shannon” Special Area of Conservation (SAC) Site Synopsis by the National Parks and Wildlife Service Internet Reference: <http://www.npws.ie/en/media/Media.4177.en.pdf>

³²

<http://www.dcmnr.gov.ie/Natural/Petroleum+Affairs+Division/Petroleum+Exploration+and+Extraction+%28Safety%29+Bill+2008.htm>

25. The IPPC Directive is based on several principles, namely (1) an integrated approach, (2) best available techniques, (3) flexibility and (4) public participation. The integrated approach means that the permits must take into account the whole environmental performance of the plant, covering e.g. emissions to air, water and land, generation of waste, use of raw materials, energy efficiency, noise, prevention of accidents, and restoration of the site upon closure. The purpose of the Directive is to ensure a high level of protection of the environment taken as a whole. It is reasonable to conclude that the proposed Plant will contribute to a large scale pollution of the Shannon Estuary with a devastating affect on the wildlife and the whole environment. The environmental pollution will be beyond restoration. In regards to public participation in the consultation process it is essential to provide the public with sufficient time and independent expertise and allow the community to come to their own conclusions and make a decision that takes into account the needs of the local community. Under the planning permission given by An Bord Pleanála there are no conditions stipulating that the permission is subject to obtaining all other licences and we feel that this is another breach of the IPPC Directive.

Appendix 1

Report to the Inspector on the proposed Shannon LNG development –
Ecology, *Prepared for:*

An Bord Pleanála, 64 Marlborough Street, Dublin 1. February 2008 FINAL REPORT

Prepared by: Ecological Consultancy Services Ltd (EcoServe), B19 KCR Industrial
Estate, Kimmage, Dublin 12. www.ecoserve.ie

Appendix 2

SHANNON LNG Hydrological and Hydrogeological Impact Assessment of the
Proposed Shannon LNG (Liquid Natural Gas) Terminal Development at Ballylongford,
Co. Kerry Interim Quarterly Baseline Report October to December 2007 MEL Brief: D1
MEL Doc. Ref.:1946-337 (Q3 Oct-Dec 2007) Rev. 1 & FINAL Friday 4th January,
2008

Appendix 3.

Technical Advice given by the Health and Safety Authority (HSA) to An Bord Pleanála as required under the Seveso II Directive.

Mr. John McElligott
Kilcolgan Residents Association
Island View,
5 Convent Street,
Listowel,
County Kerry,
Ireland
safetybeforelng@hotmail.com

Tel: +353-87-2804474

Nationality: Irish

Occupation: Computer Programmer

Hosting MEP: Kathy Sinnott

If the Committee on Petitions declares our petition admissible, we agree to its being considered in public
We consent to our names being recorded on a public register, accessible through the Internet

January 6th 2008

European Parliament,
Committee on Petitions
The Secretariat
Rue Wiertz
B-1047 BRUSSELS

As citizens of the European Union, we are hereby exercising our right of petition to the European Parliament under Articles 21 and 194 of the EC Treaty and under Article 44 of the Charter of Fundamental Rights of the European Union. The summary petition already lodged by us is highlighted below. We are now submitting more detailed supporting arguments.

Title of Petition:

Petitioning for condemnation of breaches of EU Directives by An Bord Pleanála and the Irish “Planning and Development (Strategic Infrastructure) Act 2006” in the planning application for the first proposed LNG re-gasification terminal in Ireland and a top-tier Seveso II development.

and

Petitioning for condemnation of breaches of the SEA Directive by Kerry County Council for refusing to conduct a Strategic Environmental Assessment (SEA) when rezoning lands from rural to industrial (Variation No. 7 County Development Plan 2003-2009) in preparation for the Shannon LNG application for planning permission.

Text of Petition:

The EIA Directive states that the public shall be given early and effective opportunities to participate in the environmental decision making process.

“Shannon LNG”, a subsidiary of the American “HESS Corporation”, has applied for planning permission, through new fast-track planning procedures enacted by the Irish Government in the Planning and Development

(Strategic Infrastructure) Act 2006”¹ (from hereon referred to as “the 2006 Act”), for the first proposed Liquefied Natural Gas (LNG) re-gasification terminal in Ireland on a green-field site adjacent to the Shannon Estuary². This would be a top-tier Seveso II development. On September 9th 2007 the proposed development was deemed as qualifying as Strategic Infrastructure Development under the criteria set out in the 2006 Act without any public consultation allowed in a confidential planning process that took place solely between the developer and the Irish Planning Appeals Authority (“An Bord Pleanála”) from at least February 6th 2007 to September 7th 2007³. No decision has yet been made on this planning application but the issues we raise in our petition prove that our rights under EU law have already been infringed in the planning application process for this LNG terminal by the application of the 2006 Act and this is independent of the actual final outcome of the decision-making process. Because the 2006 Act has only recently been enacted, its incompatibility with EU law has never been challenged in the Irish Court system to date and we do not have the resources to do so. This petition is being made by nearby residents of the proposed LNG re-gasification terminal and by people with close family and economic ties to the area. It must be highlighted that there are serious environmental, safety, economic, residential-amenity and other concerns surrounding the proposed LNG terminal in Tarbert parish, which have not been raised to date. When the public finally realise the extent of the issues involved in this proposal it will unfortunately be too late for any meaningful participation in the planning process as the direct decision by An Bord Pleanála on whether or not to grant planning permission will already have been made, contrary to the EIA, Seveso and IPPC Directives. This is because the new fast-track planning process which allows for this application under the 2006 Act means that all environmental, planning, safety and development issues are being examined in parallel and by different statutory bodies without the right of reply or appeal in the planning process by the general public that would exist if the application was first submitted to the local planning authority (Kerry County Council) and had the 2006 Act not been implemented. The principal aim of the 2006 Act seems to be the fast-tracking of supposed strategic planning applications through the planning process at the expense of public participation whenever new environmental and other information becomes available putting the environment and lives of the closest residents in danger. This proposed Seveso development is so complex that it cannot possibly be evaluated in the short timeframe proposed by the An Bord Pleanála without cutting corners. We ask the EU to study the LNG application process in the USA that can take up to 5 years to evaluate.

Discussion on Public Access To Information, Public Participation And Environmental Impact Assessment

1. The proposed LNG project was deemed to qualify as Strategic Infrastructure Development as defined by the 2006 Act even though it involved project slicing of a larger project of a gas terminal, a pipeline, road modifications and electricity supply into a part of a project that would qualify for planning application under the 2006 Act. This is contrary to EU law as discussed below. The general public could not make any submissions on this decision to put this point across. We, the nearest residents to this proposed development, have not given any community consent for this decision at a local level.
2. Ireland is in fact a signatory to the Aarhus Convention, but has not formally ratified it. However, the European Union is also a signatory. Consequently, EU environmental law [e.g., Directive 2003/4/EC; Directive 2003/35/EC] is already driving the “implementation” of the Convention in the consolidated EIA directive. Furthermore, the applicability of the Aarhus Convention to Ireland was clarified by the Compliance Committee of the Aarhus Convention on 21 October 2007 after the discussion of case

¹ Planning and Development (Strategic Infrastructure) Act 2006 c.f.

<http://www.oireachtas.ie/documents/bills28/acts/2006/a2706.pdf>

² Planning Application Reference Number PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm>

³ Planning Application Reference Number PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm>

ACCC/C/2006/17 (European Community) held on 27 September 2007⁴ when the suggestion was made that the European Community should draft a note setting down in writing certain explanations given verbally. This clarification is as follows:

“The Community and 26 of the 27 current Member States are parties to the Aarhus Convention, Ireland being the only Member State which has yet to ratify it. The need for ratification or parallel approval by the Community and the Member States is explained, *inter alia*, by the fact that the Community on its own is not in a position to guarantee full compliance with all the Convention’s provisions, such as Article 8. As already explained, the Aarhus Convention became an integral part of Community law through the Council Decision of 17 February 2005 (2005/370/EC). As a result, although it is not a party to the Convention, **Ireland** will be obliged to respect the commitments arising from the Convention **where they concern provisions falling within the competence of the Community**. Thus, the fact that Ireland has not yet ratified the Convention does not affect the commitments undertaken **by the Community**, the scope of which has been explained above. **Nevertheless, this obligation has an impact solely on Community legal order. In other words, there is no public international convention law impact on Ireland.** No Member State party to the Aarhus Convention can claim under public international law that Ireland has not complied with such and such provision of the Convention, since Ireland has not assumed any public international commitment liable to be applied in accordance with public international law”⁵

3. Overground gas storage is not even considered as a strategic infrastructure development in the new UK Planning Bill introduced in November 27th 2007⁶ (one of the objects of which is to deal with authorisation of projects for the development of nationally significant infrastructure); only underground storage is. This reinforces our view that including LNG storage as Strategic Infrastructure under the 2006 Act is only the result of misinformed heavy lobbying by Shannon LNG in pursuing its own aims and contrary to the spirit of EU law. Indeed Shannon LNG lobbying can be seen in the fact that they were heavily involved in lobbying the Irish Energy Policy Documents at the Green Paper Stage⁷.
4. Shannon LNG submitted a risk assessment to the Irish “Health and Safety Authority” (HSA) on the same day it submitted the planning application to An Bord Pleanála. The HSA will make a recommendation to An Bord Pleanála based on its own examination of the risk assessment but the public is not automatically entitled to be made aware of its content, contrary to the EU EIA directive.
5. An Bord Pleanála requested observations from the Environmental Protection Agency (the EPA) and the Health and Safety Authority (HSA) after all submissions have been received without any

⁴ United Nations Economic Commission for Europe 17th Meeting of the Compliance Committee of the parties to the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters, Geneva 26-28 September 2007 c.f. http://www.unece.org/env/documents/2007/pp/ECE_MP.PP_C.1_2007_6e.pdf

⁵ United Nations Economic Commission for Europe response made at CC-17 on 21.11.2007 ACCC/C/2006/17 [http://www.unece.org/env/pp/compliance/Compliance % 20Committee/17TableEC.htm](http://www.unece.org/env/pp/compliance/Compliance%20Committee/17TableEC.htm) and <http://www.unece.org/env/pp/compliance/C2006-17/Response/ECresponseAddl2007.11.21e.doc>

⁶ UK Planning Bill introduced on November 2007 – Part 3 Nationally Significant Infrastructure Projects c.f. <http://www.publications.parliament.uk/pa/cm200708/cmbills/011/2008011.pdf>

⁷ Appendix – List of Submissions on Green Paper. Government White Paper – Energy Policy Framework 2007-2020 c.f. <http://www.dcmnr.gov.ie/NR/rdonlyres/54C78A1E-4E96-4E28-A77A-3226220DF2FC/27356/EnergyWhitePaper12March2007.pdf>

automatic further public participation on new environmental issues raised by these bodies⁸. This is unacceptable because it is depriving the public of meaningful or effective participation in the planning process due to information not being disclosed in a timely manner and therefore removing the transparency that must continue to exist in the planning process. This is contrary to the EU EIA directive.

6. However, the risk assessment was never made available to the general public until a few days before the deadline for submissions via its website which did not work correctly and neither has it been submitted to An Bord Pleanála. This means that the public has not had timely access to vital environmental information (e.g. the environmental impact of an LNG leak) before the deadline for public submissions of November 16th 2007 and people who would have made a submission based on the risk assessment are now being illegally deprived of participation in the planning process. This is contrary to Article 6 of the EU EIA directive.
7. The new fast-track planning laws leave it to the discretion of An Bord Pleanála to allow further public participation in the planning process, e.g. through oral hearings, but there is no automatic right of participation in the planning process when new environmental information becomes available. This is contrary to the EU EIA directive. On Thursday December 20th, 2007 a mere few days before the Christmas holidays we were informed that an oral hearing on the Shannon LNG proposal was being called for January 21st 2008. But we still do not have access to the environmental information we need to participate equitably in an oral hearing and even if we receive it then we need more time to prepare for the oral hearing⁹
8. Under the new fast-track planning laws, the local authority in whose area the development is proposed must make a submission to An Bord Pleanála on its views on the proposed development but the local authority is allowed to make a submission up to 4 weeks after the closing date for submissions by the general public. This also means that the public has no automatic right to make submissions on any of the environmental or other information disclosed by the local planning authority. One important implication of removing consent procedures from local planning authorities is the loss of opportunity to appeal the planning merits of the decision as An Bord Pleanála now becomes the planning authority of first and final instance.
9. We object that the division of responsibility for the Environmental Impact Assessment across a number of bodies including, but not limited to, An Bord Pleanála and the EPA is not clearly defined because the general public does not have all the environmental impacts before planning permission is applied for in order to participate fully in the planning process. Indeed some of the information will not even be available to the public until after the decision on planning permission is made, such as the environmental effects noted in the marine risk assessment undertaken under the auspices of the Shannon Foynes Port Authority.
10. We as members of the public concerned were given 7 weeks to prepare our submission to An Bord Pleanála. In that time we have faced a literally impossible task. We have been denied access to critical documentation including the materials submitted to the HSA and the HSA's own documents and reports on that material. Yet that material and the HSA analysis of it will without doubt form the basis of the HSA's opinion and An Bord Pleanála in turn will rely on that opinion in the context of the

⁸ An Bord Pleanála flowchart for Strategic Infrastructure Development c.f.
<http://www.pleanala.ie/sid/flowchart.htm> and An Bord Pleanála Schedule of Correspondence c.f.
<http://www.pleanala.ie/CTL/PA0/CPA0002.DOC>

⁹ Emails from the Kilcolgan Residents Association requesting more information from An Bord Pleanála and complaining of the short time delay to prepare for the oral hearing

Seveso II Directive. By the time we are eventually able to access the material to examine it further An Bord Pleanála may have already dealt with the application on an erroneous assumption about the contaminants in the LNG. An Bord Pleanála will have closed the door to further submissions from us. That is a clear example of one of the ways in which we are being shut out from meaningful participation in the process in flagrant breach of our rights under Irish and European Law. Our rights in this regard are guaranteed by the provision of the European Convention on Human Rights as adopted and as further made binding on An Bord Pleanála by the European Convention on Human Rights Act 2003 as well as by the principles of natural justice and the obligation on the decision makers including the An Bord Pleanála to apply fair procedures. There are several other aspects which are in breach of our rights including:

- a) The complete inequality of arms between us and the applicant. This is accentuated by the ability of the applicant to engage in pre-application consultations with the Bord Pleanála so that it can be advised on how to present the application. An Bord Pleanála has concluded, with no public input, that the application is one fit to be dealt with as Strategic Infrastructure and has literally pre-judged that vital issue. That in turn puts An Bord Pleanála in a position of objective Bias when it comes to assessing our contention that the application is no such thing and should not be considered as such. We would have liked to challenge these pre-application consultations in the Irish courts, through for example a Judicial review, but third-party costs are prohibitive. The High Court does not automatically protect us against costs and we would lose our homes if we challenged this and lost. This is contrary to the EU 1998 Aarhus Convention Directives, Directive 2003/4/EC and Directive 2003/35/EC – on the right of the public to be informed on the environmental impact and being provided with the opportunity to make comments and have access to justice
- b) The Applicants have been granted ample time to liaise privately with An Bord Pleanála, to compile their material, to liaise with other Statutory bodies and to finalise this application. It has done so over a period in excess of 7 months. By contrast the local residents and other members of the public have been given no access to the statutory decision makers and instead are expected to convey our concerns in one fell swoop within 42 days of being granted sight of some, but not all, of the necessary documentation. This is fundamentally unjust.
- c) The Irish Department of Agriculture, Fisheries and Food, one of the statutory bodies informed of the planning application and from whom submissions were requested by An Bord Pleanála, stated that “the documents provided have been circulated to our consultees who are not in a position to provide comprehensive observations at this stage”. If one of the statutory bodies specialised in the area of fisheries does not even have time to make comprehensive observations on the planning application before the submissions deadline then this is evidence that the general public would not have sufficient time to do so either contrary to EU law. Some of the adjacent local authorities (Clare County Council, Kilrush Town Council, Limerick County Council) did not even make submissions and do not have any automatic right to do so either under the new fast-track planning laws on the same terms as the County Council in which the development is actually taking place (Kerry County Council). This removes ELECTED local authorities (and by extension the general public they represent) having an automatic right of participation in the planning process at all stages before a planning decision is made and all power ultimately rests with an UNELECTED planning authority (An Bord Pleanála).
- d) There is a written record of a pre-application consultation between An Bord Pleanála and Shannon LNG for PC0002 which took place on May 2nd 2007. However, the problem is

that there are two versions of the minutes of this meeting which, under the new planning laws, are only made available to the public after the decision is made on whether or not a proposed development qualifies for fast-track planning. We question how the developer's application can be nurtured so carefully and we, the property owners and residents near this Seveso II development be denied access to the information on the type of petroleum tank farm planned for next door by SemEuro as is now evident from the minutes of that meeting. In 1979, the Whiddy disaster caused the death of 50 people. We fear that a tank farm of up to 80 tanks as is the case next to the Dragon LNG terminal in Milford Haven by SemEuro's sister company SemLogistics could be planned for Tarbert and An Bord Pleanála has not only mislead the public but is deliberately retaining relevant information which is preventing us from participating fairly in the planning process. In any case we question how An Bord Pleanála can still hope to give an objective ruling on the Shannon LNG application. The general public cannot refer the An Bord Pleanála decision to any other body and considering An Bord Pleanála has helped prepare the application for the developer they are therefore obviously guilty of agency capture.

- e) The Planning and Development (Strategic Infrastructure) Act 2006 specifically states that it is "an act to provide, in the interests of the common good, for the making directly to An Bord Pleanála of applications for planning permission in respect of certain proposed developments of strategic importance to the state; to make provision for the expeditious determination of such applications, applications for certain other types of consent or approval and applications for planning permissions generally" and it specifically states that an onshore LNG facility specifically qualifies as one of the Infrastructure Developments specifically covered by the Act. This is in direct conflict with all other protections offered by EU law on access to environmental information and timely participation in the planning process and writes into Irish legislation the by-passing of the input of elected local authorities in the planning of the Shannon LNG terminal in our county.
- f) The IPPC Directive: The daily shipments of gas in the Shannon Estuary and the industrial production processes of the proposed scale will account for a considerable share of the overall pollution in the area and a potential industrial accident will completely destroy the environment. The EU has a set of common rules for permitting and controlling industrial installations in. In essence, the IPPC Directive is about minimising pollution from various industrial sources throughout the European Union. Operators of industrial installations covered by Annex I of the IPPC Directive are required to obtain an authorisation (environmental permit) from the Environmental Protection Agency. The IPPC Directive is based on several principles, namely (1) an integrated approach, (2) best available techniques, (3) flexibility and (4) public participation. The integrated approach means that the permits must take into account the whole environmental performance of the plant, covering e.g. emissions to air, water and land, generation of waste, use of raw materials, energy efficiency, noise, prevention of accidents, and restoration of the site upon closure. The purpose of the Directive is to ensure a high level of protection of the environment taken as a whole. It is reasonable to conclude that the proposed Plant will contribute to a large scale pollution of the Shannon Estuary with a devastating affect on the wildlife and the whole environment. The environmental pollution will be beyond restoration. In regards to public participation in the consultation process it is essential to provide the public with sufficient time and independent expertise and allow the community to come to their own conclusions and make a decision that takes into account the needs of the local community. The consultation procedure taken up by an LNG Company, a company unknown in Ireland lacks the sufficient and independent expertise to help the local communities make the right decision. Furthermore, the consultation process between An Bord Pleanála and

the Environmental Protection Agency (EPA) will only take place after all public submissions have been received ¹⁰with no automatic right of reply given to the general public to make submissions based on the EPA findings – once again contrary to the EIA and IPPC directives.

Project Slicing

Shannon LNG is artificially sub-dividing this LNG project into pieces for the purpose of winning legal approval. Through this process, known as “salami-slicing”, sections of this project will be assessed and permitted. The idea is that the less environmentally-questionable parts of the project are authorised and built first, making continued development of the project a virtual fait accompli, even if the latter sections of the project seriously violate environmental regulations. This is contrary to, among others, article 2.1 of the EIA Directive, which requires that “projects” likely to have significant effect on the environment – not parts of projects – are subject to the assessment. This LNG storage and re-gasification facility cannot work without a pipeline, access to electricity and improvement to roads for which no planning application has been submitted. Only vague references to these developments have been made as well as to a mooted gas-fired electricity power station. It is to be feared that, due to the necessary exclusion zone required for LNG tankers, the land bank will only be fit for other “dirty” projects such as a massive petroleum-storage facility being mooted by SemEuro adjacent to the proposed LNG terminal, which, if assessed along with the LNG re-gasification terminal, would almost certainly be denied planning permission. This piecemeal approach to the planning process is extremely questionable as it does not deal with the sustainable development of the area and is contrary therefore to EU law.

Discussion on Project Slicing

11. Shannon LNG has made only vague reference to the pipeline from the proposed gasification terminal to Foynes *even though this pipeline could also pose serious environmental and safety risks depending on the pressure of the gas in the pipeline.*
12. It has only made vague references to its plans for the rest of its site on the land bank. They suggest maybe a gas-fired power station which would, they say, “be the subject of a separate planning application and EIS”¹¹
13. Shannon LNG also states ¹² that electricity to be supplied via 110kv lines from the ESB network at Tarbert will also “be the subject of a separate planning application”.
14. Shannon LNG goes on to state¹³ that Kerry County Council will upgrade the coast road from Tarbert which “will also be the subject of a separate planning application”.
15. It is to be feared that, due to the necessary exclusion zone required for LNG tankers, the land bank will only be fit for other “dirty” projects, which, if assessed along with the LNG gasification terminal,

¹⁰ An Bord Pleanála flowchart for Strategic Infrastructure Development c.f.
<http://www.pleanala.ie/sid/flowchart.htm>

¹¹ Shannon LNG EIS volume 1 page 5
http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf

¹² Shannon LNG EIS volume 1 page 5
http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf

¹³ Shannon LNG EIS volume 1 page 5
http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf

would almost certainly be denied planning permission.

16. This piecemeal approach to the planning process is extremely questionable as it does not deal with the sustainable development of the area and is contrary therefore to EU law. We also believe, as stated above, that this project slicing was done in order that the project would qualify as Strategic Development as defined by the 2006 Act without public participation on this decision and have the effect of allowing the application to go through an unreasonable fast-track planning process.

Breach of the SEA directive by Kerry County Council:

In March 2007 the elected members of Kerry County Council decided to vote in favour of a county manager recommendation to rezone 188 Hectares of land zoned rural general and secondary amenity to industrial for the proposed LNG terminal. An SEA screening report was published in November 2006. Kerry County Council were fully aware of the proposed LNG development and its Seveso (Hazardous) status and chose not to include it in the screening report as a *'development likely' to be proposed*. The reason in our opinion is quite simple. If they were to follow the proper procedures subsequently and conduct a full SEA then the LNG project would have been jeopardised due to the probable wide scope of a SEA and the length of time involved in tendering out and completing a SEA with all its consultative procedures. The SEA would have been conducted independent of the company (Shannon LNG) and so would most likely have found against the proposed rezoning due to the extremely sensitive SAC nature of the site and the proposed zonings direct conflict with EU law e.g. the Habitats Directive. This decision was made with no right of appeal to An Bord Pleanála. The frequent shipments of LNG in the Shannon Estuary and the industrial production processes will account for a considerable share of the overall pollution in the area and a potential industrial accident could completely destroy the environment. The most serious environmental concern (not to mention the environmental impacts of a massive LNG leak) is that the daily discharge of 108 million gallons of cooled and chemically-treated seawater will affect marine life and water quality in the estuary by killing ichthyoplankton and other micro-organisms forming the base of the marine food chain unable to escape from the intake area, causing serious environmental damage to the eco-system of this SAC area. Therefore, the County Manager Report's conclusions on March 8th 2007 that *"it does not appear that there is a need for a SEA in this instance as the proposed variation is unlikely to result in development which would have significant effects on the environment"* is factually incorrect. The importation of huge amounts of this fossil fuel will have a crowding-out effect on the development of other renewable energies since Ireland is already one of Europe's largest importers of fossil fuels. Another possible fast-track planning application by SemEuro for "a petroleum storage installation and related marine facilities at Ballylongford" adjacent to the proposed LNG terminal is also currently before An Bord Pleanála to decide if it, too, meets the criteria of the Act. But we have been refused any information on this application even though it would have a detrimental effect on the environment and on the LNG application. Darren Coombes of An Bord Pleanála confirmed to us on November 22nd 2007 that SemEuro had consultations with Kerry County Council.

Discussion on the Breach of the SEA by Kerry County Council

17. The lands in question which are riparian to the Shannon Estuary are located between Ballylongford and Tarbert. The Irish Industrial Development Authority (the IDA) took an interest in the land 40 years ago identifying it as being of strategic importance due to its deepwater's. They bought the land and subsequently it changed hands to Shannon Development (a regional version of the IDA). Several proposals for industry have come and gone in the interim period.

18. From as early as May 2006, it was clear from booklets distributed by Shannon LNG¹⁴ that Shannon LNG was planning an LNG terminal on the site at Kilcolgan – the first of its kind in the country and one which would see 4.4 million gallons of water pumped from the Shannon Estuary every hour. The most serious environmental concern (not to mention the environmental impacts of a massive LNG leak) has always been that pumping over 108 million gallons of chlorinated and cooled water into the estuary daily will cause serious environmental damage to the eco-system of this SAC area. The withdrawal and discharge of huge volumes of seawater will affect marine life by killing ichthyoplankton and other micro-organisms forming the base of the marine food chain unable to escape from the intake area. Furthermore, the discharge of cooled and chemically-treated seawater will also affect marine life and water quality. However, the site was still zoned Rural General and Secondary Special Amenity at the time. To rezone the land to Industrial, a variation had to take place to the Kerry County Development Plan 2003-2009. In March 2007, the site at Tarbert was therefore rezoned from “Rural General” to Industrial through variation No. 7 of the County Development Plan.
19. However, extremely serious issues surrounding the rezoning bring in to serious disrepute the whole planning process in Kerry and are furthermore putting the lives of the people of Kilcolgan in danger through the attempts to fast track a Seveso II site without following all planning procedures correctly.
20. The neighbouring local authority on the opposite shores of the Shannon Estuary (Clare County Council) objected to the rezoning on the grounds that:
*“the proposed rezoning is likely to have a significant impact on the future development of the region, and will have a direct impact on the planned objectives for the Mid West Regional guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan. Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the Lower Shannon Estuarine Environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation”. The Kerry County Manager replied: “Any future application of these lands will be subject to an Environmental Impact Assessment. This process will ensure that any proposals will take into account impacts on the visual and ecological amenities of the area. A copy of the SEA screening report for the proposed variation will be forwarded to Clare County Council.”*¹⁵
21. No SEA has been undertaken as required for a variation to the development plan under Statutory Instrument No 436 of 2004 Article 7 section 13K and article 12 schedule 2A of the same Statutory Instrument¹⁶ where there will be a significant effect on the environment.
22. The County Manager Report’s conclusions on March 8th 2007¹⁷ that *“it does not appear that there is a need for a SEA in this instance as the proposed variation is unlikely to result in development which would have significant effects on the environment”* are extremely questionable for the following reasons:
- a) it was known at the time of the County Manager’s report that Shannon LNG had an option to buy the lands subject to planning permission for the LNG terminal with the serious consequential effects on the environment as detailed above. Indeed, An Bord Pleanála wrote to the County Manager on February 7th, 2007 notifying them of Shannon

¹⁴ Shannon LNG Booklet May 2006 http://www.shannonlngplanning.ie/files/SLNG_Booklet.pdf

¹⁵ Kerry County Manager’s report on variation No 7 to Kerry County Development Plan

¹⁶ Planning and Development (Strategic Environmental Assessment) Regulations 2004. S.I No 436 of 2004 c.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12>

¹⁷ Kerry County Manager’s report on variation No 7 to Kerry County Development Plan

LNG's request for pre-application consultations under the planning and Development (Strategic Infrastructure) Act 2006 for an LNG terminal on the said site.

- b) It is a fact that Shannon LNG held pre-planning discussions on the 23rd of June and the 20th October 2006 with Kerry County Council about the plans for a LNG terminal at Kilcolgan, Tarbert, Co. Kerry¹⁸. Further to this Shannon LNG submitted an application for a weather station on the site in September 2006. The SEA screening report was published in November 2006.
- c) The waters of the Lower Shannon are in a candidate Special Area of Conservation (SAC) and therefore protected under the EU Habitats directive.
- d) Clare County Council raised serious concerns that the construction of a deepwater harbour would have a major impact on both the visual and ecological amenities of the area and potentially on the Lower Shannon Estuarine Environment, including the foreshore of County Clare, and requested an appraisal of any SEA investigation¹⁹ as detailed above.
- e) The Senior Executive Planner of Clare County Council, John Bradley, who made the submission on behalf of Clare County Council, could not confirm that any such screening report was received by Clare County Council.
- f) The EPA could not confirm receipt of the SEA screening report, even though Tom Sheehy of Kerry County Council maintains it was sent on December 5th 2006.²⁰
- g) The ecological sensitivity of the area has been recognised in the Kerry County Development Plan²¹ in declaring both Ballylongford Bay and Tarbert Bay as areas of Ecological Importance but this fact was completely ignored in the report.
- h) the importation of huge amounts of this fossil fuel will have a crowding-out effect on the development of other renewable energies since Ireland is already one of Europe's largest importers of fossil fuels, will lock us in to importing for the mooted gas power station being proposed on the site adjacent to the LNG terminal and will lead to carbon credits being paid out because of CO2 emissions.
- i) The Irish Department of the Environment's Guidelines for Local Authorities on implementation the SEA directive²² are clearly not adhered to as the site is a Seveso II site surrounded by SAC, SPA and NHA areas. The SEA Screening Report of November 2006, as do all planning procedures, comes under the auspices of the Planning & Development Regulations²³ which were amended in 2004 on foot of the EU Directive on

¹⁸ Pre-planning Consultations by Shannon LNG

¹⁹ Kerry County Manager's report on variation No 7 to Kerry County Development Plan

²⁰ Email Communication with Kerry County Council concerning SEA Screening Report

²¹ Kerry County Council Development Plan 2003-2009 Appendix 1g – Other areas of ecological importance
c.f. <http://www.kerrycoco.ie/planning/devplan/Appendix1g.pdf>

²² 'Assessment of the Effects of Certain Plans and Programmes on the Environment: Guidelines for Regional Authorities and Planning Authorities (2004)' cf.

<http://www.environ.ie/en/Publications/DevelopmentandHousing/Planning/FileDownload,1616,en.pdf>

²³ Planning and Development (Strategic Environmental Assessment) Regulations 2004. S.I No 436 of 2004
c.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html>

Strategic Environmental Assessment (SEA) in 2001. The guidelines clearly state in sections 3.5 and 3.10 (2):

“Screening & Scoping

3.5 The key to deciding if SEA will apply will be *whether the plan would be likely to have significant effects on the environment*. The decision should not be determined by the size of an area alone. It will also be influenced by nature and extent of the development likely to be proposed in the plan and its location (e.g. close to or within an SAC, SPA or NHA), and its broad environmental effects”

“Criteria for Determining the Likely Significance of Environmental Effects

3.10 Schedule 2A to the Planning and Development Regulations 2001 sets out two main types of criteria for determining whether a plan would be likely to have significant environmental effects:

(1) Characteristics of the Plan: for example, the scale of development likely to take place over the life of the plan, or the degree to which it promotes sustainable development. Does the plan set out environmentally-friendly objectives? What environmental problems are of particular relevance to the plan?

(2) Characteristics of the effects and of the Area likely to be affected: for example, the magnitude, cumulative nature and reversibility of the effects, or the value and vulnerability of the area likely to be affected by implementation of the plan. How many people are likely to be affected by the plan? Are there areas of conservation sensitivity (such as natural habitats) within or adjacent to the area covered by the plan? Much of the advice contained in the Department's Guidance (*August 2003*) on EIA sub-threshold Development (www.environ.ie) regarding areas of conservation sensitivity is also of relevance for SEA. How intensive is the nature of the proposed land use? Is there a risk of accidents, *e.g. involving Seveso land uses?*”

- j) The Ballylongford Screening report²⁴ makes no mention of Shannon LNG having an option to purchase land on the site subject to planning permission for an LNG terminal, even though this was known since at least May 2006 and that this was already discussed in the Kerry County Council meeting of 19 June 2006²⁵ as follows:

“20. Establishment of a committee to deal with infrastructural development and Planning issues relating to the Ballylongford Land Bank Pursuant to notice duly given Cllr. J. Brassil proposed:-

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

Mr. C. O'Sullivan, SEO Corporate Services read the following report:-

The Ministers announcement in relation to the proposals for Ballylongford is to be welcomed. Preplanning discussion with Shannon LNG will shortly commence. The necessary planning and infrastructure teams will be put in place as discussions develop more fully the particular project proposal and the needs of the Ballylongford Land

²⁴ Strategic Environmental Assessment Screening Report – Kerry County Council Development Plan 2003-2009 Proposed Variation – November 2006

²⁵ Minutes of June 19th 2006 Meeting of Kerry County Council -

<http://www.kerrycoco.ie/minutedocs/Item%202b%20Ordinary%20Minutes%20June%202006.pdf>

Bank generally. Project progress will be overseen by Sub Committee of Senior Management Team. The situation will be kept under review as the project progresses. Cllr. J. Brassil welcomed the report and said that this has the potential to be a huge project for North Kerry and he called on the Executive to give it every support. Cllr. L. Purtill welcomed the recent announcement for the development of part of Ballylongford Land Bank and supported Cllr. Brassil's motion."

- k) In light of the pre-planning discussions and planning application for a weather station²⁶ it is clear that Kerry County Council were fully aware of the proposed development and its Seveso (Hazardous) status and chose not to include it in the screening report as a *'development likely' to be proposed*'.
- l) We have uncovered²⁷ another fast-track planning application for "a petroleum storage installation and related marine facilities at Ballylongford" currently before An Bord Pleanála²⁸ at the pre-planning stage with a decision still due on whether or not it qualifies for fast-track planning. The company is SemEuro. We contacted John Spencer, the managing director of SemEuro in Geneva on Wednesday November 21st 2007 and he referred us to Kieran Parker of the SemEuro Group in the UK. Kieran Parker just confirmed on November 22nd 2007 by phone that we should contact Shannon LNG if we have any questions and that he could not comment any further. So this seemed to strongly suggest that SemEuro and Shannon LNG are linked. In any case, Shannon LNG stated in its pre-consultation meetings with An Bord Pleanála on May 2nd 2007 that "it would not foresee any problem in having the proposal beside the petroleum storage facility". An Bord Pleanála has refused to give us information on the details of PC0008 until a decision is made on whether it qualifies for fast-track planning. We are deeply concerned that a massive petroleum tank farm similar to the massive 80 tanks (the largest independent oil storage facility in the UK) constructed by SemEuro's sister company, SemLogistics, in Wales is planned for the site next to the LNG terminal because the dangerous precedent has now been set in Milford Haven. Kerry County Council has not disclosed any information about SemEuro and therefore Shannon LNG's true intentions. People have been misleadingly lead to believe locally that SemEuro is intending to build on a different area (the Ballylongford to Asdee side of Ballylongford Bay). However, Darren Coombes of An Bord Pleanála confirmed to us also on November 22nd 2007 that SemEuro are actually applying for planning adjacent to the Shannon LNG. This brings into question the effect for top-tier Seveso 2 sites' exclusion zones on the SAC area of the Lower Shannon and the Ballylonford and Tarbert Bay areas defined as of significant ecological importance in the Kerry County Development Plan 2003-2009 ? *He also confirmed that SemEuro had consultations with Kerry County Council.* This means that one could not say that LNG and petroleum storage will not have an effect on the environment? It is evident that a development of this size would have an effect on the environment. The information on SemEuro should have been in the public domain as it has a huge bearing on the real intentions of Shannon LNG and SemEuro to create a massive gas and petroleum storage facility on the shores of the SAC Lower Shannon Estuary and has deprived the general public timely access to information on intentions and possible

²⁶ Application for Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan to Kerry County Council Ref 06/3428 dated 18 September 2006 - http://www.kerrycoco.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=063428

²⁷ SemEuro Planning for Petroleum Storage facilities near the proposed LNG terminal

²⁸ Pre-Application Consultation PC0008 on Petroleum storage installation and related marine facilities at Ballylongford, Co. Kerry - <http://www.pleanala.ie/casenum/PC0008.htm>

alternative uses of the site in order to participate fully in the planning process.

23. Without any information in the public domain regarding the scoping or the actual execution of an SEA²⁹ this rezoning is fundamentally unsound and invalid under EU law.
24. On March 12th 2007, at the Kerry County Meeting³⁰ Mr. McMahon, director of planning, circulated his SEA screening report to the councillors and briefed them on it. The proposed variation was accepted and passed by the councillors present.
25. The serious concerns the Kilcolgan Residents Association have about the proposed LNG development is clearly explained in its submission to An Bord Pleanála.³¹
26. Our complaint is that an SEA should have been undertaken by the statutory body (Kerry County Council) as requested by Clare County Council who quite rightly pointed out that the rezoning would have a direct impact on the environment and the planned objectives for the Mid West Regional guidelines for the Shannon Estuary. It would have represented the only independent Environmental Assessment of the area. We believe that this was not undertaken because pressure to fast-track the rezoning for the Shannon LNG company took precedence over following the correct procedures to the detriment of the Shannon Estuary, its environment and environs and to the people living and owning property adjacent to the land bank. All we finally received to our comprehensive complaint to the council was a one-line statement on November 22nd 2007 from Anne O'Sullivan on November 22nd 2007 stating:

“In relation to the question of a Strategic Environmental Assessment this is not mandatory in this case and Kerry County Council following a screening process decided that such Strategic Environmental Assessment was not necessary.”³²
27. In our opinion both the County Manager and the elected representatives were collectively responsible for this deliberate effort to push through the development at all costs contrary to the EU SEA Directive. Furthermore, the new atmosphere of fast-tracking planning at all costs, created by the fast-track planning, we believe, has contributed to a breach by our local planning authority (Kerry County Council) in refusing to undertake a Strategic Environmental Assessment in rezoning the site of the proposed LNG terminal from Rural to Industrial as required by the EU SEA Directive. This decision has been made with no right of appeal to An Bord Pleanála.
28. We therefore petition the EU parliament to condemn this refusal by Kerry County Council to undertake an SEA as being contrary to EU law.
29. As the decision on whether or not to grant permission to Shannon LNG has not been made, we also

²⁹ Notice of proposed variation to Kerry County Development Plan - <http://www.kerrycoco.ie/Planning/PUBLIC%20%20NOTICE%20-%20ballylongford%20variation%20no%207.pdf>

³⁰ Minutes of March 12th 2007 Meeting of Kerry County Council - [http://www.kerrycoco.ie/minutedocs/Item%20No%202\(a\)%20Minutes%20of%20March%20Meeting.pdf](http://www.kerrycoco.ie/minutedocs/Item%20No%202(a)%20Minutes%20of%20March%20Meeting.pdf)

³¹ LNG Planning Submission by Kilcolgan Residents Association

³² Final Reply from Kerry County Council on Complaint from Kilcolgan Residents Association on refusal to undertake an SEA

urge you to send a representative to Ireland to participate in the oral hearing of January 21st 2008 on this application and witness first hand the abuse of our rights as European citizens to participate effectively in the Irish planning process (which is taking place irrespective of the eventual decision by An Bord Pleanála) and the abuse of the following EU laws, among others:

- EU Habitats Directive 92/43/EEC On the conservation of natural habitats and of wild fauna and flora– as 25 acres of the site is in a Special Area of Conservation (SAC)
- EU 1998 Aarhus Convention Directives, Directive 2003/4/EC and Directive 2003/35/EC – on the right of the public to be informed on the environmental impact and being provided with the opportunity to make comments and have access to justice
- EIA directive 87/337/EEC as amended by Directive 97/11/EC - concerning the effects of certain public and private projects on the environment, the precautionary, preventative-action and polluter-pays principles
- Seveso II Directive 96/82/EC as amended by 2003/105/EC – for placements of hazardous sites
- SEA Directive 2001/42/EC on the assessment of certain plans and programmes on the environment
- EU Water Framework directive 2000/60/EC
- European Convention on Human Rights
- IPPC Directive 96/61/EC concerning integrated pollution prevention and control

Conclusion:

This proposed site, should it gain approval, would be classified as top-tier Seveso II. We strongly believe that this new legislation i.e. the Planning and Development (Strategic Infrastructure) Act 2006 is being used to fast-track a potentially dangerous and divisive planning application and prevent public participation in the planning process in any meaningful way. In this instance it served to pressurise a local authority to ‘cut corners’ (by not conducting an SEA) to avoid delays, thereby railroading the project through the approval process. By expediting the decision making process for what is clearly a hazardous land/marine use proposal the state is not only seriously jeopardising lives and the environment but is also in direct contravention of EU law. We now urge you to condemn the Planning and Development (Strategic Infrastructure) Act 2006 as being contrary to EU law. We also urge you to condemn the blatant breach of procedure by Kerry County Council in refusing to undertake an SEA as being contrary to Irish and EU law. Finally, we urge you to condemn the preceding decision by An Bord Pleanála that the Shannon LNG proposal actually qualifies for fast-track planning status as being contrary to EU law and to condemn the project-slicing of the Shannon LNG application as contrary to the EIA and Seveso Directives. We are aware that a similar issue concerning an LNG-related development was before the Petitions Committee in December 2007³³.

Kilcolgan Residents Association Members objecting to the proposed LNG application:

Name	Address
Johnny McElligott	Island View, 5 Convent Street, Listowel, Co. Kerry

³³ Petition 1194/2007 to the EU Petitions Committee by Ms. Elizabieta Whomsley (British), on opposition against the planned route of a 115-mile liquefied natural gas (LNG) pipeline in Wales c.f. http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dv/699/699296/699296en.pdf

Morgan Heaphy	Glencullare North, Tarbert, Co. Kerry
Patricia Anglim O'Connor	Saleen, Tarbert, Co. Kerry
Josephine Anglim	Saleen, Tarbert, Co. Kerry
Adam Kearney	Bridge Street, Ballylongford, Co. Kerry (landowner Kilcolgan, Tarbert)
Seamus Leane	Knockenagh, Listowel, Co. Kerry (land-owner Puleen, Tarbert)
Fiona Leane	Knockenagh, Listowel, Co. Kerry (land-owner Puleen, Tarbert)
Michael O'Connor	Upper Kilcolgan, Tarbert, Co. Kerry
Willie Hayes	Puleen, Tarbert, Co. Kerry
Kathleen Hayes	Puleen, Tarbert, Co. Kerry
Richard McElligott	Gunsboro, Knockenagh North, Listowel, Co. Kerry (landowner Kilcolgan)
Shannon O'Mahony (Age 6)	Kilcolgan, Tarbert, Co. Kerry
Raymond O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Tim Mahony	Kilcolgan, Tarbert, Co. Kerry
Padraig O'Connor	Upper Kilcolgan, Tarbert, Co. Kerry
Margaret O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Margaret Finnucane	Kilcolgan, Tarbert, Co. Kerry
Kathleen Finnucane	Kilcolgan, Tarbert, Co. Kerry
Andrew Finnucane	Kilcolgan, Tarbert, Co. Kerry
Noleen Finnucane	Kilcolgan, Tarbert, Co. Kerry
Ann Marie Finnucane	Kilcolgan, Tarbert, Co. Kerry
Catherine Finnucane	Kilcolgan, Tarbert, Co. Kerry
Seamus Finnucane	Kilcolgan, Tarbert, Co. Kerry
Sean Heaphy	Lislaughtin Abbey, Ballylongford, Co. Kerry
Michael Heaphy	Lislaughtin Abbey, Ballylongford, Co. Kerry
Ena O'Neill	Puleen, Tarbert, Co. Kerry
Jim O'Neill	Puleen, Tarbert, Co. Kerry
Michael O'Connor	Carhoonakineely, Ardmore, Tarbert, Co. Kerry
Beatrice O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Chris Kelly	Carhoonakilla, Tarbert, Co. Kerry
Jayne Kearney	Kilcolgan, Tarbert, Co. Kerry
Kenneth Finnucane	Ballymacassy, Ballylongford, Co. Kerry
Kathleen Kelly	Carhoonakilla, Tarbert, Co. Kerry
Frank Kelly	Carhoonakilla, Tarbert, Co. Kerry
Esther Flavin	Carhoonakilla, Tarbert, Co. Kerry
Mary Kelly-Godley	Glensillagh, Tarbert, Co. Kerry
Sasha Godley	Glensillagh, Tarbert, Co. Kerry
Brian Godley	Glensillagh, Tarbert, Co. Kerry
Noelle Jones	Carhoonakilla, Tarbert, Co. Kerry
Ger Buckley	Cockhill, Tarbert, Co. Kerry
Eileen O'Connor	Lislaughtin, Ballylongford, Co. Kerry (landowner Kilcolgan)
Chloe Griffin (age 10)	Carhoonakilla, Tarbert, Co. Kerry
Catrina Griffin	Carhoonakilla, Tarbert, Co. Kerry
Pat Griffin	Carhoonakilla, Tarbert, Co. Kerry
Patricia O'Connor	Saleen, Tarbert, Co. Kerry
Ger Shanahan	Kilcolgan, Tarbert, Co. Kerry
Donncha Finnucane	Kilcolgan, Tarbert, Co. Kerry
John O'Connor	Lislaughtin, Ballylongford, Co. Kerry (landowner Kilcolgan)
Bridget Shanahan	Kilcolgan, Tarbert, Co. Kerry
John J O Mahony	Kilcolgan, Tarbert, Co. Kerry
Lily O'Mahony	Kilcolgan, Tarbert, Co. Kerry
TJ O'Mahony	Kilcolgan, Tarbert, Co. Kerry

Geraldine Carmody	Kilcolgan, Tarbert, Co. Kerry
Cathal Carmody	Kilcolgan, Tarbert, Co. Kerry
Betty Doherty	Kilcolgan, Tarbert, Co. Kerry
James Doherty	Kilcolgan, Tarbert, Co. Kerry
Anthony O'Mahony	Kilcolgan, Tarbert, Co. Kerry
Jamie O'Mahony (age 5)	Kilcolgan, Tarbert, Co. Kerry
Catherine Heaphy	Glencullare, Tarbert, Co. Kerry
Tom O'Connor	Ardmore, Tarbert, Co. Kerry
Kathleen O'Connor	Ardmore, Tarbert, Co. Kerry.

Appendix Petition 1

Report to the Inspector on the proposed Shannon LNG development –
Ecology, *Prepared for:*

An Bord Pleanála, 64 Marlborough Street, Dublin 1. February 2008 FINAL
REPORT *Prepared by:* Ecological Consultancy Services Ltd (EcoServe), B19
KCR Industrial Estate, Kimmage, Dublin 12. www.ecoserve.ie

Report to the Inspector on the proposed Shannon LNG development - Ecology

Prepared for:

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

February 2008

FINAL REPORT

Prepared by:

Ecological Consultancy Services Ltd (EcoServe),
B19 KCR Industrial Estate,
Kimmage,
Dublin 12.
www.ecoserve.ie



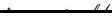
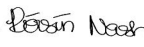
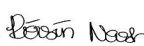
	Print name	Signature
Prepared by:	John Brophy	
Checked by:	Róisín Nash	
Authorised by:	Róisín Nash	

Table of contents

1.0 Introduction	3
2.0 Review of ecology sections	3
2.1 Terrestrial and freshwater ecology	3
2.2 Marine and estuarine ecology	3
2.3 Hydrology and hydrogeology	3
3.0 Overall conclusion	3
4.0 Recommendations	3
4.1 Terrestrial and freshwater ecology	3
4.2 Marine and estuarine ecology	3
4.3 Hydrology and hydrogeology	3
5.0 References	3

1.0 Introduction

EcoServe was contracted by An Bord Pleanála to review the Environmental Impact Statement (EIS) submitted in relation to the proposed Liquefied Natural Gas (LNG) regasification terminal at Kilcolgan Lower, Co. Kerry and to provide advice to the Inspector on the ecological elements of the EIS.

The review centred on a number of chapters from the EIS: Chapter 10 Terrestrial and Freshwater Ecology, Chapter 11 Marine and Estuarine Ecology and Chapter 13 Hydrology and Hydrogeology insofar as this may impact upon ecology in the area. In addition to the EIS, the relevant appendices were also reviewed for more detailed information on the work completed in carrying out the impact assessments on the various ecological elements of the study area.

The site was visited on the 27th January 2008 and the Oral Hearing was attended for the ecology module on the 28th January 2008.

2.0 Review of ecology sections

Each chapter of the EIS is addressed in turn, and is supplemented with any relevant findings on review of the associated appendices. All findings are included under the relevant EIS chapter headings with any additional information received at the Oral Hearing considered.

2.1 Terrestrial and freshwater ecology

Flora and habitats

The survey of the flora communities of the study area uses the classification scheme devised by Fossitt (2000), which is appropriate for the characterisation of habitats in Ireland. The survey seems to have identified all the habitats occurring within and close to the study area and in particular recognised the importance of habitats listed under Annex I of the Habitats Directive (e.g. coastal lagoon). In assigning a value to the habitats, the approach taken seems to be conservative, which ensures that the importance of habitats is not undervalued.

The assessment of the impact of the proposed development on the flora and habitats of the study area is based on the NRA publication Guidelines for assessment of ecological impacts of National Road Schemes (NRA, 2006a). While this is not a road development, this is the only detailed guidance available in Ireland for the assessment of ecological impact, and so is appropriate for use in this case.

The lagoon that occurs adjacent to the site is outside the site boundary and the impact assessment considers that it will not be significantly impacted upon. A survey of this lagoon was carried out in August 2007 and a detailed report on the flora and fauna of the lagoon and associated reed bed was submitted prior to the Oral Hearing. This report did not change the assessment that there will be no significant impact on the lagoon by the proposed development.

Reptiles and amphibians

The common frog (*Rana temporaria*) was recorded from within the development site boundary.

The common frog is protected under the Wildlife Act, 1976 as amended by the Wildlife (Amendment) Act, 2000.

While the specific mitigation measures for common frogs state that frogs will be removed prior to commencement of development, no timeframe is put forward for this in relation to the life cycle of the species. Spawning occurs in March with tadpoles metamorphosing into froglets and leaving the pond in June/July (ENFO, 2008). This should be taken into consideration in the timing of works on the wet grassland and associated ditches.

Common newts (*Triturus vulgaris*) were recorded from the lagoon as part of the additional surveys carried out in August 2008. The common newt is also protected under the Wildlife Act 1976 as amended by the Wildlife (Amendment) Act, 2000. The separation of the lagoon from the development site and the measures in place to protect the lagoon from impact should provide protection for this species.

Mammals

The mammal survey identified a number of species of mammal utilising the development site, existing structures and the surrounding area. The most notable of these included badgers, bats and otters. These species are all protected under the Wildlife Act 1976 (amended 2000), while otters are listed under Annexes II and IV of the Habitats Directive and bats under Annex IV (with the exception of the lesser horseshoe bat *Rhinolophus hipposideros*, which is also listed under Annex II, though was not recorded in the course of this survey). The appropriate NRA guidelines were consulted in carrying out the survey and assessment of mammals (NRA, 2005a; 2005b; 2006a; 2006b) and survey techniques were in line with standard practise.

In assessing the impact of the development on the badger setts located on and adjacent to the site, the effect of blasting during the construction phase was not considered. The NRA guidelines state that no blasting or pile-driving should be carried out within 150 m of an active sett during the breeding season (December - June), nor construction works within 50 m (NRA, 2006b). This is not referred to in the EIS despite having referred to this document. This topic was discussed at the Oral Hearing and it was agreed that the NRA guidelines would be followed in this regard.

Otter activity, in the form of spraints and a well-worn otter track, was recorded along the stream that runs through the site. No evidence of a natal holt was found on the site. At the time of the publication of the EIS, the possibility remained that there was one within an area of dense vegetation and confirmation of this awaited the completion of a subsequent survey. The subsequent survey was carried out in September 2007 and no evidence of a natal holt was recorded.

In assessing the impact of the development on otters, it is stated that otters can survive in situation of noise and/or disturbance and otters should adapt to any disturbance during the operation phase and also that the fish stocks of the stream are unlikely to be a significant food source for otters. Preston *et al.*, (2006; 2007) have found that, despite the dominance of salmonids in the diet of the otters, stickleback and eel are frequently recorded from otter spraints and can form an important part of the diet. The loss of the stream habitat and the resulting potential reduction in fish stocks may impact on the otter usage of the stream and the embankment is likely to act as a barrier to movement of fish and possibly otters.

Birds

The bird survey, which focused on the wintering waterbirds, identified the presence of two species listed under Annex I of the Birds Directive, the red-throated diver and the great northern diver, one species on the IUCN red-list, the curlew and 20 species (waterbirds and terrestrial) listed on the IUCN amber-list. The monthly surveying of waterbirds in the area is in line with the methodology followed by Birdwatch Ireland volunteers in carrying out the Irish Wetland Birds Survey (I-WeBS).

The assessment of the impact of the development on the bird species recorded within the study area does not follow the EPA Guidelines (EPA, 2002) in describing significance, duration, likelihood, etc. The mitigation measures for sand martins, an amber-listed species, which breed in the sedimentary cliffs within the site state that these nests will be removed in the period October-March when the birds have finished breeding and that they are expected to be relocated to an adjacent area of cliff on their return. Other areas of cliff may not be suitable for burrowing and the creation of nests due to different sediment type. Should this be the case, consideration should be given to the construction of artificial burrows for the birds to nest in.

Macroinvertebrates

The freshwater macroinvertebrate survey was carried out following standard methods. The identification of the macroinvertebrates was not to a satisfactory taxonomic level. While in most cases, though not all, the level was sufficient for the calculation of a Q-value, it is not sufficient to fully describe the macroinvertebrate population of the stream for the purposes of monitoring future changes. While it is accepted that some taxonomic groups are difficult to identify to below family level, many of those recorded in the course of this survey should be possible to key out to species. A number of mistakes were made in the calculation of the Q-value including the assigning of taxa to the wrong sensitivity group (e.g. Glossosomatidae, Limnephilidae, Chironomidae, *Potamopyrgus* sp. and possibly *Baetis* sp. and Oligochaeta).

Based on the information in Table 1 of Appendix 10D, Q-values assigned to Site 2 and 3 are questionable. As no Group A taxa are present in the sample from Site 3, this site should not be classified Q4, but probably Q3. Depending on the number of Heptageniidae recorded at Site 2, this may be classed as Q3-4.

Surveys on Coleoptera (beetles) and Lepidoptera (butterflies & moths) were not completed before the submission of the EIS. Reports on these groups were submitted prior to the Oral Hearing and stated that no species of conservation interest were recorded in the course of the survey.

Fish

The fish survey of the stream that crosses the development site was carried out following standard methods.

The number species of fish and individuals recorded at the sites is low and no salmonids were recorded. However, the presence of eels could be considered to be of greater conservation importance than acknowledged in the EIS. While the eel currently has no special conservation status, the EU published a communication in 2003 (EC, 2003a) outlining the intention to develop a conservation plan for the species given the current concern for their status. A plan is

to be developed to protect the eel at all stages of its lifecycle and it may be included as an indicator of good ecological status under the EU Water Framework Directive (2000/60/EC).

Proposed impoundment and the Water Framework Directive

The proposed impoundment of the stream that traverses the site will result in the alteration of the morphology and ecology of the watercourse, as well as likely changes to the physico-chemical character of the water, which may not be in line with the Water Framework Directive (2000/60/EC). The Water Framework Directive (WFD) aims to maintain ‘high status’ where it exists, prevent deterioration of existing status and achieve ‘good status’ in relation to all surface water bodies by 2015. Under the Directive, a member state will not be considered to be in breach of the Directive if the reason for not meeting the requirements of the Directive for a waterbody meets the conditions set out in Article 4, Paragraph 7. It is unclear as to whether the proposed development satisfies the conditions set out in this section, in particular as the River Basin Management Plan for the Shannon River Basin District has yet to be published.

Prior to considering whether it is necessary for the proposed development to satisfy to conditions set out in Article 4, Paragraph 7, it is necessary to consider whether the stream is to be considered a waterbody for the purposes of the WFD. Due to its small size, it is possible that the stream in question does not warrant classification as a surface water body under the WFD. Annex II of the WFD outlines the requirement for characterising surface water bodies, following either a fixed typology (System A) or an alternative characterisation (System B), which is allowed if it achieves at least the same differentiation as System A. System A does not assign a typology to rivers with a catchment area of less than 10 km², however Ireland has adopted System B, which (Kelly-Quinn *et al.*, 2005) classifies rivers on the basis of geology (which relates to water hardness) and slope, but does not consider size. A European Commission guidance document on the identification of water bodies of the WFD suggests that a very small waterbody that is not significant in the context of the Directive’s purpose and objectives need not be identified as a water body, but rather protected and enhanced where necessary in order not to compromise the achievement of objectives in other water bodies (EC, 2003b). From the ecological assessment of the stream on the proposed development site, it could not be considered to have a high ecological value, supporting only limited fish species and a moderate macroinvertebrate fauna, while in terms of catchment size, the area falls below the 10 km² threshold set in System A, as recommended for use in the European Commission guidance document (EC, 2003b). In light of this, it could be argued that the stream is not of sufficient size or importance to constitute a waterbody and that its protection should be viewed in light of potential impacts on other water bodies.

The ShRFB also raised the matter of the impoundment from the viewpoint of “no net loss of habitat” for fish and recommended that alternative arrangements be made for the provision of water storage, for example through excavation of the land bank.

Conclusion

Apart from the shortcomings highlighted in the above sections, the work carried out to describe the baseline environment and carry out an impact assessment of the proposed LNG terminal is generally satisfactory. The impact assessment generally follows the guidelines set out by the NRA (NRA, 2006a) and has regard to the EPA guidelines (EPA, 2002).

Reference should be made to the Eastern Regional Fisheries Boards (ERFB) Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites in the mitigation section.

A major shortcoming of the section on terrestrial and freshwater ecology is the lack of a number of sections which are referred to in the Guidelines on the information to be contained in the Environmental Impact Statements (EPA, 2002). These include the ‘Do Nothing’ and the ‘Worst Case’ scenarios, as well monitoring. In particular, the omission of a monitoring section is a serious flaw in the terrestrial and freshwater ecology chapter and details of a proposed monitoring programme should be provided. This should include the ecological element to be monitored, the monitoring design, timescale, *etc.*

2.2 Marine and estuarine ecology

Intertidal and subtidal

The methods employed in assessing the baseline environment of the intertidal and subtidal area in the vicinity of the development site are generally acceptable. The use of such a small Van Veen grab (0.025m²) is not very suitable for macroinvertebrate sampling (Eleftheriou & Holme, 1984, Davies *et al.*, 2001) and is likely to have contributed to the failure to get samples at some of the stations where the sediment was too coarse. The combination of such a small grab and only two replicates at each sample station may not give quality data on the benthic marine fauna within the study area. This is evidenced by between replicate variation in species and abundance at a number of the stations.

Inconsistent survey methods were used in the course of the intertidal survey. While the habitat and species of Transects 1-6 (November) were surveyed in a more general manner, Transect 7 (April) was surveyed following the Marine Habitat Classification for Britain and Ireland (Connor *et al.*, 2004). The use of this habitat classification is more suitable for the description and mapping of biotopes (habitats and species) and allows changes to be more easily recognised in future monitoring.

The lack of specific data on the fish in the Shannon Estuary adjacent to the development site is a shortcoming in the marine and estuarine ecology section of the EIS. No survey was carried out to collect data, with all information coming from a desk study. Given the presence of a number of species of conservation importance in the estuary, more work should have been carried out in this area.

The 3D and 2D modelling of the cool water discharge and biocide (hypochlorite) plume appears to have been carried out using acceptable methods. No work was carried out on the degradation products of hypochlorite; however, as discussed at the Oral Hearing, the limit for residual chlorine published by the EPA was used and assumed to be sufficient for the protection of the environment.

The assessment of the impact of a hydrocarbon spill as a low potential impact on the grounds that no species of conservation interest were recorded in the intertidal and subtidal zones within

the study area does not take into account the presence of habitats of high conservation interest within the estuary at large, which is designated a cSAC. While the likelihood of a significant spillage occurring may be low due to safety precautions and containment measures, the potential impact may not be low.

The impact of the water intake on fish cannot be fully assessed owing to the lack of information on fish in the vicinity of the intake. While effective screening can prevent the entrainment of fish within the intake pipeline, the impingement of fish on the intake screen may still result in injury and mortality depending on the intake velocity. The intake velocity was stated at the Oral Hearing to be 0.5 m.s^{-1} , which is at the upper end of the range for the protection of fish and this should be further discussed with the ShRFB by the applicant. The NPWS requested for an estimate to be made of the mortality of fish and macrocrustacea caused by the water intake as a proportion of the populations in the adjacent cSAC. Given the size of the Shannon Estuary and the work that would be involved in providing this estimate, it is considered to be beyond the scope of an EIS.

Apart from those issues highlighted above, the assessment of the impact of the proposed development on the marine and estuarine ecology appears to be adequate and follows the EPA Guidelines (EPA, 2002). A major shortcoming of this section is the lack of the 'Do Nothing' and the 'Worst Case' scenarios, as well a section on monitoring. In particular, the omission of a monitoring section is a serious flaw in the marine and estuarine ecology chapter and details of a proposed monitoring programme should be provided. This should include the ecological element to be monitored, the monitoring design, timescale, etc.

Bottlenose dolphins

The resident population of bottlenose dolphins in the Shannon estuary is one of qualifying interests for the designation of the sites as an SAC. Bottlenose dolphins are listed under Annex II of the Habitats Directive and protected under the Wildlife Act 1976 (amended 2000). TPODs were employed in establishing the baseline situation with respect to the bottlenose dolphins in the Shannon Estuary and this method is the most appropriate for assessing dolphin activity in the area as monitoring is possible at night and in poor sea conditions where visual surveys would be ineffective. While the TPODs were subject to loss and malfunction, resulting in an incomplete monitoring timeseries, this is a difficulty inherent in deploying high-tech equipment in a marine environment.

No reference is made to the potential impact of onshore blasting on the bottlenose dolphins in the Marine and Estuarine Ecology section, though it is discussed in the Noise section. A more detailed discussion of the hearing capabilities given by Dr Simon Berrow at the Oral Hearing expanded on this topic. From this it can be accepted that onshore blasting should have no significant negative impact on the bottlenose dolphins of the Shannon Estuary. While construction phase mitigation measures include the possibility of Marine Mammal Observers being required during the offshore construction phase, this should also be considered for the onshore blasting phase. It may be appropriate to adhere to the Code of Practice for the Protection of Marine Mammals during Acoustic Seafloor Surveys in Irish Waters (DoEHLG, 2007).

The impact assessment presented is short and does not adhere closely to the EPA Guidelines (EPA, 2002), however due to the low potential of negative impacts it is generally adequate. There are no 'Do Nothing' or 'Worst Case' scenarios presented in the section on bottlenose

dolphins. While there is some reference to continuing acoustic monitoring through the construction phase, and the possibility of post-construction monitoring after consultation with the NPWS, there is no monitoring section. It is considered important that post-construction monitoring be carried out to assess any changes in the bottlenose dolphin usage of the area. A monitoring section should include the ecological element to be monitored, the monitoring design, timescale, etc.

2.3 Hydrology and hydrogeology

Insofar as the proposed development will impact upon the hydrology and hydrogeology as it relates to the ecology, the assessment states that any changes to the hydrology of the area will not significantly impact upon habitats of conservation importance or with designated status, in particular the lagoon and the salt marsh. The lagoon has been shown to be groundwater fed, and so the impounding of the stream should have no impact. However the salt marsh may be more vulnerable to negative impacts as a result of changes to the freshwater/saltwater balance.

The flora of salt marshes depends largely on the balance of freshwater and saltwater through the daily and monthly tidal cycle and seasonality in rainfall and freshwater input. Altering this balance can result in changes to the flora of the salt marsh, which may not be desirable. The proposal to maintain a minimum baseflow throughout the year may lead to changes in the salt marsh, though if this has been agreed in consultation with the National Parks and Wildlife Services (NPWS) then these issues are likely to have been taken into consideration. The effects of regulating the flow on the salt marsh should be monitored following the completion and filling of the pond.

3.0 Overall conclusion

Following a review of the information contained in the EIS submitted for the proposed development, the relevant appendices and the information presented at the Oral Hearing, it is concluded that, with appropriate mitigation and monitoring, the development can proceed without having a significant negative impact upon the ecology of the area, including its designated sites and protected species. In particular, the integrity of the SAC would not be expected to be affected by the development. In order to ensure that the natural environment is protected to the fullest extent, the following recommendations should be considered for inclusion as conditions of grant of permission, should permission be granted.

4.0 Recommendations

4.1 Terrestrial and freshwater ecology

All mitigation measures outlined in the EIS for terrestrial and freshwater ecology should be implemented in the course of the construction and operation of the proposed development and

all legal obligations must be met should permission be granted. In particular, a number of areas in the EIS state that consultation with the NPWS will be carried out and agreement sought before carrying out works that might impact on ecology. This consultation must be carried out to the satisfaction of the NPWS.

The development site is located between Ballylongford Bay and Tarbert Bay. In the course of the Oral Hearing it was stated by the applicant that no significant movement of birds along the shore was recorded during the winter survey period and that birds are likely to be capable of flying over or around the jetty. In spite of this assertion, which did not reference any supporting material, it is recommended that a monitoring programme be set up to monitor the movement of wetland birds along the shore adjacent to the development site between these two areas beginning prior to construction and continuing post-construction.

In addition to the monitoring of bird movement along the shore, and as recommended by the NPWS, an annual winter bird survey should be carried out beginning before construction commences and continuing into the operation phase. This survey should aim “to establish the extent to which this part of the estuary is used by diver (*Gavia*) species listed in Annex I of the Birds Directive” and should be carried out by a suitably qualified ecologist. The results of this work should be submitted to the NPWS and the planning authority.

For the protection of badgers, where an existing sett will be disturbed or destroyed, an artificial sett must be constructed beforehand in consultation with the NPWS.

The destruction of structures that support bats can only be carried out under licence from the NPWS and these structures must be maintained intact unless their demolition is permitted by the NPWS.

Should it be deemed that the stream is a waterbody under the WFD and therefore requires protection as such, it is recommended that consideration be given to the possible alternatives for supplying water for pressure testing of the LNG storage tanks and fire-fighting, whether through an alternative supply or redesign of the proposed impoundment, or that clarification be sought as to whether the development satisfies the conditions set out in Article 4, Paragraph 7 for exemption. A redesign of the proposed impoundment may be sufficient to remove the impact on the stream, should it be necessary. For example, the construction of an embankment along the left bank (southwest bank) of the stream forming an impoundment to the southwest of the stream in conjunction with the proposed embankment (suitability altered to allow the current stream to be maintained as is) may provide sufficient capacity for the required hydrostatic testing of the LNG tanks (110,000 m³). It may be necessary to carry out some excavation along southern extent of the currently proposed pond, however in light of the considerable construction and landscaping works this would appear to be feasible. The result of such a redesign would be a pond that is largely within the currently proposed footprint, but does not have the same impact on the stream as the currently proposed arrangement, and would satisfy any possible requirement of the WFD should it be necessary to consider the project in this light.

While the solution to this issue submitted to An Bord Pleanála on the 29th January 2008 (as illustrated on aerial photographs) does address some of the concerns relating to this stream and the proposed impoundment, it does not appear to remove all ecological issues related to the construction of the impoundment and the related potential WFD considerations.

4.2 Marine and estuarine ecology

All mitigation measures outlined in the EIS for Marine and estuarine ecology should be implemented in the course of the construction and operation of the proposed development and all legal obligations should be met should permission be granted.

The design of the water intake should be based on Best Available Technology (BAT) and should be agreed with the ShRFB prior to commencement of construction. A monitoring programme should be implemented following the commissioning of the water intake to provide an estimate of the numbers of impinged and entrained organisms, particularly fish. The results of this monitoring programme should be submitted to the ShRFB for assessment and consultation entered into to discuss any changes necessary.

A monitoring programme should be implemented to verify the accuracy of the discharge modelling and the predictions made for the chlorine dispersion.

For the protection of the resident bottlenose dolphin population of the Shannon Estuary, an Annex II species in the only SAC in Ireland designated for its protection, the contractor must employ suitably qualified Marine Mammal Observers (MMOs) for the duration of subtidal piling and on-shore blasting. Commencement of piling or blasting must be delayed if the MMO observer dolphins within 500 m of the site within 20 minutes of the planned commencement of works. No action is necessary if a dolphin approaches once operations have commenced. A log of the MMO operations must be submitted to the NPWS following the completion of these works.

The acoustic monitoring programme carried out in assessing of the potential impact of the proposed development on the resident bottlenose dolphin population should be continued through the construction phase and into the operation phase. This monitoring programme will allow an assessment to be made as to the accuracy of the original impact assessment.

4.3 Hydrology and hydrogeology

There are no recommendations in relation to Hydrology and Hydrogeology other than the full implementation of the mitigations measures outlined in the EIS.

5.0 References

- Connor, D.W., Allen, J.H., Golding, N., Howell, K.L., Lieberknecht, L.M., Northen, K.O., Reker, J.B. (2004). The Marine Habitat Classification for Britain and Ireland. Version 04.05. JNCC Peterborough. Internet version.
- Davies, J., Baxter, J., Bradley, M., Connor, D., Khan, J., Murray, E., Sanderson, W., Turnbull, C. and Vincent, M. (2001). Marine Monitoring Handbook. Joint Nature Conservation Committee. 405pp.
- DoEHLG (2007). Code of Practice for the Protection of Marine Mammals during Acoustic Seafloor Surveys in Irish Waters. Department of the Environment, Heritage and Local Government. Version 1.1.
- ENFO (2008). The Common Frog – (*Rana temporaria*). www.enfo.ie/leaflets/bs33.htm Accessed January 2008.
- EPA (2002). Guidelines on the Information to be Contained in Environmental Impact Statements. Environmental Protection Agency, Wexford.
- EC (2003a). Communication from the Commission to the Council and the European Parliament: Development of a Community Action Plan for the management of European Eel. COM(2003) 573 final. Brussels.
- EC (2003b). Common Implementation Strategy for the Water Framework Directive (2000/60/EC). Identification of Water Bodies. Guidance Document No. 2. Working Group on Water Bodies.
http://circa.europa.eu/Public/irc/env/wfd/library?l=/framework_directive/guidance_documents/guidancesnos2sidentifica/EN_1.0_&a=d
- Eleftheriou, A. and Holme, N.A. (1984). Macrofauna Techniques. In: *Methods for the Study of Marine Benthos*. Holme, N.A. & McIntyre, A.D. (eds). IBP Handbook 16. Second edition. Blackwell Scientific Publications. pp140-216.
- Kelly-Quinn, M., Bradley, C., Dodkins, I., Harrington, T.J., Ní Chathain, B., O'Connor, M., Rippey, B. and Trigg, D. (2005). Water Framework Directive – Characterisation of Reference Conditions and Testing of Typology of Rivers. Final Report (2002-W-LS-7). Environmental Protection Agency. Wexford.
http://www.epa.ie/downloads/pubs/research/water/epa_typology_of_rivers_ertdi31_final.pdf
- NRA (2005a). Best Practise Guidelines for the conservation of Bats in the Planning of National Road Schemes. National Roads Authority.
<http://www.nra.ie/Publications/DownloadableDocumentation/Environment/file,3487,en.pdf>
- NRA (2005b). Guidelines for the Treatment of Otters Prior to the Construction of National Road Schemes. National Roads Authority.
<http://www.nra.ie/Publications/DownloadableDocumentation/Environment/file,5147,en.pdf>

- NRA (2006a). Guidelines for Assessment of Ecological Impacts of National Road Schemes. National Roads Authority.
<http://www.nra.ie/Publications/DownloadableDocumentation/Environment/file,3483,en.pdf>
- NRA (2006b). Guidelines for the Treatment of Badgers prior to the Construction of National Road Schemes. National Roads Authority.
<http://www.nra.ie/Publications/DownloadableDocumentation/Environment/file,3491,en.pdf>
- Preston, S.J., Portig, A.A., Montgomery, W I., McDonald, R.A. and Fairley, J.S. (2006). Status and diet of the otter *Lutra lutra* in Northern Ireland. *Biology and Environment: Proceedings of the Royal Irish Academy* **106B(1)**: 1-7.
- Preston, S.J., Portig, A.A., Montgomery, W I., McDonald, R.A., Dick, J.T.A. and Fairley, J.S. (2007). Temporal and spatial variation in otter *Lutra lutra* diet in Northern Ireland. *Biology and Environment: Proceedings of the Royal Irish Academy* **107B(2)**: 61-66.

Appendix Petition 2

SHANNON LNG Hydrological and Hydrogeological Impact Assessment of the Proposed Shannon LNG (Liquid Natural Gas) Terminal Development at Ballylongford, Co. Kerry Interim Quarterly Baseline Report October to December 2007 MEL Brief: D1 MEL Doc. Ref.:1946-337 (Q3 Oct-Dec 2007) Rev. 1 & FINAL Friday 4th January, 2008

SHANNON LNG

Hydrological and Hydrogeological Impact Assessment of the Proposed Shannon LNG (Liquid Natural Gas) Terminal Development at Ballylongford, Co. Kerry

Interim Quarterly Baseline Report

October to December 2007

MEL Brief: D1

MEL Doc. Ref.:1946-337 (Q3 Oct-Dec 2007) Rev. 1 & FINAL

Friday 4th January, 2008

Confidential Report To:

Eoghan Lynch
Arup Consulting Engineers
15 Oliver Plunkett Street
Cork

Confidential Report For:

Urzua Alfredo
Shannon LNG Limited
C/o Hess LNG
One New Street
Fall River
MA 02720
United States

Report submitted by:

MINEREX ENVIRONMENTAL LIMITED

Taney Hall
Eglinton Terrace
Dundrum
Dublin 14

Tel.: +353-(0)1-2964435
Fax.: +353-(0)1-2964436
Website: www.minerex.ie

Prepared by:

Orlagh Madden M.Sc. (Env. Science)
Project Manager

Reviewed by:

Eileen McCarthy M.Sc.
Project Director
& Senior Hydrogeologist



Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

EXECUTIVE SUMMARY

Minerex Environmental has carried out monitoring of groundwater and surface water conditions at the Proposed Shannon LNG Terminal Development, Ballylongford, Co. Kerry as part of the baseline hydrological and hydrogeological monitoring programme for the development.

The results for groundwater and surface water level monitoring, and groundwater and surface water hydrochemistry monitoring for this baseline period (October to December 2007) are all within expected ranges for this site.

Surface water discharge in D1 shows the highest average rate measured to date in December 2007 (**104.62 litres per second**) compared with average discharge values recorded between April and October 2007 (12.37 litres per second).

Groundwater vertical hydraulic gradients for the site indicate upward gradients in the southeast of the site (e.g. BR-2 BR-3, BR-4, BR-5 and BR-7) while in the northwest a downward / de-coupled gradient occurs at BR-6, and BR-9). The groundwater results to date indicate that groundwater vertical hydraulic gradients for the site are temporally variable in terms of the location of upward, downward and de-coupled gradients across the site.

Artesian upwelling conditions were noted in the east of the study area at BR-7, BR-11, BH-23 and RC-A3 in December 2007.

In relation to the Environmental Impact Assessment of the proposed Shannon LNG Terminal Development at Ballylongford on adjacent designated habitats (cSAC and cNHA), the results support the conclusions of Minerex's Environmental Impact Assessment. Results indicate that the proposed development will not have any adverse hydraulic impact on the designated habitats. No further mitigation is identified as being necessary from the results of the July to September 2007 monitoring period.

CONTENTS

1. INTRODUCTION	1
2. METHODOLOGY	1
3. WEATHER CONDITIONS	1
4. RESULTS	2
4.1 Groundwater Levels and Vertical Hydraulic Gradients	2
4.2 Surface Water Levels	3
4.3 Surface Water Discharge Rates	3
4.4 Surface Water Hydrochemistry	4
4.5 Groundwater Hydrochemistry	4
CONCLUSIONS	5
5. RECOMMENDATIONS	6
6. REFERENCES	7

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

APPENDICES

Appendix	Title	Pages	MEL Doc. Ref.
Appendix A1	Groundwater and Surface Water Monitoring Network	1 x A4	1946-008.wor
Appendix A2	Groundwater Monitoring Network	1 x A4	1946-008.wor
Appendix A3	Surface Water Monitoring Network	1 x A4	1946-008.wor
Appendix B	Habitats of Concern within and peripheral to Designated SAC / NHA Areas	1 x A4	1946-008.wor
Appendix C	Hydrometric and Hydrochemical Results – October to December 2007	12 x A4	1946-011.xls
Appendix D	Charts of Water Levels – April to December 2007	7 x A4	1946-011.xls
Appendix E	Charts of Surface Water Discharge Rates – April to December 2007	1 x A4	1946-011.xls
Appendix F1	Charts of Surface Water and Groundwater Field Electrical Conductivity – March to December 2007	9 x A4	1946-011.xls
Appendix F2	Charts of Surface Water and Groundwater Field pH – March to December 2007	9 x A4	1946-011.xls
Appendix F3	Summary tables of Surface Water and Groundwater Field Hydrochemical Results (Electrical Conductivity and pH) – March to July 2007	4 x A4	1946-011.xls

TABLES

Table	Title	Page
Table 1	Summary of groundwater vertical hydraulic gradients for October to December 2007.	2
Table 2	Summary of flow gauging results for D1, D2 and D3 for October to December 2007.	3

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

1. INTRODUCTION

Minerex Environmental Limited (MEL) have been requested by Arup Consulting Engineers to undertake monitoring of groundwater and surface water conditions at the Proposed Shannon LNG Terminal Development, Ballylongford, Co. Kerry as part of the baseline hydrological and hydrogeological monitoring programme for the development.

This interim report outlines the results of hydrometric and hydrochemical monitoring undertaken between 1st October to 31st December 2007. Monthly hydrometric (water level) monitoring and bi-monthly hydrochemical monitoring (pH, Electrical Conductivity (EC) and Temperature) was carried out at the site during this monitoring period.

Installation of groundwater nested phreatic / piezometric monitoring points at embankment coreholes (RC-Series investigation points) has been undertaken by MEL on 21st and 22nd November 2007 to give hydrogeological data in the area of the proposed embankment.

2. METHODOLOGY

MEL standard protocol (SAMP-065) was followed for water level recording and sampling the wells¹. These protocols are based on ISO 5667 (Ref. 1), Standard methods (Ref. 2), EPA guidelines (Ref. 3) and various equipment instruction manuals (Ref. 4).

A peristaltic pump was used to develop the BR-Series (MEL installations) prior to the commencement of groundwater monitoring at the site in April 2007. In addition the RC-Series (installed by MEL on 21st and 22nd November 2007) were developed using the peristaltic pump prior to the commencement of monitoring of these installations in December 2007. A peristaltic hand pump or bailer was used to sample, or grab sample as applicable in the wetland GC-Series and the BH-Series installations.

Hydrochemical readings were taken immediately after a sample was abstracted from the monitoring points. All equipment used is maintained and calibrated to conform to MEL quality assurance policy. All monitoring points are accessible all year round.

3. WEATHER CONDITIONS

Antecedent weather conditions were recorded by an on-site weather station (Shannon LNG Site, Ballylongford) and at the nearest Met Eireann synoptic weather station at Shannon Airport, Co. Limerick².

The data indicates moderate rainfall occurrence (32.2mm) over the two weeks preceding, and days during the October 2007 field monitoring event (22nd to 24th October 2007). Total rainfall for October 2007 was 66.6mm, which was 71.3% of the historic monthly mean rainfall of 93.4mm (30 year average from 1961-1990) for Shannon Airport.

Two weeks prior to, and during the November 2007 monitoring event (26th November) moderate rainfall of 43.8mm occurred. Total rainfall for November 2007 was 66.2mm, which was 69.8% of the the historic monthly mean rainfall of 94.8mm.

Two weeks prior to, and during the December 2007 monitoring event (11th to 13th December) extremely high rainfall of 122.3mm occurred. Total rainfall for December 2007 was 166.3mm, which was 68% greater than the the historic monthly mean rainfall of 99.0mm.

¹ MEL protocols and quality assurance documents are available on request but may be subject to production costs.

² The weather station on the Proposed Shannon LNG site malfunctioned between 28th November and 13th December, so the Met Eireann daily rainfall data from Shannon Airport has been used for this period in conjunction with the on-site data for the purposes of this quarterly monitoring report.

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

4. RESULTS

Results of water level and hydrochemistry monitoring are given in Appendix C. Temporal trends in groundwater and surface water levels are shown in charts in Appendix D. Table 1 below summarises vertical hydraulic gradients for the October to December 2007 monitoring period. Temporal trends in groundwater and surface water EC and pH are shown in charts in Appendix F1 and F2. Summaries of hydrochemistry (EC and pH) data for surface water and groundwater in October and December 2007 are given in Appendix F3.

4.1 Groundwater Levels and Vertical Hydraulic Gradients

Groundwater levels are measured in the RC-Series, BH-Series, BR-Series and GC-Series installations (Appendix A2). Temporal trends in groundwater levels indicate that in the GC, BH and BR Series installations water levels increased between October and December 2007. In the RC Series installations water levels increased between November and December 2007.

Where there is a phreatic tube and one or more piezometers installed, the vertical hydraulic gradient can be determined. This is the case for the BR-Series installations. Vertical hydraulic gradients within the bedrock can be determined for the RC-Series installations where more than one piezometer has been installed in November 2007. The vertical hydraulic gradients and changes over the monitoring period are summarised in Table 1.

Table 1: Summary of vertical hydraulic gradients for October to December 2007 indicating any relative change over the monitoring period.

Monitoring Couple ID	Vertical Hydraulic Gradients (October to December 2007) (Up / Down / De-Coupled)	Temporal Change in Hydraulic Gradient over Monitoring Period (Static / Changing)
BR-1	Phreatic Destroyed	Unknown
BR-2	Up	Static
BR-3	Up / Down	Changing
BR-4	Up	Static
BR-5	Up	Static
BR-6	Down	Static
BR-7	Up / Down	Changing
BR-8	Up / De-Coupled	Changing
BR-9	Down / De-Coupled	Changing
BR-10	Up / Down	Changing
BR-11	Up / Down	Changing
RC-A1	Up	Static
RC-A2	Up	Static
RC-A3	Up	Static
RC-A4	Up / Down	Changing

Vertical hydraulic gradients are variable across the BR-Series monitoring network, with upward, downward and de-coupled gradients occurring and showing changing gradients over the monitoring period October to December 2007. In general there is a pattern of upward gradients in the southeast of the site (e.g. BR-2, BR-3, BR-4, BR-5 and BR-7) while in the northwest a downward / de-coupled gradient occurs at BR-6, and BR-9). Artesian upwelling conditions were noted in the east of the study area at BR-7, BR-11, BH-23 and RC-A3 in December 2007. Further monitoring of water levels will provide additional data for interpretation of vertical hydraulic gradients across the site.

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

4.2 Surface Water Levels

Surface water levels are recorded along Drain 1 (D1) and at the coastal lagoon (L1) (see Appendix A3). Surface water levels are noted to have increased in L1 from October to December 2007. The lagoon water level was noted to be at high water mark in December 2007. Water levels in D1 have remained relatively static between October and November 2007 while an increase has occurred in December 2007 (Appendix D). Increases in L1 and D1 could be accounted for by the relatively high rainfall levels and related groundwater discharge in December 2007.

4.3 Surface Water Discharge Rates

Surface water discharge rates for D1 were measured on 22nd and 23rd October, and on 12th and 13th December 2007 at D1-SG1, D1-SG2, D1-SG3, D1-SG5, D1-SG6 and D1-SG7, and also on D2 and D3. The discharge data for D1, D2 and D3 is summarised in Table 2 below.

In October 2007 D1 has a relatively high discharge at SG6 and SG7, after gaining flow along its length from SG1 through to SG7, with the exception of a slight loss at SG3. Discharge in D1 shows a reduced rate overall in October (10.44 – 18.17 l/s) compared with August 2007 (13.00-25.06 l/s). Reduced discharge in October results from relatively low rainfall in September and October 2007. Discharge in December 2007 is however the highest recorded in D1 to date with rates of 91.63 – 122.17 l/s. This high discharge is due to extremely high rainfall in December 2007 prior to monitoring (see Section 3) and increased groundwater discharge into D1.

Discharge gains along the length of D1 may be explained by the input of upwelling groundwater via fractured bedrock in the fault zone which occurs along D1. An upward vertical hydraulic gradient is recorded in groundwater monitoring installations at BR4 and BR2. Discharge loss at SG5 in December 2007 is reflective of the pattern of loss to groundwater in D1 since March 2007, with monitoring to date also showing losses at SG5.

Discharge gains in D1 due to the inputs of surface water from subsidiary drains D2 and D3 are relatively small in volume compared with the overall discharge rates in D1. Average values of 3.75 l/sec and 1.16 l/sec occur respectively for D2 and D3 in October and December 2007. Discharge rates are graphically represented in Appendix E.

Table 2: Summary of flow gauging results for D1, D2 and D3 for October and December 2007.

Flow Gauge Point ID	Surface Water Discharge (litres / second)	
	22 nd & 23 rd October 2007	12 th & 13 th December 2007
D1-SW-FG-SG1	10.44	96.34
D1-SW-FG-SG2	10.86	100.06
D1-SW-FG-SG3	10.64	107.85
D1-SW-FG-SG5	11.47	91.63
D1-SW-FG-SG6	15.29	122.17
D1-SW-FG-SG7	18.18	109.69
D2-FG-SW5 / SW1	4.50	2.99
D3-FG-SW2	0.32	2.0 (estimate)

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

4.4 Surface Water Hydrochemistry

At the study site the surface water indicator parameters, EC and pH, are greatly influenced by the relative importance of saline marine water inputs to the surface water bodies. The surface water hydrochemistry results for the monitoring period October to December 2007 are summarised in Appendix F3 according to habitat type. Temporal trends in surface water EC and pH are illustrated graphically in Appendix F1 and F2 respectively.

- Elevated average EC values occur at the Tidal River, Lagoon & Saline Lake, Lower Salt Marsh and the Reed and Large Sedge habitats in October and December 2007 (c.500 - 13,000 uS/cm). These all show a significant saline / marine incursion influence over the monitoring period to date. The Reed and Large Sedge area is especially saline at its western margin (SS-SW1, SS-SW2 and the small drain D6), as is the Lower Salt Marsh habitat (SM-SW1 and SM-SW2).
- In contrast the EC of drainage ditches (D2-D9), depositing river (D1) and springs across the site have a much lower EC range of c.200-800uS/cm.
- The surface water EC values show a varied pattern of increase and decrease between October and December 2007 (Appendix F1).
- Average pH values in surface water over the October to December 2007 monitoring period are 7.25 pH units.
- Surface water pH shows a varied pattern of increase and decrease between October and December 2007 (Appendix F1).

4.5 Groundwater Hydrochemistry

The groundwater hydrochemistry results for the monitoring period October to December 2007 are summarised in Appendix F3 according to installation type. Temporal trends in EC and pH are illustrated graphically in Appendix F1 and F2 respectively.

- October and December 2007 EC average values are relatively lower in the BH series installations (c.350-500 uS/cm) compared with the BR-Series installations (c.500-1,000 uS/cm).
- The average EC values in the BR-Series bedrock installations are greater than that of the BR-Series mineral subsoil installations. This suggests that the bedrock hydrochemistry is more mineralised than mineral subsoils.
- The GC-Series installations (located adjacent to the designated wetland areas) have a relatively elevated EC (c.900-1,600uS/cm) and neutral pH values.
- Groundwater EC values show a pattern of general decrease in October and increase in December 2007 (Appendix F1).
- pH average in the groundwater is just below neutral at 6.94 pH units over the October to December monitoring period.

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

CONCLUSIONS

- Temporal trends in groundwater levels indicate that water levels increased between October and December 2007.
- Vertical hydraulic gradients are variable across the BR-Series monitoring network, with upward, downward and de-coupled gradients occurring and showing some changing gradients over the monitoring period October to December 2007. In general there is a pattern of upward gradients in the southeast of the site (e.g. BR-2 BR-3, BR-4, BR-5 and BR-7) while in the northwest a downward / de-coupled gradient occurs (BR-6 and BR-9).
- Artesian upwelling conditions were noted in the east of the study area at BR-7, BR-11, BH-23 and RC-A3 in December 2007.
- Surface water levels are noted to have increased notably in the lagoon (L1) from October to December 2007, while water levels in the main drain (D1) have increased in December 2007.
- Discharge range in D1 is considerably higher in December 2007 (91.63 – 122.17 l/s) compared with previous measurements in April, May, July, August and October 2007. Average discharge rate in D1 in December 2007 is 104.62 litres / second, which is the highest average value recorded to date for D1.
- Rainfall levels in December prior to monitoring was relatively high resulting in increased runoff and increased groundwater baseflow contribution to D1 (December 2007 rainfall was 68% greater than the historic monthly mean rainfall).
- Average discharge rates recorded in October and December 2007 in D2 and D3 (3.75 l/sec and 1.16 l/sec respectively) are noted to be low relative to D1 discharge rates (c.18% of D1 flow in October and c.2% in December 2007).
- Elevated electrical conductivity values occur at the Lagoon & Saline Lake, Lower Salt Marsh and the Reed and Large Sedge habitats. These all show a significant saline / marine incursion influence over the monitoring period to date.
- In contrast the drainage ditches (D2 to D9), depositing river (D1) and springs have a much lower EC values over the monitoring period to date.
- Groundwater hydrochemistry results for the period October to December 2007 indicate that pH average is below neutral at 6.75 pH units, while groundwater EC average is 568 uS/cm.

The significance of these conclusions in relation to the Environmental Impact Assessment of the proposed Shannon LNG (Liquid Natural Gas) Terminal Development at Ballylongford on adjacent designated habitats (cSAC and cNHA) is:

1. Hydrometric, hydrochemical and surface water discharge monitoring carried out between March and December 2007 supports the conclusions of Minerex's Environmental Impact Assessment (MEL Doc. Ref. 1946-156.doc: Ref. 6). The results of monitoring at the site indicate that the proposed development will not have any adverse hydraulic impact on the designated habitats. No further mitigation is identified as being necessary from the results of the July to September 2007 monitoring period.

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

5. RECOMMENDATIONS

- Further monitoring of groundwater and surface water chemistry, water levels and surface water discharge rates will allow for further detailed interpretation of temporal trends at the site and greater understanding of the hydrological and hydrogeological functioning of the site. This monitoring programme should consist of;
 - at least 12 months pre-construction monitoring,
 - monitoring during the construction phase
 - at least 12 months post-construction monitoring
- Wier installation along D1 should be undertaken to allow for automated discharge measurements which will enable a detailed hydrograph for D1 flow regime to be constructed and interpreted.
- Further groundwater nested phreatic / piezometric monitoring points should be installed in the peat areas (i.e. protected habitats, Reed and Large Sedge – FS1, and Lower Salt Marsh – CM1). It is proposed to install three nested points by using a pionjar hand operated drilling instrument, i.e. two (2) nested points in the Reed and Large Sedge area and one (1) in the Lower Salt Marsh area. This will cause minimum disturbance to the protected habitats.

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

6. REFERENCES

- Ref. 1 ISO 5667 (1987 to 2001) *“Water Quality – Sampling; Parts 1, 4, 6, 11, 12, 13, 15, 18”*. MEL Library Ref. 114, 163, 164, 165, 166, 167, 168, 723, 753.
- Ref. 2 Clesceri L. S., Greenberg A. E., Eaton A. D., 1998 *“Standard Methods for the examination of water and wastewater”*. 20th Edition, APHA, AWWA, WEF
- Ref. 3 Environmental Protection Agency, 1996 *“EPA Landfill manual - Landfill Monitoring”*. 2nd Edition
- Ref. 4 Instruction manuals:
 - Solinst 410 Peristaltic Pump
 - Hanna Combo Operating manual – pH/Conductivity measuring instrument
- Ref. 5 Minerex Environmental Limited (Current). *“Wetland hydrometric and hydrochemical monitoring and sampling”*. Minerex Protocol: SAMP077.doc
- Ref. 6 Minerex Environmental Limited. August 2007. *“SHANNON LNG: TARBERT / BALLYLONGFORD TERMINAL: Hydrological and Hydrogeological Impact Assessment of the Proposed Shannon LNG (Liquid Natural Gas) Terminal Development at Ballylongford, Co. Kerry: Environmental Impact Assessment Report”*. MEL doc ref: 1946-156.doc

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix A1

Groundwater and Surface Water Monitoring Network

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix A2

Groundwater Monitoring Network

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix A3

Surface Water Monitoring Network

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix B

Habitats of Concern within and peripheral to Designated SAC / NHA Areas

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix C

Hydrometric and Hydrochemical Results – October to December 2007

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix D

Charts of Water Levels – April to December 2007

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix E

Chart of Surface Water Discharge Rates – April to December 2007

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix F1

Charts of Surface Water and Groundwater Field Electrical Conductivity

– March to December 2007

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix F2

Charts of Surface Water and Groundwater Field pH – March to December 2007

Shannon LNG

Hydrological and Hydrogeological Impact Assessment of the Shannon Liquid Natural Gas (LNG) Proposed Development at Ballylongford, Co. Kerry.

Interim Quarterly Baseline Report: October to December 2007

Appendix F3

Summary tables of Surface Water and Groundwater Field Hydrochemical Results (Electrical Conductivity and pH) – October and December 2007

Appendix Petition 3

Technical Advice given by the Health and Safety Authority (HSA) to An Bord Pleanála as required under the Seveso II Directive.



ACHIEVING A HEALTHY AND SAFE WORKING LIFE TOGETHER

3rd Floor, 1A South Mall, Cork.

Telephone: 1890 289 389 Fax: 021 - 425 1217 Website: <http://www.hsa.ie>

Mr. Gerard Egan
An Bord Pleanála
64 Marlborough St
Dublin 1

09 Jan 2008

Ref. 112915/1

**Re: Planning ref. 08.PA0002 for development by Shannon LNG at
Kilcolgan Lower, Co. Kerry.**

Dear Gerard,

The approach of the Authority to these matters is set out in the attached document.

**In that context, and with regard to the Health and Safety Authority's remit, in
respect of this specific application the following points are relevant:**

1. The application is covered by Regulation 27(1) of SI 74 of 2006
2. On the basis of the information An Bord Pleanála has supplied to the Authority and the information obtained directly from Shannon LNG, in particular the QRA prepared by ERM on behalf of Shannon LNG, the Authority **DOES NOT ADVISE AGAINST** the granting of planning permission in the context of Major Accident Hazards. This advice is based on the HSA assessment of the submitted QRA, and additional information subsequently submitted by Shannon LNG, and the demonstration by Shannon LNG that the Authority's LUP criteria for the siting of new establishments would be adhered to for this development.
3. The advice is only applicable to the specific circumstances of this proposal at this period of time, and in the context that this is a prospective 'Upper-tier' site under the Regulations. As such, it will be required to submit pre-construction and pre-operation Safety Reports to the HSA. A key purpose of those reports will be to demonstrate that major accident hazards have been identified and that the necessary measures have been taken to prevent such accidents and to limit their consequences for people and the environment.



EXCELLENCE
THROUGH
PEOPLE

HEALTH AND SAFETY AUTHORITY
AN ÚDARÁS SLÁINTE AGUS SÁBHÁILTEACHTA

Approach of the HSA to Provision of Land-use Planning advice.

The Authority, acting as the Central Competent Authority under the EC (Control of Major Accident Hazards involving Dangerous Substances) Regulations, 2006 (SI 74 of 2006), gives technical advice to the planning authority when requested, under regulation 27(1) in relation to

- (a) the siting of new establishments,
- (b) modifications to an existing establishment to which Article 10 of the Directive applies, or
- (c) proposed development in the vicinity of an existing establishment

The advice given is for the purposes of assessing new development only, where a conservative approach is taken.

Your attention is drawn to Article 12 of the EU Directive 96/82/EC as amended by Directive 2003/105/EC:

'Member States shall ensure that their land-use and/or other relevant policies and the procedures for implementing those policies take account of the need, in the long term, to maintain appropriate distances between establishments covered by this Directive and residential areas, buildings and areas of public use, major transport routes as far as possible, recreational areas and areas of particular natural sensitivity or interest, and, in the case of existing establishments, of the need for additional technical measures in accordance with Article 5 so as not to increase the risks to people.'

and to the Major Accident Hazard Bureau/ Joint Research Centre of the European Commission guidance¹ in this area:

It is recognized that consideration of major-accidents is only one input to the process of land-use planning controls and policies....many other considerations can be relevant, and that these may already be elaborated in various national policies and implemented in national, regional or local structure and development plans.

In giving its advice, the Authority considers only the effects of credible major accident scenarios at the establishment and does not deal with routine emissions. It is the understanding of the Authority that such emissions will be subject to EPA or Local Authority scrutiny and control.

The operator of an establishment covered by S.I. 74 of 2006 is also required to take all necessary measures

- (a) to prevent major accidents occurring, and
- (b) to limit the consequences of any such major accidents for man and the environment.

¹ Guidance on Land Use Planning as Required by Council Directive 96/82/EC (ISBN 92-828-5899-5)

Appendix Petition 4

Complaint to the Office of the Ombudsman concerning refusal to carry out a Strategic Environmental Assessment on variation No 7 of 2007 to Kerry County Development Plan



**Kilcolgan Residents
Association
& Safety Before LNG**
Protecting the Shannon Estuary

Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

9 March 2009

David Ryan, Investigator,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
By Email to: david_ryan@ombudsman.gov.ie
c.c. ombudsman@ombudsman.gov.ie

Re: [Complaint concerning refusal to carry out an SEA on variation No 7 of 2007](#) to Kerry County Development Plan (reference L18/07/2518)

Dear Mr. Ryan,

Thank you for your letter dated 5 January 2009.

Please note that, as I already pointed out to you in my letter of 16 April 2008, the fact that the area was being rezoned for industrial use in a general sense - as opposed to being rezoned for an LNG terminal in particular - does not effect the real purpose of an SEA screening decision. The criteria for determining whether the variation to the development plan requires an SEA is determined by whether or not "*the plan is LIKELY to have significant effects on the environment*" and by "*the characteristics of the effects and of the area LIKELY to be effected*"¹.

Secondly, Kerry County Council claims that since the LNG project might not proceed to planning application stage its decision to ignore the possibility of a Seveso II LNG terminal in the SEA screening is justified. This justification is contradicted by the fact that **MONEY HAD ALREADY CHANGED HANDS** when the decision to rezone without an SEA took place on March 12th 2007.

Shannon Foynes Port Company made publicly available, in June 2008, the information of the option-to-purchase agreement between Shannon Development and Shannon LNG being conditional on obtaining planning permission within 2 years². From Shannon LNG accounts lodged with the Companies Registration Office, attached below, for year ended 31 December 2006, it is noted that **Shannon LNG had already paid at least €493,000 to Shannon Development by December 2006**

¹ See Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004

² http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

(three months before the vote) and this figure rose to **€1,233,000** by year end December 31st 2007 (although it is not clear if this extra €740,000 in 2007 was paid before or after the vote of March 12th 2007). The sums of money transferred speak for themselves.

Councillor John Brassil, a director of Shannon Development at the time of the signing of the option to purchase with Shannon LNG had asked the Executive of Kerry County Council to give this LNG project “every support” in the Council Meeting of 20 June 2006. The senior management team announced at that meeting to oversee the LNG project were confirmed by you in your letter of January 5th 2009 as consisting of Martin Riordan, Tom Curran, Michael McMahon and Tom Sheehy.

I ask that you now consider my complaint in the light of the fact that nearly half a million euros had changed hands before the decision to rezone took place. It at least proves that the LNG proposal was likely to go ahead, does it not?

I await your feedback.

Yours sincerely,

Johnny McElligott



Shannon LNG Limited

3055459



DIRECTORS' REPORT AND FINANCIAL STATEMENTS
for the year ended 31 December 2006

TABLE OF CONTENTS

PAGE

COMPANY INFORMATION

DIRECTORS' REPORT

SHANNON LNG LIMITED

INDEPENDENT AUDITORS' REPORT

DIRECTORS' REPORT AND
FINANCIAL STATEMENTS

PROFIT AND LOSS ACCOUNT

FOR THE YEAR ENDED
31 DECEMBER 2006

BALANCE SHEET

NOTES TO THE FINANCIAL STATEMENTS

FEE IN	PAID FULL	RECEIPT No.
28 SEP 2007		
COMPANIES REGISTRATION OFFICE		

Shannon LNG Limited

DIRECTORS' REPORT AND FINANCIAL STATEMENTS for the year ended 31 December 2006

TABLE OF CONTENTS	Patrick Power Gordon Shearer	PAGE
COMPANY INFORMATION		2
SECRETARY	Marsack Trust Limited	
DIRECTORS' REPORT		3
REGISTERED OFFICE	30 Herbert Street Dublin 2	
INDEPENDENT AUDITORS' REPORT		5
PROFIT AND LOSS ACCOUNT		7
SIGNITORS	Matheron Crosby Proulx 30 Herbert Street Dublin 2	
BALANCE SHEET		8
NOTES TO THE FINANCIAL STATEMENTS		9

Shannon LNG Limited

COMPANY INFORMATION

DIRECTORS

Patrick Power
Gordon Shearer

SECRETARY

Matsack Trust Limited

REGISTERED OFFICE

30 Herbert Street
Dublin 2

SOLICITORS

Matheson Ormsby Prentice
30 Herbert Street
Dublin 2

BANKERS

Allied Irish Bank
Main Street
Blackrock
Dublin

AUDITORS

Ernst and Young
Chartered Accountants
Barrington House
Barrington Street
Limerick

Shannon LNG Limited

DIRECTORS' REPORT

for the year ended 31 December 2006 (All figures are expressed in thousands of Euro)

The directors present their report and financial statements for the year ended 31 December 2006.

PRINCIPAL ACTIVITIES, BUSINESS REVIEW AND FUTURE DEVELOPMENTS

Shannon LNG Limited (Company) is a development stage company, engaged in the development of liquefied natural gas (LNG) marine import terminals. The company is currently working to secure all necessary permits to develop a terminal located in County Kerry. Construction of the terminal is expected to begin once all the permits are obtained.

The company was formerly known as the Irish National Energy Company Limited (INEC). On 19th April 2006 Hess LNG Limited (HESS LNG), a joint venture between Hess Oil and Gas Holdings Inc. (HOGHI), a subsidiary of Hess Corporation (HESS) and Midstream Beta Limited, a subsidiary of Poten & Partners Group, LLC (POTEN) acquired INEC. The name of the company was changed from INEC to Shannon LNG Limited on that date.

On 19th April 2006, the company entered into an option agreement with Shannon Free Airport Development Company Limited to purchase up to 281 acres for the purposes of developing an LNG marine import terminal. As of 31 December 2006 the company has paid €493 under the terms of the option agreement.

€493,000

RESULTS FOR THE YEAR AND STATE OF AFFAIRS AT 31 DECEMBER 2006

The profit & loss account and balance sheet are set out on pages 7 & 8. All project startup costs incurred to date have been charged to expense, with the exception of option payments for the project site in Shannon and deposits for office space. The company recorded a loss of €2,550 for the year.

IMPORTANT EVENTS SINCE THE YEAR END

On 8th March 2007, HOGHI increased its equity ownership in the company by acquiring 85% of Midstream Beta Limited's equity. Following the transaction, the company is owned 92.5% by HOGHI and 7.5% by Midstream Beta Limited.

DIRECTORS

On 18th April 2006 Ms. Catherine Power resigned as a director and was replaced by Mr. Gordon Shearer.

BOOKS AND ACCOUNTING RECORDS

The directors are responsible for ensuring that proper books and accounting records, as outlined in Section 202 of the Companies Act, 1990, are kept by the company.

To achieve this, the directors have appointed appropriate personnel to ensure that those requirements are complied with.

These books and accounting records are maintained at 30 Herbert Street, Dublin 2.

DIVIDENDS

The directors of the company do not propose the payment of a dividend for the year.

Shannon LNG Limited

DIRECTORS' REPORT

for the year ended 31 December 2006

DIRECTORS' AND SECRETARY'S INTERESTS

The interests of directors in the share capital of the company at the beginning and end of the year were as follows:

Director	At 31 December 2005 Number of Ordinary Shares	At 31 December 2006 Number of Ordinary Shares
Patrick Power	10,000	-
	At 31 December 2005 Number of Def. Ordinary Shares	At 31 December 2006 Number of Def. Ordinary Shares
Patrick Power	5,000	5,000

STATEMENT OF DIRECTORS' RESPONSIBILITIES IN RESPECT OF THE FINANCIAL STATEMENTS

The directors are responsible for preparing the financial statements in accordance with applicable Irish law and Generally Accepted Accounting Practice in Ireland including the accounting standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland.

Company law requires the directors to prepare financial statements for each financial year, which give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period. In preparing those financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping proper books of account which disclose with reasonable accuracy at any time the financial position of the company and enable them to ensure that the financial statements are prepared in accordance with accounting standards generally accepted in Ireland and comply with the Companies Acts, 1963 to 2006. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

AUDITORS

The auditors, Ernst & Young, Chartered Accountants, will continue in office in accordance with Section 160(2) of the Companies Act, 1963.

On behalf of the board on

27 June 2007

Directors

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF SHANNON LNG LIMITED

We have audited the company's financial statements of Shannon LNG Limited for the year ended 31 December 2006 which comprises the Profit and Loss Account, the Balance Sheet and the related notes 1 to 13. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the company's members, as a body, in accordance with section 193 of the Companies Act, 1990. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of directors and auditors

The directors are responsible for the preparation of the financial statements in accordance with applicable Irish law and Accounting Standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland (Generally Accepted Accounting Practice in Ireland) as set out in the Statement of Directors' Responsibilities.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Companies Acts, 1963 to 2006. We also report to you our opinion as to: whether proper books of account have been kept by the company; whether, at the balance sheet date, there exists a financial situation which may require the convening of an extraordinary general meeting of the company; and whether the information given in the Directors' Report is consistent with the financial statements. In addition, we state whether we have obtained all the information and explanations necessary for the purposes of our audit and whether the financial statements are in agreement with the books of account.

We also report to you if, in our opinion, any information specified by law regarding directors' remuneration and other transactions is not disclosed and, where practicable, include such information in our report.

We read the Directors' Report and consider the implications for our report if we become aware of any apparent misstatements within it.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF SHANNON LNG LIMITED

Opinion

In our opinion the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of affairs of the company as at 31 December 2006 and of its loss for the year then ended and have been properly prepared in accordance with the Companies Acts, 1963 to 2006.

We have obtained all the information and explanations we consider necessary for the purposes of our audit. In our opinion proper books of account have been kept by the company. The financial statements are in agreement with the books of account.

In our opinion the information given in the Directors' Report is consistent with the financial statements.

In our opinion, the balance sheet shows an excess of liabilities over assets and, in our opinion, on that basis there did exist at 31 December 2006 a financial situation which under Section 40(1) of the Companies (Amendment) Act, 1983 may require the convening of an extraordinary general meeting of the company.

Emphasis of Matter – Going Concern

In forming our opinion, which is not qualified, we have considered the adequacy of the disclosures made in Note 1 to the financial statements concerning the uncertainty over the ability of the company to continue as a going concern. In view of the significance of this uncertainty we consider that it should be drawn to your attention. The financial statements do not include the adjustments that would result if the company was unable to continue as a going concern.

Ernst & Young
Ernst & Young
Registered Auditors
Limerick

Date: 18th July 2007


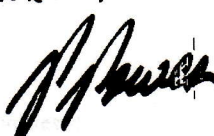
Shannon LNG Limited

PROFIT AND LOSS ACCOUNT for the year ended 31 December 2006

	Note	2006 €'000	2005 €'000
Sales		-	-
Cost of sales		-	-
GROSS PROFIT		-	-
Other (losses)/gains		-	-
Administrative expenses		-	-
Other income		-	-
Other expenses		(2,550)	(352)
(Loss) before income tax	2	(2,550)	(352)
Income tax expense	3	-	-
LOSS RETAINED FOR THE PERIOD		(2,550)	(352)

The company has no other recognised gains or losses in the current financial year other than those dealt with in the profit & loss account.

On behalf of the board on 27 June 2007


Directors 

Shannon LNG Limited

BALANCE SHEET for the year ended 31 December 2006

	Note	2006 €'000	2005 €'000
FIXED ASSETS			
Intangible fixed assets	4	493	-
Deposits		32	-
		<u>525</u>	<u>-</u>
CURRENT ASSETS			
Debtors	5	155	57
Cash and cash equivalents		39	1
		<u>194</u>	<u>58</u>
CREDITORS: amounts falling due within one year	6	(464)	(409)
NET CURRENT LIABILITIES		<u>(270)</u>	<u>(351)</u>
TOTAL ASSETS LESS CURRENT LIABILITIES		<u>255</u>	<u>(351)</u>
CREDITORS:			
amounts falling due after more than one year	7	(3,156)	-
NET (LIABILITIES)		<u>(2,901)</u>	<u>(351)</u>
CAPITAL AND RESERVES			
Share capital	9	1	1
Retained earnings		(2,902)	(352)
Shareholders' deficit (all equity interests)	8	<u>(2,901)</u>	<u>(351)</u>

On behalf of the board on 27 June 2007

R. Sheave
Directors

J. Power

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

1. ACCOUNTING POLICIES

(a) *Going concern*

The accompanying financial statements have been prepared on a going concern basis. As shown in the Profit and Loss account and Balance Sheet, the company has a limited amount of cash, has incurred losses and has accumulated a deficit during the development stage. These factors indicate the company may be unable to continue as a going concern. The financial statements do not include any adjustments that might be necessary should the company be unable to continue as a going concern.

The directors recognize that continuing as a going concern is dependent on among other factors, obtaining funding from Hess LNG. The company has an interest free loan agreement with Hess LNG. Through the end of 2006, the company has borrowed €3,156 under this agreement, with a further €1,370 borrowed since the end of 2006. The loan agreement provides project funding up to €10,000. The directors believe that the funding through the loan agreement will be sufficient to allow the company to continue as a going concern.

(b) *Basis of preparation*

The financial statements are prepared in accordance with generally accepted accounting principles under the historical cost convention and comply with financial reporting standards of the Accounting Standards Board, as promulgated by the Institute of Chartered Accountants in Ireland.

(c) *Start up costs*

All project startup costs incurred to date have been charged to expenses, with the exception of option payments for the project site in Shannon and deposits for office space.

(d) *Cash and cash equivalents*

Cash equivalents consist of highly liquid investments, which are readily convertible into cash and have maturities of three months or less when acquired.

(e) *Taxation*

The company has not generated any income to date, and as a result has not incurred any corporation taxes.

(f) *Cash Flow*

Financial Reporting Standard Number 1, "Cash Flow Statements", exempts small companies as defined in the companies' legislation from preparing cash flow statements. The company has availed of this exemption.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

2. PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION

	2006 €'000	2005 €'000
The profit before taxation is stated after charging:		
Directors' emoluments	276	-
Auditors' remuneration	42	-
	<hr/>	<hr/>

3. TAX ON (LOSS) ON ORDINARY ACTIVITIES

(a)	Analysis of profit and loss account charge:	2006 €'000	2005 €'000
	Current tax:		
	Republic of Ireland corporation tax on profits of the period at 12.5% (see reconciliation below)	-	-
		<hr/>	<hr/>
	Tax on (loss) on ordinary activities	-	-
		<hr/>	<hr/>
(b)	Reconciliation of the expected tax charge at the standard tax rate to the actual tax charge at the effective rate		
	The tax assessed for the year is lower than the standard rate of corporation tax in the Republic of Ireland (12.5%). The differences are explained below:		
		2006 €'000	2005 €'000
	(Loss) on ordinary activities before tax	(2,550)	(352)
		<hr/>	<hr/>
	(Loss) on ordinary activities multiplied by the standard rate of corporation tax in the Republic of Ireland of 12.5% (2005: 12.5%)	(319)	(44)
	Effects of:		
	Increase in losses forward	319	44
		<hr/>	<hr/>
	Tax on (loss) on ordinary activities	-	-
		<hr/>	<hr/>

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

4. INTANGIBLE FIXED ASSETS

	<i>Property, plant & equipment</i> €'000	<i>Total</i> €'000
Opening balance	-	-
Additions	493	493
Amortisation	-	-
Net book value		

The intangible asset arises on the option to purchase land from Shannon Free Airport Development Company Limited.

5. DEBTORS

	<i>2006</i> €'000	<i>2005</i> €'000
Amounts falling due within one year:		
Trade and other receivables	155	57

6. CREDITORS: amounts falling due within one year

	<i>2006</i> €'000	<i>2005</i> €'000
Trade and other payables	464	409

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

7. CREDITORS: amounts falling due after more than one year

	2006 €'000	2005 €'000
Amounts due to parent undertaking	3,156	-

The company has entered into an interest free loan agreement with Hess LNG to provide funding for project development. The facility provides funding up to €10,000. As at 31 December 2006 the company had a loan balance with Hess LNG of €3,156.

8. RECONCILIATION MOVEMENTS IN SHAREHOLDERS' FUNDS

	2006 €'000	2005 €'000
Profit retained for the year	(2,550)	(352)
Opening shareholders' funds	(351)	1
Closing shareholders' funds	(2,901)	(351)

9. CALLED UP SHARE CAPITAL

	2006 €'000	2005 €'000
Authorised:		
1,000,000 ordinary shares of €0.01 each	10,000	10,000
20,000 deferred ordinary shares of €0.01 each	200	200
Allotted, called up and fully paid:		
40,000 ordinary shares of €0.01 each	400	400
20,000 deferred ordinary shares of €0.01 each	200	200
	600	600
Rounded amount	€'000	€'000
Allotted, called up and fully paid	1	1

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

9. CALLED UP SHARE CAPITAL (contd.)

Each of the Ordinary Shares and the Deferred Ordinary Shares shall rank *pari passu* in all respects save as specifically set out below:-

As Regards Dividend

- a) Each of the Ordinary Shares shall rank *pari passu* in all respects as to dividends.
- b) The Deferred Ordinary Shares shall confer upon the holders thereof no right to receive any dividend thereon.

As Regards a Return of Capital

- a) In the event of any liquidation, dissolution or winding-up of the Company, either voluntarily or involuntarily, the assets and retained profits available for distribution to the holders of Ordinary Shares in the capital of the Company shall be distributed with equal priority among the holders of Ordinary Shares in the same proportions as the holders hold such Ordinary Shares.
- b) The holders of Deferred Ordinary Shares shall have no rights to share in the assets or retained profits of the Company in the event of any liquidation, dissolution or winding-up of the Company.

As Regards Voting at General Meetings

- a) The holders of Ordinary Shares shall each be entitled to receive notice of, and to attend and speak and vote at, general meetings of the Company.
- b) The Deferred Ordinary Shares shall not confer upon the holders thereof the right to receive notice of or to attend or vote at general meetings of the Company.

As Regards Conversion of the Deferred Ordinary Shares

The following rights shall attach to Deferred Ordinary Shares as regards conversion:

- (a) All of the Deferred Ordinary Shares held by a Deferred Ordinary Shareholder shall automatically convert into Ordinary Shares in accordance with the Conversion Rate specified in Article 4.4(b) in the Memorandum and Articles of Association, on the occurrence of the Final Investment Decision.
- (b) Each holder of Deferred Ordinary Shares shall be entitled to receive one Ordinary share and the corresponding share certificate for each Deferred Ordinary share held by him on the date of the Final Investment Decision.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2006

10. CONTROLLING PARTIES

Shannon LNG Limited is a wholly owned subsidiary undertaking of Hess LNG Limited, an undertaking incorporated in the Cayman Islands. The parent undertaking of the smallest group of undertakings for which group financial statements are drawn up, and of which the company is a member, is Hess Corporation. Copies of its group financial statements are available from 1185 Avenue of the Americas, New York, NY 10036, United States.

Hess LNG Limited is a joint venture between Hess Oil and Gas Holdings Inc. (HOGHI), a subsidiary of Hess Corporation (HESS) and Midstream Beta Limited, a subsidiary of Poten & Partners Group LLC (POTEN). The ultimate controlling parties are both incorporated in the United States. Copies of the group financial statements for Hess Corporation are available from 1185 Avenue of the Americas, New York, NY 10036, United States.

11. RELATED PARTIES

A summary of all material transactions between the company and its members and affiliates follows:

Services Agreement

2006
€'000

Hess LNG

€330

The company has entered into a services agreement with Hess LNG to provide certain services including coordination of project development, as well as legal and accounting support.

12. CONTINGENCIES

The company is subject to contingent liabilities with respect to existing or potential claims, lawsuits and other proceedings. The company considers these routine and incidental to its business and not material to its financial position or results of operations. The company accrues liabilities when the future costs are probable and reasonably estimable.

13. APPROVAL OF FINANCIAL STATEMENTS

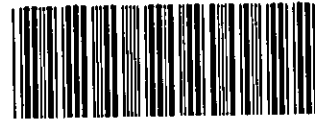
The directors approved the financial statements on 27 June 2007

Companies Registration Office

Annual Return

Sections 125, 127, 128 Companies Act, 1963
Section 7 Companies (Amendment) Act 1986
Section 26 Electoral Act 1997
Sections 43, 44 Companies (Amendment)(No 2) Act 1999
Section 249A Companies Act 1990 (inserted by section
107 Company Law Enforcement Act 2001)
Companies Act 1990 (Form and Content of Documents
Delivered to Registrar) Regulations 2002

date stamp



3372597

Companies Acts, 1963 to 2006

Tick box if bond
is attached ☐
note sixteen

Company Number

3 6 8 2 3 6

B1

Please complete using black typescript or BOLD CAPITALS, referring to explanatory notes

Company Name

in full

SHANNON LNG LIMITED

Return made up to

note one

Day Month Year
0 6 0 9 2 0 0 8

If the return is made up to a date earlier than the existing ARD, do you wish
to retain the anniversary of the existing ARD for next year? note two

Yes

No

☐☐

Financial Year

note three

From Day Month Year To Day Month Year
0 1 0 1 2 0 0 7 3 1 1 2 2 0 0 7

The company is claiming the exemption from audit in respect of the financial year covered by the accounts
attached to this return.

☐

Registered Office

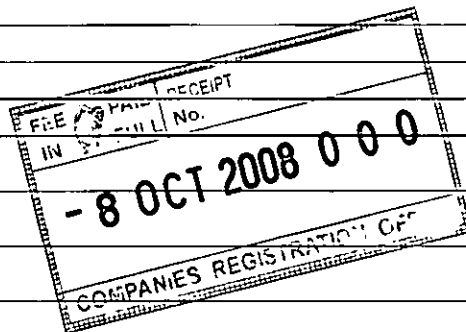
note four

70 Sir John Rogerson's Quay, Dublin 2, Ireland

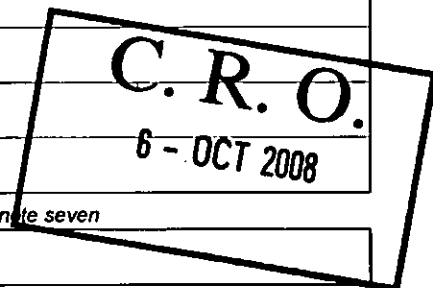
Other Addresses

note five

Address



Register(s)/documents held at this address



Secretary

note six

Surname

MATSACK TRUST LIMITED

Former Surname note seven

None

note six

Forename

Former Forename note seven

None

Residential Address

note six

70 Sir John Rogerson's Quay, Dublin 2, Ireland

Donations for Political Purposes

note eight

Name of person or political party to whom donation was made

None

Value of donation € / _

Presenter Details

Name

Person to whom queries can be addressed

Matheson Ormsby Prentice

Address

70 Sir John Rogerson's Quay, Dublin 2, Ireland

DX Number

DX Exchange

Telephone Number

01 232 2000

Fax Number 01 232 3333

Email

mop@mop.ie

Reference Number 54665

Authorised Share Capital

note nine

Total	€ / _	10,200.00	made up as follows:	Nominal Value
Class			Number of Shares	Per Share € / _
DEFERRED ORDINARY			20,000	0.01
ORDINARY			1,000,000	0.01

Issued Share Capital
(insert nominal values)

Total	€ / _	600.00	made up as follows:
Paid up on shares issued for cash	€ / _	600.00	
Considered paid on other shares	€ / _	0.00	
Total calls unpaid	€ / _	0.00	(E)
Total not yet called	€ / _	0.00	(F)

The sum of these figures must equal the total issued share capital.

Shares Issued**Consideration - all cash**

	Total standing to credit of Capital Conversion Reserve Fund note ten			€ / _	0.00
Class	Number of Shares	Total Nominal Value € / _	Total Premium Paid € / _	Total Amount Paid € / _	
DEFERRED ORDINARY	20,000	200.00	0.00	200.00	
ORDINARY	40,000	400.00	0.00	400.00	
Totals (A)	60,000			(C) 600.00	

Consideration - not all cash

Class	Number of Shares	Total Nominal Value € / _	Total Premium Considered Paid € / _	Total Amount Considered Paid € / _	
Totals (B)	0			(D) 0.00	

Totals

Total number of shares issued (A) + (B) 60,000

Total paid and unpaid and considered paid (C) + (D) + (E) + (F) € / _ 600.00

This total must agree with the total number of shares held by existing members as stated in the List of Past and Present Members section of the return.

Other Share / Debenture Details

note eleven

BLUEPRINT

2000

List of Past and Present Members

Persons holding shares on the date to which the annual return has been made up for 20 08 (insert year) and of persons who have held shares therein at any time since the date of the last return, or in the case of the first return, the date of incorporation of the company. *note twelve*

☐

Tick box if the list of past and present members is submitted on CD.

notes six and thirteen

Name and Address	Share Class	Numbers Held <i>note fourteen</i>	Number Transferred and Date <i>note fifteen</i>	Particulars of Transferee <i>note fifteen</i>
Name Address Folio No.				
Hess LNG Limited c/o Caledonian Bank & Trust Limited, Caledonian House, Dr. Roy's Drive , PO Box 1043 GT, George Town, Grand Cayman BWI, Cayman Islands	€0.01 ORDINARY	40,000		
Name Address Folio No.				
Hess LNG Limited c/o Caledonian Bank & Trust Limited, Caledonian House, Dr. Roy's Drive , PO Box 1043 GT, George Town, Grand Cayman BWI, Cayman Islands	€0.01 DEFERRED ORDINARY	20,000		
Name Address Folio No.				
KATE POWER 8 Trafalgar Terrace , Monkstown , Co. Dublin	€0.01 DEFERRED ORDINARY	0	5,000 24/06/2008	Hess LNG Limited
Name Address Folio No.				
JOHN POWER 14 Cliff Road, Tramore, Co. Waterford, Ireland	€0.01 DEFERRED ORDINARY	0	5,000 24/06/2008	Hess LNG Limited
Name Address Folio No.				
PATRICK POWER 8 TRAFALGAR TERRACE, MONKSTOWN, CO. DUBLIN	€0.01 DEFERRED ORDINARY	0	5,000 24/06/2008	Hess LNG Limited
Name Address Folio No.				
SARAH POWER 8 Trafalgar Terrace , Monkstown , Co. Dublin	€0.01 DEFERRED ORDINARY	0	5,000 24/06/2008	Hess LNG Limited
Name Address Folio No.				
Name Address Folio No.				
Name Address Folio No.				
Name Address Folio No.				

Total number held

The total number of shares held must agree with the total number of issued shares given in the **Shares Issued** section (total of (A) plus (B)).

Directors

including shadow/alternate directors if any

note six

Surname

POWER

Former Surname note seven

None

Forename

PATRICK

Former Forename note seven

None

Day Month Year

Date of Birth

23 02 1948

Irish Resident note sixteen

☒

Alternate Director note seventeen

☐Residential Address
note six

8 TRAFALGAR TERRACE, MONKSTOWN, CO. DUBLIN

Business Occupation

C.E.O.

Nationality

IRISH

Company note eighteen

Place of Incorporation note nineteen

Company Number

Other Directorships

See continuation sheet

note six

Surname

SHEARER

Former Surname note seven

None

Forename

GORDON

Former Forename note seven

None

Day Month Year

Date of Birth

11 08 1954

Irish Resident note sixteen

☐

Alternate Director note seventeen

☐Residential Address
note six

101 West 55th Street, Apt. 10H, New York 10019, United States

Business Occupation

BUSINESS EXECUTIVE

Nationality

AMERICAN

Company note eighteen

Place of Incorporation note nineteen

Company Number

Other Directorships

None

note six

Surname

Former Surname note seven

Forename

Former Forename note seven

Day Month Year

Date of Birth

Irish Resident note sixteen

☐

Alternate Director note seventeen

☐Residential Address
note six

Business Occupation

Nationality

Company note eighteen

Place of Incorporation note nineteen

Company Number

Other Directorships

Certification

note twenty

We hereby certify that (i) this form has been completed in accordance with the Notes on Completion of Form B1, (ii) contains the particulars in respect of the company as at the date to which the return is made up and that (iii)

The company is not a private company.

The company is a private company and has not since the date of its annual return (or the date of incorporation if this is the first return) issued any invitation to the public to subscribe for shares or debentures in the company.

The company is a private company with more than 50 members, the excess of the number of members over 50 consisting wholly of persons who, under section 33(1)(b) Companies Act 1982, are not included in reckoning the number of 50.

Signed

Director

Secretary

Name
in bold capitals or typescript

PATRICK POWER, DIRECTOR

MATSACK TRUST LIMITED

NOTES ON COMPLETION OF FORM B1

These notes should be read in conjunction with the relevant legislation.

- General** This form must be completed correctly, in full and in accordance with the following notes. Every section of the form must be completed. Where "not applicable", "nil" or "none" is appropriate, please state. Where € / _ appear, please insert/ delete as appropriate. Where / _ applies, give the relevant currency, if not euro. Where the space provided on Form B1 is considered inadequate, the information should be presented on a continuation sheet in the same format as the relevant section in the form. The use of a continuation sheet must be so indicated in the relevant section.
- Note one** A company is required to file with this return any returns that may be outstanding in respect of previous years. There must be no gap between the effective date of the previous year's return (if applicable) and the period covered by this return. Pursuant to s127 Companies Act 1963, a company's return must be made up to a date not later than its Annual Return Date (ARD). However, a new company filing its first return post-incorporation must make that return up to its ARD. The return must be filed with the Registrar within 28 days of the company's ARD, or, where the return has been made up to a date earlier than the company's ARD, within 28 days of that earlier date. S127 sets out the manner in which a company's ARD is determined and in which it may be altered. There are severe penalties for late filing of the return. *Returns made up to a date prior to 1 March 2002:* If this form is being used to file such a return, the return ought to be made up to the date which was 14 days after the company's AGM for the year in question and was required to have been delivered to the CRO within 60 days of the AGM. All other notes are also applicable to such returns. The late filing penalty will be charged in respect of any such return.
- Note two** This section must be completed if this return is being made up to a date earlier than the company's existing ARD. Where the company elects to retain the anniversary of its existing ARD for next year, the "Yes" box must be ticked. Where it elects that its ARD in the following year will be the anniversary of the date to which this return is made up, the "No" box must be ticked. If neither box is ticked, the form will be returned for correction. This section does not apply to a new company filing its first return post-incorporation.
- Note three** (i) If the return is filed with Form B73, or it is the first return of a company incorporated since 1 March 2002, no accounts need be attached and financial year details are not required. Otherwise, give the date of the commencement and completion of the financial year covered by the accounts presented or to be presented to the AGM of the company for that year. Pursuant to s7(1A) Companies (Amendment) Act 1986 (inserted by s64 Company Law Enforcement Act 2001), the accounts must be made up to a date **not earlier by more than nine months** than the date to which the return is made up. In the case of the first return since the company's incorporation, the period since incorporation is required to be covered by the accounts. In any other case, the accounts are required to cover the period since the last set of accounts filed with the CRO.
- (ii) Certain unlimited companies are required to prepare accounts and annex them to Form B1: Unlimited companies and partnerships where all the members, who do not have a limit on their liabilities, are companies limited by shares or guarantee, or their equivalent if not covered by the laws of the State, or a combination of these undertakings; unlimited companies and partnerships where all the members, who do not have a limit on their liabilities, are themselves unlimited companies or partnerships of the type aforementioned that are governed by the laws of the State or equivalent bodies governed by the laws of an EU Member State or combinations of these undertakings. Unlimited companies which do not come under either of these categories do not have to file accounts nor give details of their financial year.
- (iii) To avail of an audit exemption, certain conditions must be satisfied. For further information see CRO Information Leaflet No. 10.
- (iv) Private unlimited companies, private not-for-profit companies and certain companies with charitable objects, while exempt from annexing accounts to Form B1, are required by section 128(6B) Companies Act 1963 to annex a special auditor's report to Form B1.
- Note four** Give the address at the date of this return. Any change of registered office must be notified to the CRO. Form B2 ought to be used for this purpose.
- Note five** If not kept at the registered office, state the address(es) where the register of members, register of debenture holders, and register of directors' and secretary's interests in shares and debentures of the company are kept, and where copies of directors' service contracts/memoranda of same (if applicable) are retained. Where the records are retained at an accessible website, the CRO should be notified of the relevant website address.
- Note six** Insert the full name (initials will not suffice) and usual residential address. Where the secretary is a body corporate, its company name and registered office must be stated. Where the secretary is a firm, and all the partners are joint secretaries of the company, the name and principal office of the firm will be accepted.
- Note seven** Any former forename and surname must also be stated. This does not include (a) in the case of a person usually known by a title different from his surname, the name by which he was known previous to the adoption of or succession to the title; or (b) in the case of any person, a former forename or surname where that name or surname was changed or disused before the person bearing the name attained age 18 years or has been changed or disused for a period of not less than 20 years; or (c) in the case of a married woman, the name or surname by which she was known prior to the marriage.
- Note eight** S26 Electoral Act 1997 requires details of contributions for political purposes, in excess of €5,079 in the aggregate, to any political party, member of the Dáil or Seanad, MEP or candidate in any Dáil, Seanad or European election, made by the company in the year to which the annual return relates (i.e. the period since the effective date of the previous year's annual return, up to and including the effective date of the current return), to be declared in the annual return and directors' report of the company in respect of that year. The particulars must be sufficient to identify the value of each such donation and the person to whom the donation was made. A wide definition of donation is set out in s22/s46 of the 1997 Act and includes services supplied without charge, a donation of property or goods, or the free use of same.
- Note nine** Where a company has converted any of its shares into stock, then, where appropriate, the references to shares shall be taken as references to stock and references to number of shares shall be taken as references to amount of stock. The second page does not apply to a guarantee company without a share capital.
- Note ten** Insert, where applicable. (If share capital has been renominialised pursuant to s26 Economic and Monetary Union Act 1998 and there has been a decrease in the whole or part of the authorised and issued share capital or in a class of shares as a result of the renominialisation (26(4)(a).)
- Note eleven** Details of shares forfeited, shares/debentures issued at a discount, or on which a commission was paid including share class, number of shares and amounts in each case.
- Note twelve** A full list is required with all returns. However, this requirement does not apply to a guarantee company without a share capital. Where joint shareholders exist, name either all joint shareholders or the first shareholder and "Another".
- Note thirteen** Where there are more than seven shareholders, the list should be given on a continuation sheet in alphabetical order.
- Note fourteen** Give the total number of shares held by each member.
- Note fifteen** Applicable to private companies only. Furnish particulars of shares transferred, the date of registration of each transfer and the number of shares transferred on each date since the date of the last return, or in the case of the first return, of the incorporation of the company, by persons who are still members and persons who have ceased to be members.

Note sixteen Every company must have at least one full-time Irish resident director or a bond or certificate in place pursuant to s43(3) and s44 Companies (Amendment)(No.2) Act 1999. Note that an Irish resident alternate director is not sufficient for the purposes of s43. Place a tick in the "Irish resident" box if the director is resident in the State in accordance with s43 of the 1999 Act as defined by s44(8) and (9) of that Act. If no full-time director is so resident and no certificate has been granted, a valid bond must be furnished with the return, unless same has already been delivered to the CRO on behalf of the company. (Please note that "Irish resident" means resident in the Republic of Ireland.) For further information see CRO Information Leaflet No. 17.

Note seventeen Please tick the box if the director is an alternate (substitute) director. If the company's articles so permit and subject to compliance with those articles, a director may appoint a person to be an alternate director on his/her behalf. The appointment of any person to act as director is notifiable by a company to the CRO, regardless of how the appointment is described. The company is statutorily obliged to notify the CRO of the addition to and removal of each person from its register. In the event that a full-time director who has appointed an alternate director ceases to act as director, the company is required to notify the CRO of the termination of appointment of the full-time director and of his/ her alternate. Note: The CRO accepts no responsibility for maintaining the link between a full-time director and his/ her alternate.

Note eighteen Company name and number of other bodies corporate, whether incorporated in the State or elsewhere, except for bodies (a) of which the person has not been a director at any time during the past ten years; (b) of which the company is (or was at the relevant time) a wholly owned subsidiary; or (c) which are (or were at the relevant time) wholly owned subsidiaries of the company. Pursuant to s45(1) Companies (Amendment)(No.2) Act 1999, a person shall not at a particular time be a director of more than 25 companies. However, under s45(3), certain directorships are not reckoned for the purposes of s45(1).

Note nineteen Place of incorporation if outside the State.

Note twenty Tick the relevant box(es).

Checklist of documents annexed

Balance Sheet S 128 Companies Act 1963 (CA 63); S7 & S18 Companies (Amendment) Act 1986 (CAA 86) ☐

Profit and Loss Account S7 and S18 CAA 86 ☐

Notes to the Accounts Schedule of CAA 86 (refer specifically to s12 for notes required in the case of small / medium sized businesses) ☐

Directors' Report S128 CA 63; S7 & S18 CAA 86 ☐

Auditor's Report S128 CA 63; S7 & S18 CAA 86 ☐

Special Auditor's Report Duly certified by a director and secretary to be a true copy of the report S128(6B) CA 63 ☐

Overall Certification The Acts require that the balance sheet, profit and loss account, directors' report and auditor's report be certified by both director and secretary to be a true copy as laid or to be laid before the A.G.M. or sent to the sole member in accordance with the single member private limited company regulations. In the case of full accounts, an overall certification will be sufficient. ☐

Guarantee by parent undertaking of the liabilities of subsidiary undertaking S17 CAA 86 as amended ☐

Declaration of consent by shareholders of subsidiary to exemption S17 CAA 86 as amended ☐

Notification to shareholders of Guarantee S17 CAA 86 as amended ☐

Note stating company has availed of exemptions in s17 CAA 86 as amended ☐

Accounting documents

Reg 39 E.C. (Companies: Group Accounts) Regulations 1992 ☐

Reg 7 E.C. (Credit Institutions: Accounts) Regulations 1992 ☐

Reg 7 E.C. (Accounts) Regulations 1993 ☐

Regs 5, 17 E.C. (Insurance Undertakings: Accounts) Regulations 1996 ☐

Section 43 Bond See note sixteen above. ☐

Form B73 Nomination of a new ARD ☐

Further Information

Professional Advice If you have a problem completing this annual return, and in particular are unclear of the requirements pertaining to a company's ARD, you should consult your professional adviser.

Change in Details Where applicable, the particulars given on Form B1 must accord with the particulars contained in the documentation already delivered to the CRO. The most common forms used to notify the CRO of any changes to the company details are:

- B2 Notice of change in the situation of the registered office
- B3 Notice of places where register of members, register of debenture holders, register of directors' and secretary's interests in shares and debentures, and directors' service contracts/ memoranda are kept
- B4 / G1 Notice of increase in authorised capital
- B5 Return of allotments (increase in issued share capital)
- B10 Notice of change of directors or secretaries or in their particulars

CRO Address When you have completed and signed the form, please send with the prescribed fee to the Registrar of Companies at:

Parnell House, 14 Parnell Square, Dublin 1 - DX 145001 Parnell House

Please carefully study the explanatory notes overleaf. A Form B1 that is not completed correctly or is not accompanied by the correct documents or fee is liable to be rejected and returned to the presenter by the CRO pursuant to section 249A Companies Act 1990 (Inserted by section 107 Company Law Enforcement Act 2001). Unless the document, duly corrected, is relogged in the CRO within 14 days, it will be deemed to have never been delivered to the CRO.

FURTHER INFORMATION ON COMPLETION OF FORM B1, INCLUDING THE PRESCRIBED FEE, IS AVAILABLE FROM www.cro.ie OR BY E-MAIL Info@cro.ie

Other Directorships

Company Number 368236

Form B1 Continuation sheet

Director's Name PATRICK POWER

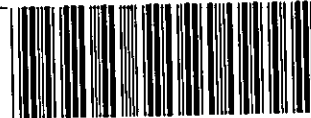
Other directorships

Company Name <i>note eighteen</i>	Place of Incorporation <i>note nineteen</i>	Company Number	Resigned
Conocophillips Ireland Limited		341156	30/11/2002
Irish National Petroleum Corporation Limited		69757	16/07/2001
Petroplus Holdings Ag	Switzerland		
The Multiple Sclerosis Society Society of Ireland		296573	

SHANNON LNG LIMITED

REPORT AND FINANCIAL STATEMENTS

PERIOD ENDED 31 DECEMBER 2007



3372598

Certified to be a true copy of the balance sheet, profit and loss account, directors' report and auditor's report as laid to the sole member of the Company in accordance with the European Communities (Single-Member Private Limited Companies) Regulations, 1994


Director

For and on behalf of Matsack Trust Limited


Secretary

SHANNON LNG LIMITED

**DIRECTORS' REPORT AND
FINANCIAL STATEMENTS**

**FOR THE YEAR ENDED
31 DECEMBER 2007**

C. R. O.
6 - OCT 2008

Shannon LNG Limited

DIRECTORS' REPORT AND FINANCIAL STATEMENTS for the year ended 31 December 2007

TABLE OF CONTENTS	PAGE
COMPANY INFORMATION	2
DIRECTORS' REPORT	3
INDEPENDENT AUDITORS' REPORT	5
PROFIT AND LOSS ACCOUNT	7
BALANCE SHEET	8
NOTES TO THE FINANCIAL STATEMENTS	9

Shannon LNG Limited

COMPANY INFORMATION

DIRECTORS

Patrick Power
Gordon Shearer

SECRETARY

Matsack Trust Limited

REGISTERED OFFICE

30 Herbert Street
Dublin 2

SOLICITORS

Matheson Ormsby Prentice
30 Herbert Street
Dublin 2

BANKERS

Allied Irish Bank
Main Street
Blackrock
Dublin

AUDITORS

Ernst and Young
Chartered Accountants
Barrington House
Barrington Street
Limerick

Shannon LNG Limited

DIRECTORS' REPORT

for the year ended 31 December 2007 (All figures are expressed in thousands of Euro)

The directors present their report and financial statements for the year ended 31 December 2007.

PRINCIPAL ACTIVITIES, BUSINESS REVIEW AND FUTURE DEVELOPMENTS

Shannon LNG Limited (Company) is a development stage company, engaged in the development of liquefied natural gas (LNG) marine import terminals. The company is currently working to secure all necessary permits to develop a terminal located in County Kerry. Construction of the terminal is expected to begin once all the permits are obtained.

The company was formerly known as the Irish National Energy Company Limited (INEC). On 19th April 2006 Hess LNG Limited (HESS LNG), a joint venture between Hess Oil and Gas Holdings Inc. (HOGHI), a subsidiary of Hess Corporation (HESS) and Midstream Beta Limited, a subsidiary of Poten & Partners Group, LLC (POTEN) acquired INEC. The name of the company was changed from INEC to Shannon LNG Limited on that date.

On 19th April 2006, the company entered into an option agreement with Shannon Free Airport Development Company Limited to purchase up to 281 acres for the purposes of developing an LNG marine import terminal. As of 31 December 2007 the company has paid €1,233k under the terms of the option agreement.

RESULTS FOR THE YEAR AND STATE OF AFFAIRS AT 31 DECEMBER 2007

The profit & loss account and balance sheet are set out on pages 7 & 8. All project startup costs incurred to date have been charged to expense, with the exception of option payments for the project site in Shannon and deposits for office space. The company recorded a loss of €8,490k for the year (2006: €2,550k).

IMPORTANT EVENTS SINCE THE YEAR END

On 28 March 2008, An Bord Pleanála granted the Company planning permission to construct an LNG regasification terminal on the southern shore of the Shannon Estuary in County Kerry.

DIRECTORS

The present directors are listed on page 2. They have served throughout the period.

BOOKS AND ACCOUNTING RECORDS

The directors are responsible for ensuring that proper books and accounting records, as outlined in Section 202 of the Companies Act, 1990, are kept by the company.

To achieve this, the directors have appointed appropriate personnel to ensure that those requirements are complied with.

These books and accounting records are maintained at 30 Herbert Street, Dublin 2.

DIVIDENDS

The directors of the company do not propose the payment of a dividend for the year.

Shannon LNG Limited

DIRECTORS' REPORT

for the year ended 31 December 2007

DIRECTORS' AND SECRETARY'S INTERESTS

The interests of directors in the share capital of the company at the beginning and end of the year were as follows:

Director	At 31 December 2006 Number of Ordinary Shares	At 31 December 2007 Number of Ordinary Shares
Patrick Power	-	-
	At 31 December 2006 Number of Def. Ordinary Shares	At 31 December 2007 Number of Def. Ordinary Shares
Patrick Power	5,000	5,000

STATEMENT OF DIRECTORS' RESPONSIBILITIES IN RESPECT OF THE FINANCIAL STATEMENTS

The directors are responsible for preparing the financial statements in accordance with applicable Irish law and Generally Accepted Accounting Practice in Ireland including the accounting standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland.

Company law requires the directors to prepare financial statements for each financial year, which give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period. In preparing those financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping proper books of account which disclose with reasonable accuracy at any time the financial position of the company and enable them to ensure that the financial statements are prepared in accordance with accounting standards generally accepted in Ireland and comply with the Companies Acts, 1963 to 2006. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

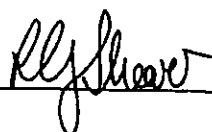
AUDITORS

The auditors, Ernst & Young, Chartered Accountants, will continue in office in accordance with Section 160(2) of the Companies Act, 1963.

On behalf of the board on

Directors

E



4

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF SHANNON LNG LIMITED

We have audited the company's financial statements of Shannon LNG Limited for the year ended 31 December 2007 which comprises the Profit and Loss Account, the Balance Sheet and the related notes 1 to 15. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the company's members, as a body, in accordance with section 193 of the Companies Act, 1990. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of directors and auditors

The directors are responsible for the preparation of the financial statements in accordance with applicable Irish law and Accounting Standards issued by the Accounting Standards Board and promulgated by the Institute of Chartered Accountants in Ireland (Generally Accepted Accounting Practice in Ireland) as set out in the Statement of Directors' Responsibilities.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view and are properly prepared in accordance with the Companies Acts, 1963 to 2006. We also report to you our opinion as to: whether proper books of account have been kept by the company; whether, at the balance sheet date, there exists a financial situation which may require the convening of an extraordinary general meeting of the company; and whether the information given in the Directors' Report is consistent with the financial statements. In addition, we state whether we have obtained all the information and explanations necessary for the purposes of our audit and whether the financial statements are in agreement with the books of account.

We also report to you if, in our opinion, any information specified by law regarding directors' remuneration and other transactions is not disclosed and, where practicable, include such information in our report.

We read the Directors' Report and consider the implications for our report if we become aware of any apparent misstatements within it.

Basis of audit opinion

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgments made by the directors in the preparation of the financial statements, and of whether the accounting policies are appropriate to the company's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

INDEPENDENT AUDITORS' REPORT TO THE MEMBERS OF SHANNON LNG LIMITED

Opinion

In our opinion the financial statements give a true and fair view, in accordance with Generally Accepted Accounting Practice in Ireland, of the state of affairs of the company as at 31 December 2007 and of its loss for the year then ended and have been properly prepared in accordance with the Companies Acts, 1963 to 2006.

We have obtained all the information and explanations we consider necessary for the purposes of our audit. In our opinion proper books of account have been kept by the company. The financial statements are in agreement with the books of account.

In our opinion the information given in the Directors' Report is consistent with the financial statements.

In our opinion, the balance sheet shows an excess of liabilities over assets and, in our opinion, on that basis there did exist at 31 December 2006 a financial situation which under Section 40(1) of the Companies (Amendment) Act, 1983 may require the convening of an extraordinary general meeting of the company.

Emphasis of Matter – Going Concern

In forming our opinion, which is not qualified, we have considered the adequacy of the disclosures made in Note 1 to the financial statements concerning the uncertainty over the ability of the company to continue as a going concern. In view of the significance of this uncertainty we consider that it should be drawn to your attention. The financial statements do not include the adjustments that would result if the company was unable to continue as a going concern.

Ernst & Young
Registered Auditors
Limerick

Date:

Shannon LNG Limited

PROFIT AND LOSS ACCOUNT for the year ended 31 December 2007

	Note	2007 €'000	2006 €'000
Sales		-	-
Cost of sales		-	-
GROSS PROFIT		-	-
Other (losses)/gains		-	-
Administrative expenses		-	-
Other income		-	-
Other expenses		(8,490)	(2,550)
(Loss) before income tax	2	(8,490)	(2,550)
Income tax expense	4	-	-
LOSS RETAINED FOR THE PERIOD		(8,490)	(2,550)

The company has no other recognised gains or losses in the current financial year other than those dealt with in the profit & loss account.

On behalf of the board on

Directors

Rly Shear *J. Power*

Shannon LNG Limited

BALANCE SHEET for the year ended 31 December 2007

	Note	2007 €'000	2006 €'000
FIXED ASSETS			
Intangible fixed assets	5	1,233	493
Deposits		32	32
		<u>1,265</u>	<u>525</u>
CURRENT ASSETS			
Debtors	6	257	155
Cash and cash equivalents		261	39
		<u>518</u>	<u>194</u>
CREDITORS: amounts falling due within one year	7	(766)	(464)
NET CURRENT LIABILITIES		<u>(248)</u>	<u>(270)</u>
TOTAL ASSETS LESS CURRENT LIABILITIES		<u>1,017</u>	<u>255</u>
CREDITORS: amounts falling due after more than one year	8	(12,408)	(3,156)
NET (LIABILITIES)		<u>(11,391)</u>	<u>(2,901)</u>
CAPITAL AND RESERVES			
Share capital	10	1	1
Retained loss		(11,392)	(2,902)
Shareholders' deficit (all equity interests)	9	<u>(11,391)</u>	<u>(2,901)</u>

On behalf of the board on

Directors

R. G. Shearer *M. J. Mullen*

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

1. ACCOUNTING POLICIES

(a) *Going concern*

The accompanying financial statements have been prepared on a going concern basis. As shown in the Profit and Loss account and Balance Sheet, the company has a limited amount of cash, has incurred losses and has accumulated a deficit during the development stage. These factors indicate the company may be unable to continue as a going concern. The financial statements do not include any adjustments that might be necessary should the company be unable to continue as a going concern.

The directors recognize that continuing as a going concern is dependent on among other factors, obtaining funding from Hess LNG. The company has an interest free loan agreement with Hess LNG. Through the end of 2007, the company has borrowed €12,408k under this agreement, with a further €6,540k borrowed since the end of 2007. The loan agreement provides project funding up to €30,000k. The directors believe that the funding through the loan agreement will be sufficient to allow the company to continue as a going concern.

(b) *Basis of preparation*

The financial statements are prepared in accordance with generally accepted accounting principles under the historical cost convention and comply with financial reporting standards of the Accounting Standards Board, as promulgated by the Institute of Chartered Accountants in Ireland.

(c) *Start up costs*

All project startup costs incurred to date have been charged to expenses, with the exception of option payments for the project site in Shannon and deposits for office space.

(d) *Cash and cash equivalents*

Cash equivalents consist of highly liquid investments, which are readily convertible into cash and have maturities of three months or less when acquired.

(e) *Taxation*

The company has not generated any income to date, and as a result has not incurred any corporation taxes.

(f) *Cash Flow*

Financial Reporting Standard Number 1, "Cash Flow Statements", exempts small companies as defined in the companies' legislation from preparing cash flow statements. The company has availed of this exemption.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

2. PROFIT ON ORDINARY ACTIVITIES BEFORE TAXATION

	2007 €'000	2006 €'000
The profit before taxation is stated after charging:		
Directors' emoluments	394	276
Auditors' remuneration	38	42
	<hr/>	<hr/>

3. WAGES & SALARIES

The average number of persons employed by the company in the financial year was 3 (2006: 1) and is analysed into the following categories:

	2007 Number	2006 Number
No. of staff	3	1
	<hr/>	<hr/>
	2007 €'000	2006 €'000
The staff costs comprise:		
Wages and salaries	621	299
Social welfare costs	67	32
	<hr/>	<hr/>
	688	331
	<hr/>	<hr/>

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

4. TAX ON (LOSS) ON ORDINARY ACTIVITIES

(a) Analysis of profit and loss account charge:		2007	2006
		€'000	€'000
Current tax:			
Republic of Ireland corporation tax on profits of the period at 12.5% (see reconciliation below)		-	-
Tax on (loss) on ordinary activities		-	-

(b) Reconciliation of the expected tax charge at the standard tax rate to the actual tax charge at the effective rate

The tax assessed for the year is lower than the standard rate of corporation tax in the Republic of Ireland (12.5%).
The differences are explained below:

	2007	2006
	€'000	€'000
(Loss) on ordinary activities before tax	(8,490)	(2,550)
(Loss) on ordinary activities multiplied by the standard rate of corporation tax in the Republic of Ireland of 12.5% (2006: 12.5%)	(1,061)	(319)
Effects of:		
Increase in losses forward	1,061	319
Tax on (loss) on ordinary activities	-	-

5. INTANGIBLE FIXED ASSETS

	Property, plant & equipment	Total
	€'000	€'000
Opening balance	493	493
Additions	740	740
Amortisation	-	-
Net book value	1,233	1,233

The intangible asset arises on the option to purchase land from Shannon Free Airport Development Company Limited.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

6. DEBTORS

	2007 €'000	2006 €'000
Amounts falling due within one year:		
Trade and other receivables	257	155

7. CREDITORS: amounts falling due within one year

	2007 €'000	2006 €'000
Trade and other payables	766	464

8. CREDITORS: amounts falling due after more than one year

	2007 €'000	2006 €'000
Amounts due to parent undertaking	12,408	3,156

The company has entered into an interest free loan agreement with Hess LNG to provide funding for project development. The facility provides funding up to €30,000k. As at 31 December 2007 the company had a loan balance with Hess LNG of €12,408k.

9. RECONCILIATION MOVEMENTS IN SHAREHOLDERS' FUNDS

	2007 €'000	2006 €'000
(Loss) retained for the year	(8,490)	(2,550)
Opening shareholders' deficit	(2,901)	(351)
Closing shareholders' deficit	(11,391)	(2,901)

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

10. CALLED UP SHARE CAPITAL

	2007	2006
Authorised:		
1,000,000 ordinary shares of €0.01 each	10,000	10,000
20,000 deferred ordinary shares of €0.01 each	200	200
Allotted, called up and fully paid:		
40,000 ordinary shares of €0.01 each	400	400
20,000 deferred ordinary shares of €0.01 each	200	200
	600	600
Rounded amount	€'000	€'000
Allotted, called up and fully paid	1	1

Each of the Ordinary Shares and the Deferred Ordinary Shares shall rank *pari passu* in all respects save as specifically set out below:-

As Regards Dividend

- Each of the Ordinary Shares shall rank *pari passu* in all respects as to dividends.
- The Deferred Ordinary Shares shall confer upon the holders thereof no right to receive any dividend thereon.

As Regards a Return of Capital

- In the event of any liquidation, dissolution or winding-up of the Company, either voluntarily or involuntarily, the assets and retained profits available for distribution to the holders of Ordinary Shares in the capital of the Company shall be distributed with equal priority among the holders of Ordinary Shares in the same proportions as the holders hold such Ordinary Shares.
- The holders of Deferred Ordinary Shares shall have no rights to share in the assets or retained profits of the Company in the event of any liquidation, dissolution or winding-up of the Company.

As Regards Voting at General Meetings

- The holders of Ordinary Shares shall each be entitled to receive notice of, and to attend and speak and vote at, general meetings of the Company.
- The Deferred Ordinary Shares shall not confer upon the holders thereof the right to receive notice of or to attend or vote at general meetings of the Company.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

10. CALLED UP SHARE CAPITAL (continued)

As Regards Conversion of the Deferred Ordinary Shares

The following rights shall attach to Deferred Ordinary Shares as regards conversion:

- (a) All of the Deferred Ordinary Shares held by a Deferred Ordinary Shareholder shall automatically convert into Ordinary Shares in accordance with the Conversion Rate specified in Article 4.4(b) in the Memorandum and Articles of Association, on the occurrence of the Final Investment Decision.
- (b) Each holder of Deferred Ordinary Shares shall be entitled to receive one Ordinary share, and the corresponding share certificate for each Deferred Ordinary share held by him on the date of the Final Investment Decision

11. CONTROLLING PARTIES

Shannon LNG Limited is a wholly owned subsidiary undertaking of Hess LNG Limited, an undertaking incorporated in the Cayman Islands. The parent undertaking of the smallest group of undertakings for which group financial statements are drawn up, and of which the company is a member, is Hess Corporation. Copies of its group financial statements are available from 1185 Avenue of the Americas, New York, NY 10036, United States.

Hess LNG Limited is a joint venture between Hess Oil and Gas Holdings Inc. (HOGHI), a subsidiary of Hess Corporation (HESS) and Midstream Beta Limited, a subsidiary of Poten & Partners Group LLC (POTEN). The ultimate controlling parties are both incorporated in the United States. Copies of the group financial statements for Hess Corporation are available from 1185 Avenue of the Americas, New York, NY 10036, United States.

12. RELATED PARTIES

A summary of all material transactions between the company and its members and affiliates follows:

<u>Services Agreement</u>	<u>2007</u> <u>€'000</u>	<u>2006</u> <u>€'000</u>
Hess LNG	859	330

The company has entered into a services agreement with Hess LNG to provide certain services including coordination of project development, as well as legal and accounting support.

Shannon LNG Limited

NOTES TO THE FINANCIAL STATEMENTS for the year ended 31 December 2007

13. CONTINGENCIES

The company is subject to contingent liabilities with respect to existing or potential claims, lawsuits and other proceedings. The company considers these routine and incidental to its business and not material to its financial position or results of operations. The company accrues liabilities when the future costs are probable and reasonably estimable.

14. DEFERRED TAXATION

A deferred taxation asset of €1m, which has arisen due to accumulated pre trading tax losses, has not been recognised on the grounds that there is insufficient evidence that the asset will be recoverable. These pre trading losses would become recoverable in the future only if the company became profitable within the next three years.

15. APPROVAL OF FINANCIAL STATEMENTS

The directors approved the financial statements on



**Oifig an Ombudsman
Office of the Ombudsman**

Our Reference : L18/07/2518

5 January 2009

Mr John McElligott
Kilcolgan Residents Association
Island View
5 Convent Street
Listowel
Co. Kerry

Dear Mr McElligott

I refer to your letter dated 26 September 2008 and previous correspondence to this Office, in connection with a complaint against Kerry County Council in relation to the decision not to carry out an Strategic Environmental Assessment (SEA) on a variation to the County Development Plan.

Your most recent correspondence raised a wide variety of issues in relation to the role played by both the officials and elected member of the Council. It is therefore appropriate that I clarify at the outset the role of this Office in relation to the issues which you have raised.

The role of the Ombudsman

At the outset, I should explain the role of the Ombudsman in dealing with complaints. The Ombudsman may examine actions carried out by certain public bodies, where there is evidence to suggest that maladministration (i.e., improper, incorrect or unfair administration) has occurred and the action complained of has had an adverse effect on the complainant.

In the Ombudsman Act, 1980 maladministration includes an action that was or may have been taken:

- without proper authority;
- on irrelevant grounds;
- as a result of negligence or carelessness;
- based on erroneous or incomplete information;
- improperly discriminatory;
- based on an undesirable administrative practice;
- otherwise contrary to fair or sound administration.

The Ombudsman's role does not extend to examining the reserved functions of the elected members referred to in your correspondence. Reserved functions are those which can only be exercised by the elected members of the Authority, as opposed to executive functions which are exercised by the Manager and officials of the local authority. Under the Ombudsman Act, 1980 (as amended) reserved functions are excluded from the Ombudsman's jurisdiction. Therefore this Office cannot examine a decision of the elected members of the County Council taken in the performance of a reserved function and includes the making of a development plan .

The Ombudsman's remit does not extend to examining the actions of the Shannon Airport Development, Shannon Foynes Port Company or, An Bord Pleanála.

The Council's position.

Previous correspondence has outlined the Council's response to the points raised in your complaint. The Council's position may be summarised as follows :

- The land in question was identified for industrial development as far back as 2003, years in advance of any LNG proposal.
- The proposed variation to the development was advertised and it was clear that "the lands have been identified at Ballylongford/ Tarbert as application for such a development had been lodged".
- It does not accept your contention that the re-zoning was specific to the LNG proposal. The variation was to zone lands for industrial use.
- The Consultants , (RPS.)employed by the Council to carry out the required scooping process, recommended that an SEA was not required.
- The relevant bodies were consulted i.e. the EPA, the Department of Environment, Heritage and Local Government and the Department of Communications, Marine and Natural Resources.
- Clare County did not receive a screening report as it is not a statutory body for this process.
- There is no prohibition on development in SAC's, SPA's, NHA's. The zoned land is, in any event, not in any of these areas.
- It is a normal practice in assessing development proposals to inspect similar facilities.

This Office's position

Having considered your complaint in very great detail I am of the opinion that the Council undertook its obligations in accordance with the statutory provisions that exist for the re-zoning of the land. I had indicated my preliminary view to you during our conversations in relation to the complaint but I have also undertaken a specific consideration of the issue raised in your letter in relation to whether the Council should have advised RPS of the possibility of the LNG facility being developed.

While it may seem surprising that the Council had not mentioned the proposed use of this facility in its dealings with the Consultants it is equally surprising that the Consultants would be unaware of the intended use given that the issue was in the public domain at the time. I

therefore asked the Council to elaborate on the issue and sought further information concerning correspondence between the parties in the time preceding their appointment to carry out the study, and indeed in the months after their report was submitted.

In the correspondence subsequently received from the Council there is no evidence that RPS were aware of the proposed facility and even if they were, the focus of the SEA Statement is in relation to the re-zoning of the land for industrial use. The Statement makes it very clear that it is not specific to any project. The Council have also maintained throughout that it would have been unreasonable for it to limit its discretion to consider other applications for other industrial uses by focusing on the possibility of the LNG facility proceeding. It also maintains, not unreasonably in my opinion, that at the time, any consideration of the LNG facility would itself have to be subject to very detailed consideration throughout the planning process with the possibility of the issue ending up at An Bord Pleanála under appeal by one party or the other, whatever the outcome. As it transpired the proposal did end up at Bord Pleanála where the decision was ultimately made. I also understand that the pipeline element of the proposal is now the subject of a further oral hearing by An Bord Pleanála.

Your letter also asked that this Office confirm with the Council the membership of the senior management team. It has indicated that the membership consisted of Mr Martin Riordan, Former County Manager, Mr. Tom Curran, formerly Director of Roads and Transportation and current Co. Manager, Mr Michael McMahon, Director of Planning and Mr Tom Sheehy, Snr Engineer, Planning. Other officials were consulted as necessary.

You had also specifically asked that the Council supply copies of any emails between it and RPS the company employed to carry out the screening report in relation to the proposed variation to the County Development Plan. The Council has indicated that other than its proposal in relation to the SEA Statement no emails exist. I had also asked that the Council confirm that other correspondence between it and RPS was in the public domain and it has done so.

Summary

Your letter of 28 September, 2008 refers to the actions of a wide range of bodies most of which are outside the Ombudsman's remit. The examination of your complaint has therefore been concerned almost exclusively with the actions of Kerry County Council. That examination has focused on whether the Council acted in accordance with the correct administrative procedures for dealing with this matter.

The main element of your complaint that could be examined lay in relation to whether or not the Council should have advised RPS of the LNG proposal. You contend that had it done so it would allow it to take this into account when deciding whether or not to recommend that an SEA be carried out in respect of the proposed variation to the County Development Plan. You also contend that it is inexplicable that such a major proposal should escape the notice of any company carrying out a screening report and that in any event, the Council should have informed RPS of a proposal of this magnitude.

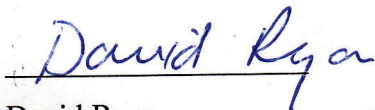
The Council for its part maintain that it has carried out its statutory duties exactly in accordance with the way they are set out in law. It also maintains that it would have unnecessarily restricted the process by linking the variation to the LNG proposal given that

there was no guarantee that it would proceed. It has also maintained that the legal and planning process would allow for all points of view to be considered, before any approval was given to the LNG project. This is an argument that is difficult to refute given what is taking place at the present and the other safeguards that exist to ensure the proposal is scrutinised correctly.

I had indicated at the outset that my preliminary view was that the Council had acted in accordance with the correct administrative procedures and, having examined the issue in further detail, this would still be my conclusion. Whether or not the Council should have advised RPS of the proposal in advance of the screening report is a very moot point but, I do not consider that there is sufficient evidence to show that this decision was indicative of bad administrative practice.

You are welcome to contact at 01 6395613 if you require any further clarification .

Yours sincerely



David Ryan
Investigator



Kilcolgan Residents Association
Protecting the Shannon Estuary

Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

26 September 2008

David Ryan, Investigator,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
By Email to: david_ryan@ombudsman.gov.ie
c.c. ombudsman@ombudsman.gov.ie

Re: Complaint concerning refusal to carry out an SEA on variation No 7 of 2007 to Kerry
County Development Plan (reference L18/07/2518)

Dear Mr. Ryan,

It is our contention that the decision to build an LNG terminal was decided at the highest levels in the Irish Government and now the different statutory bodies are retrospectively approving this without any concern for safety, environmental or strategic issues.

In our opinion Kerry County Council refused to carry out an SEA on the lands about to be rezoned for the proposed LNG terminal because there was an option to purchase conditional on obtaining planning permission for an LNG terminal within 2 years on land zoned 'rural general' and 'secondary special amenity' for a price we believe to be in the region of 28 million euros. A full SEA would have taken upwards on 1 year to complete alone. Therefore, it is our view that the refusal was motivated by this condition to the detriment of the people of the south west on health, safety, environmental and strategic planning grounds.

The Local Government Act 2001 clearly states its requirement of Standards of integrity in Article 168 as follows:

*"In carrying out their functions under this or any other enactment, it is the duty of every member and every employee of a local authority and of every member of every committee to maintain proper standards of integrity, conduct and concern for the public interest."*¹

¹ <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

We are therefore now requesting that you determine that proper standards of integrity, conduct and concern for the public interest were not maintained by Kerry County Council employees as required of them under Article 168 of the Local Government Act 2001. From your letter dated April 3rd 2008, Kerry County Council claimed that:

“Kerry County Council is unaware as to whether or not the consultants were aware of the LNG proposal as it was in the public arena at that time.”

From your letter dated September 1st 2008, Kerry County Council confirmed that:

“RPS have confirmed that they were unaware of the proposed LNG proposal at the time of the screening process”

RPS should have been told about the proposed LNG terminal by Kerry County Council. Not to do so, if indeed that is the truth, was **NEGLIGENT BEHAVIOUR and a breach of procedure and ethics obliged of council members and employees by Article 168 of the Local Government Act 2001**. because the legislation obliges the SEA screening process to take into account developments “likely” to have an effect on the environment.

Who was in the Subcommittee of the senior management team created to deal with the Shannon LNG project as outlined in point 4 below? Those members had a duty under Article 168 of the Local Government Act 2001 to disclose to RPS who undertook the SEA screening report in November 2006 that the site was earmarked for an LNG terminal 6 months earlier. An EIS is not an SEA. EIS is project specific; an SEA is region and strategic specific.

It might be an idea to get all email communications between the council and RPS to confirm the veracity of the council’s claims.

The EPA² and Clare County Council³ could not confirm receipt of the SEA screening Report. Why not get proof of whether these were given or not?

It is misleading for Kerry County Council to state that:

“To have considered Shannon LNG as part of the screening process would have involved a different type of specific zoning e.g. zoned specifically for a gas storage and importation terminal”.

This is because the lands only needed to be zoned “Industrial” for an LNG terminal (as that is what they are zoned at now for the LNG terminal). No other specific zoning was needed.

Please find the following timeline of events regarding this complaint which we believe to be accurate:

² Email communication with Kerry County Council submitted to the Ombudsman’s Office on November 19th 2007 as attachment 8

³ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman’s office on November 21st 2007

1. June 2004: Plans were announced by the Shannon Foynes Port Company to invest 53 million euros in port facilities along the Shannon Estuary, which would include a major transshipment terminal at Ballylongford on the site of the proposed LNG terminal⁴. However, since the LNG terminal was proposed, all plans for this transshipment facility have mysteriously been shelved
2. May 2006: The decision to build an LNG terminal, a top-tier Seveso II development, was announced in the Dail by Minister Dempsey as follows:

*“Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): Another welcome development is the announcement on 22 May last that Shannon Development has entered into an ‘option-to-purchase’ agreement with Shannon LNG. This Irish subsidiary of Fortune 500 Company Hess LNG Limited is developing a project to build a €400 million liquefied natural gas (LNG) receiving terminal near Tarbert on the Shannon Estuary. The project could potentially provide up to 40% of Ireland’s gas requirements and I am certainly interested in exploring the scope for realising that potential with all concerned, bearing in mind that this is a commercial venture. The estimated date for completion of the project is 2011.”*⁵
3. May 2006: Shannon LNG equally announced an option to purchase, subject to planning, the lands at Kilcolgan owned by Shannon Development, as follows⁶:

“Shannon LNG, an Irish subsidiary of Hess LNG Limited, which is a 50/50 joint venture of Hess Corporation and Poten & Partners, is at the early stages of a major development which will help secure Ireland’s long-term supply of natural gas. The company has entered into an ‘option-to-purchase’ agreement with Shannon Development, the regional development agency, in relation to 281 acres of the 600-acre state-owned land bank between Tarbert and Ballylongford, County Kerry. Subject to feasibility studies, technical assessments and in due course, planning and other approvals, it will become the site for a major 400 million Euro liquefied natural gas (LNG) import terminal.”

The Shannon Foynes Port Company, of which then Councillor Ned O’Sullivan was a director at the time of the rezoning, described the development as follows:

*“The development site is located immediately to west of Ardmore Point. It is on State (Shannon Airport Development Co) owned land and is designated for development with a four year option. Shannon LNG is the developer. The **company is required to achieve planning permission within 2 years.**”⁷*

⁴ <http://www.sfpc.ie/news023-articles.htm>

⁵ <http://historical-debates.oireachtas.ie/D/0620/D.0620.200605300043.html>

⁶ <http://www.shannonlngplanning.ie/files/Newsletters/Issue1.pdf> page 1

⁷ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

Shannon Development's Annual Report 2006⁸ even publicises a photo opportunity on the announcement with Councillor John Brassil, Minister Martin and senior vice president of Hess Corporation Gordon Shearer holding a map of the Greenfield rural site in North Kerry where the LNG terminal is proposed.



Pictured at the announcement by Micheál Martin TD, Minister for Enterprise, Trade and Employment, that Shannon Development has signed an 'option to purchase' agreement with Shannon LNG, a subsidiary of Hess LNG, for a portion of Shannon Development land bank at Tarbert/Ballylongford, Co Kerry, were (l-r): Kevin Thompstone, Chief Executive, Shannon Development; John Brassil, Board Member, Shannon Development, Eugene Brennan, Development and Marketing Director, Shannon Development, Gordon Shearer CEO, Hess LNG, and Minister Micheál Martin.

We are concerned at how Shannon Development could sign an “option-to-purchase” agreement with a developer conditional on obtaining planning permission for a top-tier Seveso II hazardous LNG terminal within 2 years⁹. It is highly questionable how Shannon Development could guarantee that planning permission could be obtained within 2 years for lands that, at the time, were zoned Rural General and Secondary Special Amenity.

We are also concerned that Shannon Foynes Port Company is the only party to be aware of and to have made publicly available, in June 2008, the information of the option-to-purchase agreement with Shannon LNG being conditional on obtaining planning permission within 2 years¹⁰. As this two-year condition is a fact, we feel, its directors would also have been aware of, we fear that this may have influenced the decision not to undertake an SEA, especially if director Ned O’Sullivan was aware of this information at the time of the vote. In any case, John Brassil, as a director and member of the Shannon Development board, would certainly have been aware of this 2-year condition.

⁸ <http://www.shannonireland.com/media/Media,6816,en.pdf> The Annual Report 2006 of Shannon Development, page 12 (real page 14)

⁹ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

¹⁰ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

4. June 19, 2006¹¹: Kerry County Council Meeting discusses the Shannon LNG project as follows:

*“20. Establishment of a committee to deal with infrastructural development and Planning issues relating to the Ballylongford Land Bank Pursuant to notice duly given **Cllr. J. Brassil** proposed:-*

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

The Ministers announcement in relation to the proposals for Ballylongford is to be welcomed. Preplanning discussion with Shannon LNG will shortly commence. The necessary planning and infrastructure teams will be put in place as discussions develop more fully the particular project proposal and the needs of the Ballylongford Land Bank generally. Project progress will be overseen by Sub Committee of Senior Management Team. The situation will be kept under review as the project progresses.

Cllr. J. Brassil welcomed the report and said that this has the potential to be a huge project for North Kerry and he called on the Executive to give it every support.

Cllr. L. Purtill welcomed the recent announcement for the development of part of Ballylongford Land Bank and supported Cllr. Brassil’s motion.“

5. June 19th – 24th 2006: County Manager with 3 officials (Mr. Michael McMahon Director of Planning & Sustainable Development, Mr. Tom Sheehy Snr. Engineer – Planning Policy and Mr. Declan O’Malley S.E.P. Planning Management (North Kerry)) visit the Everett LNG terminal in Boston USA. The cost of the trip amounted to 5,786.00 Euros (4160.00 Euros for flights and 1,626 Euros for accommodation). They also claimed 3,092.05 Euros in expenses. 8,878.05 Euros was the total cost of the trip. This proves that the LNG terminal development was being taken seriously by the council and that all rezoning was retrospective to accommodate the planning application by Shannon LNG.
6. 18 September 2006: Shannon LNG apply to Kerry County Council for a Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan¹²
7. November 2006: RPS publishes Strategic Environmental Assessment Screening Report on the proposed variation to the Kerry County Development Plan. No mention was made of the Shannon LNG proposal. The criteria for determining whether a variation to a

¹¹ Minutes of June 19th 2006 Meeting of Kerry County Council -

<http://www.kerrycoco.ie/minutedocs/Item%202b%20Ordinary%20Minutes%20June%202006.pdf>

¹²

http://www.kerrycoco.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=063428

development plan requires an SEA is clearly defined in Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004¹³. Seveso sites by their definition are dangerous and subject to the SEVESO Major Accidents Directive and as such fall under Schedule 2A (2) (the risks to human health or the environment (e.g. due to accidents)). The full Schedule 2A underlines starkly how an LNG terminal cannot but have a significant effect on the environment and therefore require an SEA. 10 hectares of the proposed LNG development are for building 2 jetties and completing dredging works and ALL of these 10 hectares are on SAC waters. In addition the site surrounds and is surrounded by SAC, NHA and SPA land and water subject to Irish and European Environmental protection legislation. This is seen clearly on the map of the Environmental Designated Areas in the Shannon LNG EIS volume 1 page 2.¹⁴



8. February 7th 2007 (at the latest): Kerry County Council publishes notice of proposed variation No 7 to the Kerry County Development Plan 2003-2009.
9. February 7th 2007: An Bord Pleanála formally wrote to the County Manager on February 7th, 2007 notifying them of Shannon LNG's request for pre-application consultations

¹³ C.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I No 436 of 2004)

¹⁴ Shannon LNG Terminal EIS volume 1 page 2 submitted to the Ombudsman's Office on November 19th 2007 c.f.

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf

under the planning and Development (Strategic Infrastructure) Act 2006 for an LNG terminal on the said site. This was not a preliminary, speculative request for information but a formal application to bypass Kerry County Council and apply directly for permission from An Bord Pleanála through the new Strategic Infrastructure Act 2006 reference PC0002.¹⁵

10. Feb 7th to March 8th 2007: Clare County Council, as stated in the Manager's Report circulated to the Council Meeting of March 12th 2007, wanted an SEA screening report and complained about the negative environmental impact such a massive development would have. These environmental concerns were completely ignored and not even noted in the minutes of the council meeting. The Clare County Council submission stated the following in the Manager's Report :

*"the proposed rezoning is likely to have a significant impact on the future development of the region, and will have a direct impact on the planned objectives for the Mid West Regional guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan. Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the Lower Shannon Estuarine Environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation."*¹⁶

11. March 8th 2007: Kerry County Council Director of Services, Michael McMahon, publishes the County Manager's Report on Variation No 7 to the Kerry County Development Plan 2003-2009.
12. March 12th 2007: Councillor Ned O'Sullivan **both proposed and voted in favour of the rezoning** along with the other councillors present at the Kerry County Council meeting which saw the value of the lands of Shannon Development sold to Shannon LNG transform to Industrial Zoning and completed the first step to be overcome by Shannon LNG in obtaining planning¹⁷. The lands, we believe, were sold for approximately 28.1 million Euros (open to verification). The area would be under the control of the Shannon Foynes Port Company. The successful rezoning of 600 acres of land, owned only by Shannon Development, we now estimate is worth 60 million Euros.
13. May 4th 2007 : Councillor John Brassil, who was a director and member of the board of Shannon Development, the owners of the rezoned land, at the time of the vote, like councillor O'Sullivan, did not disclose his interest at the meeting, did not withdraw from

¹⁵ An Bord Pleanála case reference PL08. PC0002 Pre-application consultation lodged 06/07/2007 and deemed Strategic Infrastructure Development on 07/09/2007 c.f.
<http://www.pleanala.ie/casenum/PC0002.htm>

¹⁶ Appendix 1: County Manager's Report on the proposed variation No 7 to the Kerry County Development Plan 2003- 2009

¹⁷[http://www.kerrycoco.ie/minutedocs/Item%20No%20\(a\)%20Minutes%20of%20March%20Meeting.pdf](http://www.kerrycoco.ie/minutedocs/Item%20No%20(a)%20Minutes%20of%20March%20Meeting.pdf) pages 6 and 7

the meeting and also voted for the variation. Mr. Brassil was subsequently appointed Chairman of Shannon Development by the then Minister for Enterprise, Trade and Employment (Mr Micheál Martin T.D.) on May 4th 2007 - a mere 2 months after the rezoning.

14. July 2007: Councillor Ned O’Sullivan, who was a member of the board of directors of Shannon Foynes Port Company stepped down as director of this company following his election to the Seanad in July 2007.¹⁸

15. April-October 2007: Some time after the April 2007 General Election, not later than October 2007, Senator O’Sullivan was appointed to the Joint Committee on Climate Change, the functions of which were:

“to consider medium and long term climate change targets; the role of the Agriculture sector in providing bio-fuel and biomass crops; the levels of power supply which can be generated from renewables or other new power supplies; the projected energy demand from transport and the implications for energy security and emissions targets.”¹⁹

16. January 2008: Our complaint is not spurious and this is supported by the simple fact that the proposed LNG terminal is a significant top-tier Seveso II establishment, which by its very designation, is accepted in law as a hazardous installation, with the consequence area of a worst-case scenario accident of 12.4 kilometres. In addition, world renowned LNG expert, Dr. Jerry Havens has stated on record at the An Bord Pleanála oral hearing in Tralee in January 2008²⁰:

“If an LNG C[ontainer] were to be attacked in the proximity of the shoreline, either while docked at the terminal or in passage in or out of the estuary, and cascading failures of the ship’s containments were to occur, it could result in a pool fire on water with magnitude beyond anything that has been experienced to my knowledge, and in my opinion could have the potential to put people in harm’s way to a distance of approximately three miles from the ship. I have testified repeatedly that I believe that the parties that live in areas where this threat could affect them deserve to have a rational, science-based determination made of the potential for such occurrences, no matter how unlikely they may be considered.”

17. September 11th 2008: Following our complaint of a possible breach of ethics by Councillor Brassil in his voting to rezone the land while a director of the company that owned the land he replied as follows to the “Kerryman” Newspaper²¹:

¹⁸ IRIS OIFIGIUIL, APRIL 18th, 2008 page 35 c.f.

<http://www.oireachtas.ie/documents/publications/RegofInterestsSeanad2007.pdf>

¹⁹ Houses of Oireachtas Commission, Annual Report 2007 – page 18 c.f.

<http://www.oireachtas.ie/documents/commission/reports/2007.pdf>

²⁰ <http://www.safetybeforelng.com/docs/DAY%203%20012308%20TRALEE%20LNG.PDF> page 49

²¹ <http://www.kerryman.ie/news/cllr-brassil-rejects-any-lng-wrongdoing-1473917.html> Kerryman”

Thursday September 11 2008

“At all times I have acted in a proper manner in any business with Kerry County Council,” he said. “I have always acted for the benefit of the people I serve and bringing 500 jobs and a €500 million investment to north Kerry is absolutely what I’m elected for.”

This statement from Councillor Brassil is an admission by the man himself that he was strongly motivated in bringing the LNG project to North Kerry.

His statement at the Kerry County council meeting discussing the Shannon LNG project on June 19th 2006²² that:

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

proves that he made representations to the council in favour of the LNG project. The duty was to disclose the proposed LNG terminal, at the very least as a development “likely” to occur, to the consultants RPS undertaking the SEA screening report.

Furthermore, in the “Kerryman” Newspaper of September 17th 2008, Senator Ned O’Sullivan is quoted as stating:

“I was doubly obliged to assist the LNG project as both a member of Kerry County Council and as a member of the port company”.

In the “Irish Times”, County Manager Tom Curran is quoted as having told a meeting of the council on September 15th 2008 that:

*“As far as we are concerned there is no issue at stake and we will be reporting back accordingly”.*²³

We await your feedback.

Kind Regards,

Johnny McElligott

²² Minutes of June 19th 2006 Meeting of Kerry County Council -

<http://www.kerrycoco.ie/minutedocs/Item%202b%20Ordinary%20Minutes%20June%202006.pdf>

²³ <http://www.irishtimes.com/newspaper/ireland/2008/0917/1221599424149.html>

> Subject: RE: Complaint on possible conflict of interest in SEA of draft Kerry County Development Plan (previous related reference L18/07/2518)

> To: safetybeforelmg@hotmail.com

> From: david_ryan@ombudsman.gov.ie

> Date: Mon, 1 Sep 2008 15:07:41 +0100

>

>

>

>

>

>

> Johnny

>

> I cannot supply you with a copy .We are precluded by the terms of the Act
> from doing so.

>

> The examination of this complaint may also take some considerable time
> having regard to its complexity and the other complaints that have been
> received prior to its submission.

>

>

> Having said this, I will however let you know the details of the Council's
> reply to the greatest extent possible.

>

> A summary of its response is :

>

> It is unclear why the An Bord Pleanála inspector made his remarks as it
> was known by the general public that the lands were owned by Shannon
> Development and were to be developed for industrial purposes.

> Lands were identified for industrial development as far back as 1996;

> Variation was to zone the lands for industrial use not LNG

> The Scoping process did not recommend an SEA;

> All of the bodies that were required to be contacted as part of the
> process were contacted. Clare County Council was not one of these
> bodies.

> There is no prohibition on development on SAC's, SPA's NHA's. The zoned
> land is not in any of these areas.

> RPS have confirmed that they were unaware of the proposed LNG proposal
> at the time of the screening process.

> It is normal practice in assessing development proposals to inspect
> similar facilities.

>

>

> The lands in question had been designated for industrial development going
> back to 1996 The ownership of the land, the purpose of its purchase for
> industrial development and the history of previous planning applications in
> the area were widely known. The lands subject of the variation, part of
> which include the subsequent Shannon LNG application were zoned for
> industry. Notwithstanding the fact that there were already objectives in
> the plan relating to promoting major industrial development on these lands,
> Kerry County Council, in the knowledge of the possible Shannon LNG
> application, proceeded to formally zone the lands by variation of the Kerry
> County Development Plan 2003-2009. While this was not absolutely necessary
> in view of the existing development plan provisions, in the interest of
> transparency and to remove any ambiguity it was decided to propose the
> variation. In accordance with the statutory requirements of the Planning &
> Development Act 2000 this variation was advertised in the public papers and
> a copy of the variation including maps was made available for public
> inspection.

>

> All statutory procedures were followed in the process at varying the County

> Development Plan. There was no breach of legislation or procedure. It is
> clear that Kerry County Council were in no way remiss in their obligations
> regarding the zoning of these lands either statutorily, procedurally or in
> giving the public opportunity to comment. The proposed variation was
> adopted by the Elected Members having considered the managers report on the
> submissions received by the council.

>
> In relation to the SEA and the fact that the Shannon LNG project was not
> assessed as part of the screening process, it is worth noting that the area
> of lands zoned for industrial development was far in excess of the land
> required for the Shannon LNG proposal. It was a variation for industrial
> rezoning and not project specific for Shannon LNG. To have considered
> Shannon LNG as part of the screening process would have involved a
> different type of specific zoning e.g. zoned specifically for a gas storage
> and importation formed. There was no guarantee that any application would
> be lodged for this purpose and Kerry County Council was not about to
> undermine the industrial potential of the land for alternative uses.

>
> All statutory procedures and guidelines were followed by the consultants in
> the preparation of the SEA screening report and the decision not to prepare
> an SEA is correct. For the reasons stated, Kerry County Council
> deliberately did not want to zone lands specifically for a gas importation
> terminal. There was no breach of procedure or otherwise.

>
>
> Can you tell me if the case before the Commercial Court been heard yet ?

>
>
> Dave Ryan

>
>
>
>
>
>
>
> Kilcolgan Residents Association <safetybeforelng@hotmail.com> on 01/09/2008
> 13:46:19

>
> To: <david_ryan@ombudsman.gov.ie>
> cc:
> Subject: RE: Complaint on possible conflict of interest in SEA of draft
> Kerry County Development Plan (previous related reference
> L18/07/2518)

>
>
> Thank you David,

>
> I have sent the complaint to the Council already and will revert to you
> when I receive their reply.

>
> Could you forward me a copy of their letter of July 2008 in order that I
> can reply to what they now say?

>
> Kind Regards,
> Johnny

>
> Kilcolgan Residents Association
> <http://www.safetybeforelng.com>
> e-mail: safetybeforelng@hotmail.com
> Tel.: +353-87-2804474
> Address: Island View, Convent Street, Listowel, County Kerry, Ireland

>
> > Subject: Re: Complaint on possible conflict of interest in SEA of draft

> Kerry County Development Plan (previous related reference L18/07/2518)
> > To: safetybeforelmg@hotmail.com
> > From: david_ryan@ombudsman.gov.ie
> > Date: Mon, 1 Sep 2008 13:12:31 +0100
> >
> >
> >
> >
> >
> > Thank you for your email which I received this morning.
> >
> > Before this Office would be in a position to examine, what you correctly
> > indicate is a new complaint ,you would need to allow the Council an
> > opportunity to respond.
> >
> > You should therefore make the complaint directly to the Council. If you
> are
> > dissatisfied with the response you may refer the matter to this Office ,
> > for consideration.
> >
> >
> > I had incidentally received a detailed further response from the Council
> > during July 2008 in which it refutes the points made in your last letter.
> > After I have had an opportunity to consider this response in detail I
> will
> > be in touch.
> >
> >
> >
> > Dave
> >



Kilcolgan Residents Association
Protecting the Shannon Estuary

Kilcolgan Residents Association
Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

29 August 2008

David Ryan, Investigator,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2

By Email to: david_ryan@ombudsman.gov.ie
c.c. ombudsman@ombudsman.gov.ie

Re: Complaint on possible conflict of interest in SEA of draft Kerry County Development Plan
(previous related reference L18/07/2518)

Dear Mr. Ryan,

We have now a new complaint to add to our original complaint reference L18/07/2518.

We have serious concerns that there is now a conflict of interest in the SEA undertaken by Fehily, Timoney and Company for the draft Kerry County Development Plan 2009-2015 as detailed in our press release of Friday August 22nd 2008 which stated the following:

"KRA raises concerns on Draft County Development Plan.

The KRA is expressing reservations about the draft Kerry County Development Plan 2009-2015 on the discovery that the Strategic Environmental Assessment (SEA) of the draft plan is being undertaken by Cork-based Fehily Timoney and Company. The KRA is concerned about possible conflicts of interest due to the company's links with the transportation, construction and energy sectors.

The SEA is a systematic process for predicting, evaluating and mitigating, at the earliest appropriate stage, the environmental effects of a plan before it is finalised. It is effectively a seal of approval required by the council before the plan can be officially adopted.

Fehily Timoney and Co. have claimed that the development of the landbank - which includes Ireland's first proposed LNG terminal, a top-tier Seveso II major hazardous installation - will "permanently positively impact on improving people's quality of life based on high quality living environments, working and recreational facilities".

Fehily Timoney and Co. who signed off on the SEA owns 50% of Fehily Timoney Ramboll.

In 2004, the Ramboll group signed a 5-year contract with US operator Amerada Hess for the engineering of upgrades on the Syd Arne oil platform off the shores of Denmark²⁴.

Shannon LNG is a wholly owned Irish subsidiary of Hess LNG Limited, which is a joint venture of Hess Corporation and Poten & Partners.

Fehily Timoney and Company equally boasts on its website of a client base that includes numerous players in the Irish waste management, transportation, construction and energy sectors.²⁵

Gerard O'Sullivan of Fehily Timoney and Co is also a former senior executive engineer in the environment section of Kerry County Council²⁶.

The KRA is of the opinion that, at the very least, the consultants appointed by Kerry County Council in the evaluation of the county plan should be seen to be impartial and independent because the outcome of the plan will be the enrichment of certain developers in all these sectors. It is now calling for an immediate and urgent investigation into these concerns."

In addition to the details disclosed by us in the press release, it is our understanding that Gerard O'Sullivan, the director of Fehily Timoney and Co. who signed off on the SEA, also became a director of Fehily Timoney Ramboll in 2004²⁷. It is also our understanding that, in 2004, the Ramboll group signed a 5-year contract with US operator Amerada Hess (known as Hess Corporation since 2006) for the engineering of upgrades on the Syd Arne oil platform off the shores of Denmark²⁸. It is our understanding that Shannon LNG Director, Gordon Shearer, is a senior vice-president of Hess Corporation. It is our understanding that Soren Holm Johansen became a member of the executive board of the Ramboll Group²⁹ and we understand that he was also, at one time, a director of Fehily Timoney Ramboll, along with Gerard O'Sullivan. We stand open to correction on these details but urge that you obtain clarification on this information as, if proved correct, it would mean that the SEA cannot be guaranteed to be independent. A new SEA would therefore have to be undertaken by a more independent body and this is what we request.

Our view is that every effort is being made to rubberstamp, retrospectively a decision to build an LNG terminal without following any nationally or internationally recognised standards of integrated planning procedures and assessments. The very least that we can expect to have is an independent strategic environmental assessment. We await your feedback on our complaint as to whether or not there is a conflict of interest and on whether or not ethics guidelines were breached in the SEA process for the draft development plan. Please find attached our full submission to the draft County Development Plan for your information.

²⁴ <http://www.offshorecenter.dk/log/nyhedsbreve/On%20off%204-5.pdf> ,
http://www.ramboll.com/about%20us/financialinformation/~media/Files/RGR/Documents/Finance/AnnualReport/Annual_report_2004.ashx page 19

²⁵ <http://www.fehilytimoney.ie/>

²⁶ <http://ireland.iol.ie/kerrycco/staffing.html>

²⁷ Fehily Timoney Ramboll Company Number 389916

²⁸ <http://www.offshorecenter.dk/log/nyhedsbreve/On%20off%204-5.pdf> ,
http://www.ramboll.com/about%20us/financialinformation/~media/Files/RGR/Documents/Finance/AnnualReport/Annual_report_2004.ashx page 19

²⁹ <http://www.ramboll.com/search.aspx?q=soren%20holm%20johansen>

Yours sincerely,
Johnny McElligott



Kilcolgan Residents Association
Protecting the Shannon Estuary

Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry
Ireland

Telephone: 068-23730
Mob: 087-2804474
Mob 086-6887402
Email: Kilcolgan@gmail.com

16 April 2008

Your Reference : L18/07/2518

By Email only to david_ryan@ombudsman.gov.ie

Dear Mr. Ryan,

Thank you for your letter dated April 3rd 2008 outlining Kerry County Council's response to our complaint.

Before you make your final decision please note that we consider the Council's response as one written with the express intention of attempting to mislead the Ombudsman's Office by the use of half truths and downright lies which we can prove incorrect with a corroborating paper trail.

Please find below our replies to Kerry County Council's answers to the questions you asked them highlighted below each answer below between the points "**KRA Response Start**" to "**KRA Response End**".

We await your feedback which we need for an appeal to be sent to An Bord Pleanala before April 28th, 2008.

Yours sincerely,
Johnny McElligott

Our Reference : L18/07/2518
3 April 2008

Mr John McElligott
Kilcolgan Residents Association
Island View
5 Convent Street
Listowel
Co Kerry

Dear Mr. McElligott

I refer to previous correspondence, and your recent telephone conversations with both myself and my colleague, Ms. Aimee Tallon, in connection with your complaint to this Office regarding Kerry County Council's decision not to carry out a Strategic Environmental Assessment (SEA) in relation to Variation No. 7 of the Kerry County Development Plan relating to the rezoning of 188.8 hectares of land at Ballylongford.

The Council's Report

Following receipt of your complaint this Office requested and received a report on the matter from Kerry County Council. The following is the Council's position on the matter. I have set out in bold type the questions the Council was requested to address:

1. The Background to this case:

The lands in question are located between Tarbert and Ballylongford in North Kerry. The site is bordered to the North by the Shannon Estuary and to the South by the coast road connecting Tarbert to Ballylongford. The area is rural in nature and the site is currently in pasture with some wet lands adjacent to the Shannon Estuary. The lands and adjacent lands have been owned for a number of years by Shannon Development/IDA. There is a considerable landbank to the East owned previously by Aran Energy on which planning permission was granted over 20 years ago for an oil refinery tank farm and marine terminal. The lands have long been identified as a strategic location for large scale industrial type development which would take advantage of the deep water available and the sheltered nature of the Estuary. The Kerry County Development Plans 1989 and 1996 identified the site and adjacent lands for industrial use. The current Kerry County Development Plan 2003-2009, which was adopted in November 2003, includes an objective EC02-6 to "identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that

will be protected from inappropriate development that would prejudice its long term development for these uses".

KRA RESPONSE Start

The **full** stated purpose of the variation was as follows:

“The purpose of the variation is to facilitate consideration of suitable development of these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003-2009 which states: ‘lands have been identified at Ballylongford/Tarbert as suitable for development as a premier deep-water port and for major industrial development and employment creation’. The adoption of this variation gives effect to objective ECO 5-5 of the Kerry County Development Plan 2003-2009 which states: ‘It is an objective of Kerry County Council to identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that will be protected from inappropriate development that would prejudice its long-term development for these uses.’”³⁰

The An Bord Pleanála’s Inspector’s Report on the proposed LNG terminal at the site granted permission through the new fast track planning laws of the Strategic Infrastructure Act 2006 clearly stated:

Overall, it is difficult to avoid the suspicion, as in the case of many other site selection processes that the entire process has been retrospective, rather than having been carried out from first principles.”³¹

KRA RESPONSE End

In early 2006, Kerry County Council received preliminary enquiries from Shannon LNG regarding the possibility of locating a Liquefied Natural Gas (LNG) import terminal and re-gasification plant on part of these lands. Formal pre-planning discussions commenced in June, 2006 and continued until the enactment of the Planning and Development (Strategic Infrastructure) Act 2006 when it became apparent that this application would probably come within the remit of that Act. The variation of the County Development Plan must be considered in this context. However, at the time of the variation no application for such a development had been lodged. In proposing the variation Kerry County Council had to be cognisant of the possibility that the project might not proceed to application stage and the proposed variation for industrial zoning could not therefore be assessed on a project specific basis.

KRA RESPONSE Start

It was known at the time of the report that Shannon LNG had an option to buy the lands subject to planning permission for the LNG terminal with the serious

³⁰ County Manager’s report on proposed variation No 7 to the Kerry County Development Plan 2003 -2009 (dated March 8th 2007) submitted to the Ombudsman’s office on November 19th 2007

³¹ An Bord Pleanála Inspector’s Report into the Liquefied Natural Gas (LNG) regasification terminal on the southern shore of the Shannon Estuary in the townlands of Ralappane & Kilcolgan Lower, County Kerry Reference PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm>

consequential effects on the environment as detailed above. Indeed, An Bord Pleanála formally wrote to the County Manager on February 7th, 2007 notifying them of Shannon LNG's request for pre-application consultations under the planning and Development (Strategic Infrastructure) Act 2006 for an LNG terminal on the said site.

This was not a preliminary, speculative request for information but a formal application to bypass Kerry County Council and apply directly for permission from An Bord Pleanála through the new Strategic Infrastructure Act 2006 reference PC0002.³² Therefore it is incorrect for Kerry County Council to state that "at the time of the variation no application for such a development had been lodged" because the statutory body An Bord Pleanála had informed the Council on February 7th, 2007 that formal obligatory consultations had become for an LNG terminal on the site. The County Manager's Report³³ made its conclusions following the SEA screening report on March 8th 2007, which was one month after being informed by An Bord Pleanála that a formal application had been lodged for an LNG terminal on February 7th, 2007.

The Board Pleanála's Inspector's report on the LNG applications outlined this statutory obligation:

"Pre-application discussions were held with the Board under section 37B of the Act of 2000, as amended by the Act of 2006. On 11th September 2007, the Board served notice under section 37B(4)(a) that it was of the opinion that the proposed development would fall within the scope of paragraphs 37A(2)(a) and (c) of the Act, i.e. it would be of strategic economic or social importance to the State or the region in which it would be situate and it would have a significant affect on the area of more than one planning authority." ³⁴

KRA RESPONSE End

2. The Councils comments on Mr. McElligott's claim that the screening process was inadequate as it did not refer to the option of Shannon LNG to purchase the site subject to planning permission.

The Council is satisfied that the screening process undertaken accords in full with the criteria set out in Schedule 2(a) of the Planning & Development (Strategic Environmental Assessment) Regulations (S.I No. 436 of 2004). This scoping exercise was carried out by independent consultants RPS Planning and Environmental Ltd. on behalf of the Council. The Screening Report concluded that "the policy and objectives contained within

³² An Bord Pleanála case reference PL08. PC0002 Pre-application consultation lodged 06/07/2007 and deemed Strategic Infrastructure Development on 07/09/2007 c.f. <http://www.pleanala.ie/casenum/PC0002.htm>

³³ Kerry County Manager's Report on Variation no. 7 to the Kerry County Development 2003-2009 of March 8th 2007

³⁴ An Bord Pleanála Inspector's Report into the Liquefied Natural Gas (LNG) regasification terminal on the southern shore of the Shannon Estuary in the townlands of Ralappane & Kilcolgan Lower, County Kerry Reference PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm>

the Kerry County Development Plan 2003-2009 will ensure the appropriate assessment of any proposed developments on the lands so as to prevent any adverse effect. The nature of the proposed variation is considered to be

relatively minor. Therefore, it does not appear that there is a need for a Strategic Environmental Assessment (SEA) in this instance as the proposed variation is unlikely to result in development which would have significant effect on the environment".

This assessment must be viewed in the context of the lands already being identified in the County Development Plan 2003-2009 for major industrial development.

KRA RESPONSE Start

This response by Kerry County Council does not address the central point here that the screening report did not consider the Shannon LNG option to purchase the land subject to planning permission for an LNG terminal which Shannon LNG admitted would be an establishment to which SEVESO regulations would apply³⁵ in May 2006 – a date at least six months prior to the screening report being undertaken in November 2006.

KRA RESPONSE End

3. The Council's comments on Mr. McElligott's claim that the developments proposed for this site, a weather station and petroleum storage installation will have a significant effect on the environment. He states that 10 hectares of the development proposed for the estuary itself is partially in a SAC area.

The comments of Mr. McElligott, that the proposed development of this site will have significant effect on the environment, is a matter to be considered in the context of any planning application. In this regard there is an application for consent currently before An Bord Pleanála under the Planning & Development (Strategic Infrastructure) Act, 2006 which has been the subject of an eight day oral hearing which commenced on 21 January 2008 and concluded on 30 January, 2008. This application was accompanied by an Environmental Impact Statement (EIS) which has assessed the environmental effects of the proposed development. In addition no portion of the application proposed is located within an area designated as a Special Area of Conservation (SAC). Neither was any land located in the SAC zoned industrial by the variation (No. 7).

KRA RESPONSE Start

An EIS is not an SEA. An SEA is obliged to be undertaken by the council when a variation to the development plan is likely to have an effect on the environment. An SEA is required for a variation to the development plan under Statutory Instrument No

³⁵ Shannon LNG booklet May 2006 page 7 submitted to the Ombudsman's Office on November 19th 2007 c.f. <http://www.shannonlngplanning.ie/files/Newsletters/Issue1.pdf>

436 of 2004 Article 7 section 13K and article 12 schedule 2A of the same Statutory Instrument³⁶ where there will be a significant effect on the environment.

The EIS was carried out by the applicant but should not be considered as a replacement for an SEA.

10 hectares of the proposed LNG development are for building 2 jetties and completing dredging works and ALL of these 10 hectares are on SAC waters. In addition the site surrounds and is surrounded by SAC, NHA and SPA land and water subject to Irish and European Environmental protection legislation. This is seen clearly on the map of the Environmental Designated Areas in the Shannon LNG EIS volume 1 page 2.³⁷



KRA RESPONSE End

4. The Council's comments on Mr. McElligott's complaint that the Council failed to take account of the developments proposed for this site when carrying out the SEA screening process.

The Planning Authority does not accept that the Council failed to take into account the development proposed for the site in carrying out the SEA

³⁶ C.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004

³⁷ Shannon LNG Terminal EIS volume 1 page 2 submitted to the Ombudsman's Office on November 19th 2007 c.f.

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf

screening process. As indicated earlier these lands were always intended for industrial development.

KRA RESPONSE Start

The proposed LNG terminal was not even mentioned in the Screening Report as a development likely to happen, even though it was in the public domain for 6 months and the lands had been purchased by Shannon LNG subject to planning permission for an LNG terminal. A Seveso site is by its very definition a

dangerous site subject to the Seveso Directive. This was deliberately omitted because it would have required an SEA to be undertaken.

The lands were not zoned industrial at the time of the variation in March 2007 – rather they were zoned ‘Rural General’ and ‘Secondary Special Amenity’,³⁸
KRA RESPONSE End

5. The Council's comments on Mr. McElligott's claim that the SEA was required in this case because the waters of the lower Shannon are in a candidate SAC, and protected under the EU Habitats Directive.

Following the preparation of the screening report it was forwarded to the Department of the Environment Heritage and Local Government, the Department of Communication, Marine and Natural Resources and the Environmental Protection Agency for their observation. The observations received were further considered by our consultants. Following their further consideration the Planning Authority determined that a Strategic Environmental Assessment was not necessary for the proposed variation.

KRA RESPONSE Start

No copies of these replies have been submitted to the Ombudsman's Office. The EPA³⁹ and Clare County Council⁴⁰ could not confirm receipt of the SEA screening Report.

KRA RESPONSE End

Furthermore in this regard the Planning Authority was satisfied that any significant environmental issue arising from any development on the lands would be resolved through Environmental Impact Assessment Legislation as an EIS would be required for any project or development which exceeds the specified threshold under Part 10 of the Planning and Development Act 2000, and Schedule 5 Part 2.12 of the Planning & Development Regulations 2001.

KRA RESPONSE Start

Again, a future possible EIS does not negate the need for an SEA as they are 2 different processes with different rationale.

KRA RESPONSE End

Accordingly the Planning Authority decided to proceed with the proposed Variation.

³⁸ Kerry County Manager's Report on Variation no. 7 to the Kerry County Development 2003-2009 of March 8th 2007 Page 1, submitted to the Ombudsman's Office on November 19th 2007

³⁹ Email communication with Kerry County Council submitted to the Ombudsman's Office on November 19th 2007 as attachment 8

⁴⁰ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman's office on November 21st 2007

6. The Council's comments on Mr. McElligott's complaint that the screening report did not take into account the concerns raised by Clare

County Council about the impact that the construction of a deep water harbour would have on both the visual and the ecological amenities of the area and potentially on the Lower Shannon Estuarine Environment.

The concerns of Clare County Council were raised in the context of the proposed variation to the County Development Plan and not the Screening Report which was completed prior to the publication to the variation as required by legislation.

KRA RESPONSE Start

Again, Clare County Council⁴¹ could not confirm receipt of the SEA screening Report and the concerns raised by Clare County Council in its objection to the variation⁴² highlighted the fact that the variation would have serious impacts on another council area when it stated:

“the proposed rezoning is likely to have a significant impact on the future development of the region, and will have a direct impact on the planned objectives for the Mid West Regional guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan. Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the Lower Shannon Estuarine Environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation”.

KRA RESPONSE End

7. Mr. McElligott maintains that the ecological sensitivity of this area was recognised in the Kerry County Development Plan by declaring Ballylongford Bay and Tarbert Bay areas of ecological importance but that this was not taken into account in the screening process and I would appreciate your comments on this matter.

All matters, including the ecological sensitivity of the area were taken into account.

KRA RESPONSE Start

As the area was already recognised in the County Development Plan as being ecologically sensitive then an SEA had automatically to be undertaken⁴³

KRA RESPONSE End

8. Mr. McElligott also maintains that the Department of the Environment and Local Government guidelines in relation to SEA screening have not been adhered to as the site in question is a Seveso 2 site surrounded by SAC and

⁴¹ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman's office on November 21st 2007

⁴² Kerry County Manager's Report on Variation no. 7 to the Kerry County Development 2003-2009 of March 8th 2007 Page 1. submitted to the Ombudsman's Office on November 19th 2007

⁴³ <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I No 436 of 2004)

NHA areas and I would be obliged for your comments in relation to this matter.

The Planning Authority is satisfied that the Department of the Environment

and Local Government Guidelines in relation to SEA screening was fully complied with. The Seveso 2 regulations refer to development taking place and not to the lands. As no application was lodged at the time of the variation the question of a Seveso 2 site did not arise (see response to 1 above).

KRA RESPONSE Start

The criteria for determining whether a variation to a development plan requires an SEA is clearly defined in Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004⁴⁴. Seveso sites by their definition are dangerous and subject to the SEVESO Major Accidents Directive and as such fall under Schedule 2A (2) (the risks to human health or the environment (e.g. due to accidents)). The full Schedule 2A reads as follows and underlines how an LNG terminal will have a significant effect on the environment and therefore require an SEA:

“SCHEDULE 2A

Criteria for determining whether a plan is likely to have significant effects on the environment

Articles 13A, 13K and 14A

- 1. The characteristics of the plan having regard, in particular, to:**
 - the degree to which the plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,**
 - the degree to which the plan influences other plans, including those in a hierarchy,**
 - the relevance of the plan for the integration of environmental considerations in particular with a view to promoting sustainable development,**
 - environmental problems relevant to the plan,**
 - the relevance of the plan for the implementation of European Union legislation on the environment (e.g. plans linked to waste-management or water protection).**
- 2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:**

⁴⁴ C.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I No 436 of 2004)

- the probability, duration, frequency and reversibility of the effects,
- the cumulative nature of the effects,
- the transboundary nature of the effects,
- the risks to human health or the environment (e.g. due to accidents),
- the magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected).
- the value and vulnerability of the area likely to be affected due to:
 - (a) special natural characteristics or cultural heritage,
 - (b) exceeded environmental quality standards or limit values,
 - (c) intensive land-use,
- the effects on areas or landscapes which have a recognised national, European Union or international protection status.

KRA RESPONSE End

9. Mr. McElligott has queried if the consultants employed by the Council to carry out the screening report were fully appraised of Shannon LNG's proposals for the site. I would be obliged for your comments on this matter.

The consultants employed by the Council to carry out the screening report were aware that the proposed variation was to provide for industrial development on these lands in the context of the Kerry County Development Plan and the fact that the lands in question have been identified for major marine based industrial development for almost 50 years. Kerry County Council is unaware as to whether or not the consultants were aware of the LNG proposal as it was in the public arena at that time.

KRA RESPONSE Start

The Ombudsman's Office has the power to inquire directly of the Consultants if they were aware of the proposed LNG terminal. A "deepwater port facility" is not a Seveso II top tier development and therefore would have different impacts on the environment. The land was being rezoned specifically for the LNG plant - land required by the LNG terminal on which an option to purchase subject to planning permission existed.

KRA RESPONSE End

10. Detail the reasons why the Council employed the services of a consultant to carry out the SEA screening process in such a case.

The Council employed the services of consultants to carry out the SEA screening process as it did not have the necessary resources available at that time to carry out the work.

KRA RESPONSE Start

It would be helpful if the Ombudsman requested all internal emails and memos from the council on this matter and all external communications with the consultants to determine the criteria and issues discussed to avoid an SEA being undertaken.

KRA RESPONSE End

11. Confirm that a copy of the SEA Screening Report was sent to all relevant environmental authorities which it consulted.

The Council confirms that a copy of the SEA screening report was sent to all relevant Environmental Authorities.

KRA RESPONSE Start

Again, no copies of these communications with all the relevant environmental authorities have been submitted to the Ombudsman's Office and the Ombudsman's office has the power to request this information.

The EPA⁴⁵ and Clare County Council⁴⁶ could not confirm receipt of the SEA screening Report.

KRA RESPONSE End

12. The Council's comments on Mr. McElligott's complaint in respect of the information which was requested concerning the Council's visit to the LNG terminal in Boston.

The information sought by Mr. McElligott in relation to the Council visit to an LNG terminal in Boston is the subject of an Freedom of Information (FOI) request at present and is being dealt with.

KRA RESPONSE Start

Again, no copies of these communications with all the relevant environmental authorities have been submitted to the Ombudsman's Office and the Ombudsman's office has the power to request this information.

The cost of the trip amounted to 5,786.00 Euros (4160.00 Euros for flights and 1,626 Euros for accommodation).

⁴⁵ Email communication with Kerry County Council submitted to the Ombudsman's Office on November 19th 2007 as attachment 8

⁴⁶ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman's office on November 21st 2007

They went on Tuesday the 19th June 2007 and 3 of them returned on 23rd of June and the last one on 24th June. They also claimed 3,092.05 Euros in expenses. 8,878.05 was the total cost of the trip. This proves that the LNG terminal development was being taken seriously by the council and that all rezoning was retrospective to accommodate the planning application by Shannon LNG.
KRA RESPONSE End

13. Other information which may assist the Ombudsman in the examination of this complaint.

The Planning Authority would like to draw the Ombudsman's attention to the provisions of Section 50 of the Planning & Development Act 2000, as amended, which provides that "any decision made or other Act done" by, inter alia, a Planning Authority in the performance of a function under the 2000 Act, may only be challenged by application for leave to apply for judicial review within an eight week period of the decision or act.

Consequently, as the decision of Kerry County Council to adopt Variation No. 7 to the Development Plan was a decision made or act done in performance of a function under Section 13 of the 2000 Act, it could only have been challenged within an eight week period commencing on the day of adoption of the Variation No. 7, in March, 2007. As no such challenge was instituted within that period, it is submitted that Variation No. 7 is a valid variation to the Kerry County Development Plan.

KRA RESPONSE Start

The Ballylongford Screening report⁴⁷ makes no mention of Shannon LNG having an option to purchase land on the site subject to planning permission for an LNG terminal, even though this was known since at least May 2006 and that this was already discussed in the Kerry County Council meeting of 19 June 2006⁴⁸ as follows:

“20. Establishment of a committee to deal with infrastructural development and Planning issues relating to the Ballylongford Land Bank Pursuant to notice duly given Cllr. J. Brassil proposed:-

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

The Ministers announcement in relation to the proposals for Ballylongford is to be welcomed. Preplanning discussion with Shannon LNG will shortly commence. The necessary planning and infrastructure teams will be put in place as discussions develop more fully the particular project proposal and the needs of the Ballylongford Land Bank

⁴⁷ Strategic Environmental Assessment Screening Report – Kerry County Council Development Plan 2003-2009 Proposed Variation – November 2006 submitted to the Ombudsman’s office on November 19th 2007.

⁴⁸ Minutes of June 19th 2006 Meeting of Kerry County Council -

<http://www.kerrycoco.ie/minutedocs/Item%202b%20Ordinary%20Minutes%20June%202006.pdf>

generally. Project progress will be overseen by Sub Committee of Senior Management Team. The situation will be kept under review as the project progresses.

Cllr. J. Brassil welcomed the report and said that this has the potential to be a huge project for North Kerry and he called on the Executive to give it every support.

Cllr. L. Purtill welcomed the recent announcement for the development of part of Ballylongford Land Bank and supported **Cllr. Brassil's** motion.“

Conclusion

We are not asking here if we can challenge the variation to the county development plan. We are complaining that the correct procedures were not

followed in that no SEA was undertaken as was required pursuant to Article 13k Planning And Development (Strategic Environmental Assessment) Regulations 2004.

We cannot challenge a valid variation but our assertion is that the variation was not valid in the first place due to a serious and deliberate breach of procedure at Kerry County Council to its benefit and to the detriment of the whole of North Kerry.

We politely request that the Ombudsman's Office determines the complete truth behind this variation and rezoning and suggest that it uses its full powers of investigation and seizure if it serious doubts remain.

KRA RESPONSE End

As mentioned in our telephone conversation it may be some time before I have an opportunity to consider, in detail, the material that you have submitted in relation to the complaint. My preliminary assessment of the complaint would however be that the Council has acted in accordance with the statutory requirements and that the project will be subject to consideration at An Bord Pleanála. This Office's role, as mentioned is confined to examining the administrative actions of the bodies concerned. In this context, while you are very welcome to comment on the details of the Council's reply the final decision in relation to this project will, as I realise you are aware, be taken in another forum.

Yours sincerely

David Ryan
Investigator

Our Reference : L18/07/2518
3 April 2008

Mr John McElligott
Kilcolgan Residents Association
Island View
5 Convent Street
Listowel
Co Kerry

Dear Mr. McElligott

I refer to previous correspondence, and your recent telephone conversations with both myself and my colleague, Ms. Aimee Tallon, in connection with your complaint to this Office regarding Kerry County Council's decision not to carry out a Strategic Environmental Assessment (SEA) in relation to Variation No. 7 of the Kerry County Development Plan relating to the rezoning of 188.8 hectares of land at Ballylongford.

The Council's Report

Following receipt of your complaint this Office requested and received a report on the matter from Kerry County Council. The following is the Council's position on the matter. I have set out in bold type the questions the Council was requested to address:

1. The Background to this case:

The lands in question are located between Tarbert and Ballylongford in North Kerry. The site is bordered to the North by the Shannon Estuary and to the South by the coast road connecting Tarbert to Ballylongford. The area is rural in nature and the site is currently in pasture with some wet lands adjacent to the Shannon Estuary. The lands and adjacent lands have been owned for a number of years by Shannon Development/IDA. There is a considerable landbank to the East owned previously by Aran Energy on which planning permission was granted over 20 years ago for an oil refinery tank farm and marine terminal. The lands have long been identified as a strategic location for large scale industrial type development which would take advantage of the deep water available and the sheltered nature of the Estuary. The Kerry County Development Plans 1989 and 1996 identified the site and adjacent lands for industrial use. The current Kerry County Development Plan 2003-2009, which was adopted in November 2003, includes an objective EC02-6 to "identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that

will be protected from inappropriate development that would prejudice its long term development for these uses".

In early 2006, Kerry County Council received preliminary enquiries from Shannon LNG regarding the possibility of locating a Liquefied Natural Gas (LNG) import terminal and re-gasification plant on part of these lands. Formal pre-planning discussions commenced in June, 2006 and continued until the enactment of the Planning and Development (Strategic Infrastructure) Act 2006 when it became apparent that this application would probably come within the remit of that Act. The variation of the County Development Plan must be considered in this context. However, at the time of the variation no application for such a development had been lodged. In proposing the variation Kerry County Council had to be cognisant of the possibility that the project might not proceed to application stage and the proposed variation for industrial zoning could not therefore be assessed on a project specific basis.

2. The Council's comments on Mr. McElligott's claim that the screening process was inadequate as it did not refer to the option of Shannon LNG to purchase the site subject to planning permission.

The Council is satisfied that the screening process undertaken accords in full with the criteria set out in Schedule 2(a) of the Planning & Development (Strategic Environmental Assessment) Regulations (S.I. No. 436 of 2004). This scoping exercise was carried out by independent consultants RPS Planning and Environmental Ltd. on behalf of the Council. The Screening Report concluded that "the policy and objectives contained within the Kerry County Development Plan 2003-2009 will ensure the appropriate assessment of any proposed developments on the lands so as to prevent any adverse effect. The nature of the proposed variation is considered to be relatively minor. Therefore, it does not appear that there is a need for a Strategic Environmental Assessment (SEA) in this instance as the proposed variation is unlikely to result in development which would have significant effect on the environment".

This assessment must be viewed in the context of the lands already being identified in the County Development Plan 2003-2009 for major industrial development.

3. The Council's comments on Mr. McElligott's claim that the developments proposed for this site, a weather station and petroleum storage installation will have a significant effect on the environment. He states that 10 hectares of the development proposed for the estuary itself is partially in a SAC area.

The comments of Mr. McElligott, that the proposed development of this site will have significant effect on the environment, is a matter to be considered in the context of any planning application. In this regard there is an application for consent currently before An Bord Pleanála under the Planning & Development (Strategic Infrastructure) Act, 2006 which has

been the subject of an eight day oral hearing which commenced on 21 January 2008 and concluded on 30 January, 2008. This application was accompanied by an Environmental Impact Statement (EIS) which has assessed the environmental effects of the proposed development. In addition no portion of the application proposed is located within an area designated as a Special Area of Conservation (SAC). Neither was any land located in the SAC zoned industrial by the variation (No. 7).

4. The Council's comments on Mr. McElligott's complaint that the Council failed to take account of the developments proposed for this site when carrying out the SEA screening process.

The Planning Authority does not accept that the Council failed to take into account the development proposed for the site in carrying out the SEA screening process. As indicated earlier these lands were always intended for industrial development.

5. The Council's comments on Mr. McElligott's claim that the SEA was required in this case because the waters of the lower Shannon are in a candidate SAC, and protected under the EU Habitats Directive.

Following the preparation of the screening report it was forwarded to the Department of the Environment Heritage and Local Government, the Department of Communication, Marine and Natural Resources and the Environmental Protection Agency for their observation. The observations received were further considered by our consultants. Following their further consideration the Planning Authority determined that a Strategic Environmental Assessment was not necessary for the proposed variation.

Furthermore in this regard the Planning Authority was satisfied that any significant environmental issue arising from any development on the lands would be resolved through Environmental Impact Assessment Legislation as an EIS would be required for any project or development which exceeds the specified threshold under Part 10 of the Planning and Development Act 2000, and Schedule 5 Part 2.12 of the Planning & Development Regulations 2001.

Accordingly the Planning Authority decided to proceed with the proposed Variation.

6. The Council's comments on Mr. McElligott's complaint that the screening report did not take into account the concerns raised by Clare County Council about the impact that the construction of a deep water harbour would have on both the visual and the ecological amenities of the area and potentially on the Lower Shannon Estuarine Environment.

The concerns of Clare County Council were raised in the context of the proposed variation to the County Development Plan and not the Screening

Report which was completed prior to the publication to the variation as required by legislation.

7. Mr. McElligott maintains that the ecological sensitivity of this area was recognised in the Kerry County Development Plan by declaring Ballylongford Bay and Tarbert Bay areas of ecological importance but that this was not taken into account in the screening process and I would appreciate your comments on this matter.

All matters, including the ecological sensitivity of the area were taken into account.

8. Mr. McElligott also maintains that the Department of the Environment and Local Government guidelines in relation to SEA screening have not been adhered to as the site in question is a Seveso 2 site surrounded by SAC and NHA areas and I would be obliged for your comments in relation to this matter.

The Planning Authority is satisfied that the Department of the Environment and Local Government Guidelines in relation to SEA screening was fully complied with. The Seveso 2 regulations refer to development taking place and not to the lands. As no application was lodged at the time of the variation the question of a Seveso 2 site did not arise (see response to 1 above).

9. Mr. McElligott has queried if the consultants employed by the Council to carry out the screening report were fully appraised of Shannon LNG's proposals for the site. I would be obliged for your comments on this matter.

The consultants employed by the Council to carry out the screening report were aware that the proposed variation was to provide for industrial development on these lands in the context of the Kerry County Development Plan and the fact that the lands in question have been identified for major marine based industrial development for almost 50 years. Kerry County Council is unaware as to whether or not the consultants were aware of the LNG proposal as it was in the public arena at that time.

10. Detail the reasons why the Council employed the services of a consultant to carry out the SEA screening process in such a case.

The Council employed the services of consultants to carry out the SEA screening process as it did not have the necessary resources available at that time to carry out the work.

11. Confirm that a copy of the SEA Screening Report was sent to all relevant environmental authorities which it consulted.

The Council confirms that a copy of the SEA screening report was sent to all relevant Environmental Authorities.

12. The Council's comments on Mr. McElligott's complaint in respect of the information which was requested concerning the Council's visit to the LNG terminal in Boston.

The information sought by Mr. McElligott in relation to the Council visit to an LNG terminal in Boston is the subject of an Freedom of Information (FOI) request at present and is being dealt with.

13. Other information which may assist the Ombudsman in the examination of this complaint.

The Planning Authority would like to draw the Ombudsman's attention to the provisions of Section 50 of the Planning & Development Act 2000, as amended, which provides that "any decision made or other Act done" by, inter alia, a Planning Authority in the performance of a function under the 2000 Act, may only be challenged by application for leave to apply for judicial review within an eight week period of the decision or act.

Consequently, as the decision of Kerry County Council to adopt Variation No. 7 to the Development Plan was a decision made or act done in performance of a function under Section 13 of the 2000 Act, it could only have been challenged within an eight week period commencing on the day of adoption of the Variation No. 7, in March, 2007. As no such challenge was instituted within that period, it is submitted that Variation No. 7 is a valid variation to the Kerry County Development Plan.

As mentioned in our telephone conversation it may be some time before I have an opportunity to consider, in detail, the material that you have submitted in relation to the complaint. My preliminary assessment of the complaint would however be that the Council has acted in accordance with the statutory requirements and that the project will be subject to consideration at An Bord Pleanála. This Office's role, as mentioned is confined to examining the administrative actions of the bodies concerned. In this context, while you are very welcome to comment on the details of the Council's reply the final decision in relation to this project will, as I realise you are aware, be taken in another forum.

Yours sincerely

David Ryan
Investigator

From: McElligott, John
Sent: 14 December 2007 15:50
To: 'aimee_tallon@ombudsman.gov.ie'
Subject: Complaint concerning refusal to carry out an SEA on variation No 7 of 2007:

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
safetybeforelng@hotmail.com
Tel: (087) 2804474

13th December 2007

Aimee Tallon,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
Sent via email only to:
aimee_tallon@ombudsman.gov.ie

Dear Ms. Tallon,

I understand from my conversation with you during the week that you are the person from the Ombudsman's Office dealing with our complaint of a breach of procedure by Kerry County Council in its refusal to carry out an SEA on variation No. 7 of 2007.

We are of the opinion, as already stated, that this refusal was motivated by the aim of allowing Shannon LNG proceed with the new fast-track planning application now before An Bord Pleanala, to the detriment of the environment and safety of nearby residents.

Shannon LNG had talks with the council before the SEA screening report was undertaken by "outside consultants".

Further new information has come to light which we believe relevant to this complaint.

4 Council employees went on a trip to Boston to visit an LNG there (the Everett LNG terminal we believe).

The LNG trip to Boston was paid for by the council (see mails below confirming this from Kerry County Council) but no formal report was written up.

We find it amazing that there is such a lack of accountability from Kerry County Council on a trip that has such huge implications for the residents adjacent to the landbank.

We are seriously concerned that no report was done on the Boston trip, considering it concerns the construction of a top-tier Seveso 2 hazardous chemicals installation on the landbank in Tarbert.

We feel that the answers to the questions we asked were highly flippant as they did not deal with the fact that planning permission in Boston was more lax 40 years ago. Neither did the account from the trip cover significant areas such as the environmental impacts, the safety issues and the high cost of security force surveillance of each LNG tanker delivery into this LNG terminal at Everett. LNG tankers have to go past downtown Boston to reach the terminal, making it one of the most dangerous LNG terminals on the planet due to the consequences of a major accident there. A quick google search on the internet of the Everett terminal reveals many of these issues in a couple of minutes of basic research so these issues should have been raised on any fact-finding mission to Boston if the trip was to have any credibility.

As the trip of the 4 officials was paid for by the council (and therefore by the tax payers) this raises serious questions of accountability. Their findings were used as the basis of their informed opinion on the proposed LNG terminal proposed in Tarbert and we question their motivation in not even writing up a report on it. When did they go on the trip? How long did they stay there? Who organized the trip to the lng terminal? Did they go on other official council business to Boston? Is it normal for 4 Council members to go on official council trips to Boston and not even write a report? What was their brief before going on the trip? Who else went with them? We need to know if Shannon LNG had any input into this trip and the visit to the Everett LNG terminal. Council employees must act in a transparent manner at all times and must not be compromised in any way in planning applications and we require urgent answers to our request for more detailed information on this "trip to Boston".

These questions are very serious as the council is already the subject of an official complaint to the Ombudsman's Office over its refusal to undertake a Strategic Environmental Assessment when the land was being rezoned from Rural General to Industrial in March of this year. The Kilcolgan Residents Association feels that shortcuts were taken to speed up the planning application for a dangerous LNG terminal, putting their lives and environment in danger in the interests of fast-track planning. We also believe that the groundwork for refusing to undertake an SEA was laid in this trip to Boston and therefore we need full disclosure of all the facts surrounding this visit.

Yours sincerely,
Johnny McElligott

Johnny McElligott

Kilcolgan Residents Association

<http://www.safetybeforelng.com>

e-mail: John.McElligott@cw.com

Tel.: +353-87-2804474

Address: Island View, Convent Street, Listowel, County Kerry, Ireland.

Kind Regards,
Johnny

From: Lorainne Sheehan [mailto:lsheehan@kerrycoco.ie]
Sent: 11 December 2007 12:44
To: catrionagriffin068@eircom.net
Subject: RE: Shannon LNG - File

Catriona, I can confirm that all expenses for the Council Staff were paid for by Kerry County Council.

Regards
Lorraine Sheehan
Planning Policy

-----Original Message-----
From: catrionagriffin068@eircom.net
[mailto:catrionagriffin068@eircom.net]
Sent: 07 December 2007 11:35
To: Lorainne Sheehan
Subject: RE: Shannon LNG - File

Hi Lorraine,

I have been trying to ring you this morning but i was told that you were out of the office.I emailed you on Wednesday asking about who funded the trip to Boston.Would you let me know as soon as possible,please.

Thanks
Catriona Griffin

From: Lorainne Sheehan [mailto:lsheehan@kerrycoco.ie]
Sent: 05 December 2007 10:26
To: catrionagriffin068@eircom.net
Subject: RE: Shannon LNG - File

Hi Catriona

There is no formal report in relation to this trip. The staff from Kerry County Council, visited the site, inspected the layout of the development and discussed the operation of the facility in detail with the plant operator.

Regards
Lorraine

-----Original Message-----
From: catrionagriffin068@eircom.net
[mailto:catrionagriffin068@eircom.net]
Sent: 04 December 2007 15:33
To: Lorainne Sheehan
Subject: Re: Shannon LNG - File

Hi Lorraine,

I emailed you last week about a report done by Kerry County Council on a trip to Boston to view an LNG terminal. You sent me the attached reply. I emailed you a second time as I said that I wanted to see the ACTUAL report as I am faced with having an LNG terminal 800 meters from my house. I look forward to hearing from you.

Catriona Griffin

From: Lorainne Sheehan [mailto:lsheehan@kerrycoco.ie]
Sent: 30 November 2007 15:40
To: catrionagriffin068@eircom.net
Subject: Re: Shannon LNG - File
Importance: High

A Chara

I refer to your recent e-mail to the Planning Department on the 28th November 2007. I note that you already have the Manager's Report in relation to the Shannon LNG Project with An Bord Pleanála.

In relation to a verbal report which Cllr. Kiely made to the Council in connection with the Corporate Policy Group Meeting held on the 20th November 2007, he stated that the County Manager had informed the meeting that he had visited a similar development in Boston and that there were other industrial developments up to the boundary of the site. The Plant in Boston is in operation for over 40 years. In relation to your query, I wish to confirm that the following Council Staff accompanied the County Manager on that site visit:-

Mr. Michael McMahon	Director of Planning & Sustainable Development
Mr. Tom Sheehy	Snr. Engineer – Planning Policy
Mr. Declan O'Malley	S.E.P. Planning Management (North Kerry)

Regards

Lorraine Sheehan
Forward Planning
Planning Dept
Kerry County Council

066-7161801
Ext 3373

A brief google search of Everett LNG terminal raises the serious issues surrounding this terminal as follows:

http://www.boston.com/news/local/massachusetts/articles/2006/08/29/drill_will_be_gauge_of_terror_readiness/

http://www.boston.com/news/local/massachusetts/articles/2007/10/25/coast_guard_blocks_fall_river_lng_terminal?mode=PF

Coast Guard blocks Fall River LNG terminal

Span was factor in ruling; developer plans an appeal

By Stephanie Ebbert, Globe Staff | October 25, 2007

A proposed liquefied natural gas terminal that had incited public fears about an explosive accident or terrorist attack on Fall River's waterfront was blocked yesterday by the US Coast Guard, which ruled that the Taunton River is unsafe for frequent trips by LNG tankers.

Barring a successful appeal by Weaver's Cove Energy, the decision appeared to bring to a close a tumultuous chapter in Fall River, whose residents and political leaders had waged an aggressive campaign against a project they regarded as a dangerous intruder on their shores. The city's two congressmen aided the cause by getting federal legislation passed that prevented the long-planned demolition of the structurally deficient, 101-year-old Brightman Street drawbridge, which is not large enough for the large ships to pass through.

"That bridge may be responsible for saving the city of Fall River from this horrible fate of having an LNG facility planted right in the middle of it," said US Representative James P. McGovern. "That bridge deserves a lot of credit."

After the congressional vote, Weaver's Cove Energy proposed circumventing the bridge problem by using smaller vessels, roughly 750 feet long and 85 feet wide, to make deliveries twice as often, up to three times a week. But the drawbridge is only 98 feet wide.

In a 37-page report, the Coast Guard pointed out that the old bridge and a new span, currently under construction, are just 1,100 feet apart and that the ship passages are not aligned. The new bridge was originally designed to replace the drawbridge, but mariners will have to navigate both. To get through safely, a ship would need to slow to nearly a halt and either be towed or move laterally 100 feet. While other commercial ships now make the trip, the vessels that Weaver's Cove proposed were bigger and would make more frequent trips. In addition, the coal ships currently traveling up the river require no security zone, as LNG tankers do, the report states.

"Certainly there are competent mariners out there who can make this go right 10 times, 100 times," Lieutenant Commander Benjamin Benson of the Coast Guard said in an interview. "But it needs to go right every time."

The narrow confines of the river also would prevent tankers from turning around in the event of an accident, the Coast Guard ruled. "In short, once a northbound LNG tanker enters the federal channel in this segment, they are committed to completing the entire transit - there is no feasible alternative," US Coast Guard Captain Roy A. Nash wrote in his report deeming the river unsuitable for an LNG terminal.

While Weaver's Cove has assured that the terminal would not pose a danger, the fear of the unknown post-Sept. 11, 2001, has led many to consider whether LNG tankers so close to shore could pose an attractive target for a terrorist attack. The governor's office said yesterday that the tankers would have traveled near a densely populated urban area and within 33 yards of two heavily traveled bridges and the Battleship Cove floating naval museum.

In recent years, Mayor Thomas M. Menino of Boston has railed against the dangers at a similar LNG terminal in Everett, where nearly weekly deliveries through Boston Harbor draw a thick security contingent of helicopters, the Coast Guard, and State Police. Everett is one of four LNG terminals along the East Coast. Two additional facilities are being built offshore north of Boston.

Yesterday's ruling represented the Coast Guard's final word on the project, though Weaver's Cove can appeal to the Coast Guard for reconsideration, an action the developer immediately vowed to take, saying that the recommendation "lacks the necessary factual support."

"The decision disregards critical facts in the record and introduces both new data and new concerns on which Weaver's Cove Energy was not provided an opportunity to comment," said a statement by the company, a subsidiary of Hess LNG.

The project has been opposed by many local residents, politicians, and officials, who feared that frequent LNG deliveries along the densely populated waterfront would be a burden on emergency management and public safety agencies. Governor Deval Patrick praised the Coast Guard's decision.

"We are grateful for the Coast Guard's independent and objective assessment of the security and safety risks involved with the Weaver's Cove LNG project," Patrick said in a written statement. "I am pleased that the Coast Guard's concerns, like ours, were about site suitability and security."

In 2003, Weaver's Cove Energy proposed to build an LNG storage tank, a new pier, processing equipment, and several support buildings at a former Shell Oil terminal in Fall River. The proposed terminal would unload LNG from tankers from overseas and include a new pipeline to ship gas to an interstate system.

Two years later, the project easily won approval from the Federal Energy Regulatory Commission, which declined to reconsider its decision even after Congress preserved the Brightman Street Bridge, complicating the anticipated route for the LNG tankers. The

attorneys general of Massachusetts and Rhode Island joined Fall River in challenging the commission's decision in a case that is still pending before the First Circuit Court. That case argues that the commission should have reopened the proceedings after the bridge was preserved and that it improperly rejected alternative sites, among other issues.

The commission's approval was contingent upon the sign-off by of the Coast Guard.

The news that the Coast Guard had rejected the project seemed like a parting gift to Mayor Edward M. Lambert Jr., who is leaving the Fall River post this week for a job at the University of Massachusetts at Dartmouth and who made the LNG battle a cornerstone of his last years in office.

"It's very nice; I don't think they planned it that way," Lambert said jokingly of the Coast Guard's timing. "I think the whole community here is in a celebratory mood, although we recognize it's not over till it's over."

Stephanie Ebbert can be reached at ebbert@globe.com. ■

From: McElligott, John
Sent: 23 November 2007 16:59
To: 'ombudsman@ombudsman.gov.ie'
Subject: Re Complaint concerning refusal to carry out an SEA on variation No 7 of 2007 and unethical motivation of councillors in voting for rezoning which paved the way for a fast track Submission to An Bord Pleanála by Shannon LNG regarding the Proposed Liquefi

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
safetybeforelng@hotmail.com
Tel: (087) 2804474

23rd November 2007

The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2

By Email only to ombudsman@ombudsman.gov.ie

Re Complaint concerning refusal to carry out an SEA on variation No 7 of 2007 and unethical motivation of councillors in voting for rezoning which paved the way for a fast track Submission to An Bord Pleanála by Shannon LNG regarding the Proposed Liquefied Natural Gas (LNG) regasification terminal located on the Southern shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, County Kerry (reference PL08 .PA0002 and PC 08.PC0002).

Dear Sir/Madam,

We have 4 new issues to support or complaint.

1. As you can see in attachment 11 (Pre-planning Consultations) which is also on the Shannon LNG website (<http://www.shannonlngplanning.ie>), there have been 2 pre-planning consultations between Shannon LNG and Kerry County Council before the SEA screening report was compiled in November 2006 viz. 23rd June 2006 and 20 October 2006.
2. With 10 hectares of development planned for the actual estuary itself the development is partially in a SAC area it is evident that this would have had an effect on the environment before the screening report was undertaken (see attachment 12- Shannon LNG EIS Non Technical Summary volume 1 or <http://www.shannonlngplanning.ie>)
3. On September 18, 2006 Shannon LNG made an application for a weather station at the site (reference 06/4328) so Kerry County Council knew beyond any reasonable doubt what was intended for the site (see attachments 13 and 14 or http://www.kerrycoco.ie/ePlan/InternetEnquiry/rpt_ViewApplicDetails.asp?validFileNum=1&app_num_file=063428) and it is inconceivable that they should claim this would not have an effect on the environment and therefore had no need for an SEA.

4. We have uncovered (see attachment 15) another fast-track planning application for “**a petroleum storage installation** and related marine facilities at Ballylongford” currently before An Bord Pleanála at the pre-planning stage with a decision due on November 29th 2007 on whether or not it qualifies for fast-track planning. The company is **SemEuro?** We contacted John Spencer, the managing director of SemEuro in Geneva on Wednesday November 21st 2007 and he referred us to Kieran Parker of the SemEuro Group in the UK. Kieran Parker just confirmed on November 22nd ago by phone that we should contact Shannon LNG if we have any questions and that he could not comment any further.

So SemEuro and Shannon LNG are linked.

This now therefore means that this planning process is diving quickly into farcical proportions as the local authority of Kerry County Council have not disclosed any information about SemEuro and therefore Shannon LNG's true intentions. People have been misleadingly lead to believe locally that SemEuro is intending to build on the Ballylongford to Asdee side of Ballylongford Bay. However, Darren Coombes of An Bord Pleanála confirmed to us also on November 22nd that SemEuro are actually applying **for planning adjacent to the Shannon LNG site on the landbank**. What does this say for top-tier Seveso 2 sites' exclusion zones on the SAC area of the Lower Shannon and the Ballylongford and Tarbert Bay areas defined as of significant ecological importance in the Kerry County Development Plan 2003-2009 ? **He also confirmed that SemEuro had consultations with Kerry County Council.**

Can one still say that LNG and petroleum storage will not have an effect on the environment? This further proves the lies that were when it is evident that a development of this size would have an effect on the environment.

Why has the information on SemEuro not been in the public domain as it has a huge bearing on the real intentions of Shannon LNG and has deprived the general public timely access to information on intentions and possible alternative uses of the site to participate fully in the planning process

5. Through the media, not to us the people who lodged the complaint, the Council has replied that the **Consultants** that did the SEA screening report reported that no SEA was necessary. Of course (as can be seen from the Shannon LNG booklet published in May 2006 page 7) it was already known that Seveso regulations would apply. The county manager can therefore say that he acted in good faith in accepting the consultants report. The Consultants hired out can say they acted in good faith because no mention was made of Shannon LNG nor of the SemEuro petroleum storage so these hazardous chemicals sites did not even get mentioned in the screening report; the Councillors can say that they acted in good faith in accepting the report of the County Manager at face value. So everyone has an opt-out plausibly-deniable answer for any disaster down the line and we all go around in circles patting each other on the backs saying what a great legacy we have left the county. It's an environmental and safety disaster of a legacy we are leaving those that come after us, more like and we will be disdained for it.

Kerry County Council refused to undertake an **SEA, which would have represented the only independent assessment of the development of the landbank and Lower Shannon Estuary**. All we finally received to our comprehensive complaint to the council was a one-line statement on November 22nd 2007 from Anne O'Sullivan (see attachment 16) on November 22nd 2007 stating

“ In relation to the question of a Strategic Environmental Assessment this is not mandatory in this case and Kerry County Council following a screening process decided that such Strategic Environmental Assessment was not necessary.”

We are now, convinced more than ever that a **serous breach of procedure has** taken place and have supplied you with all the remaining evidence necessary to back this up.

We await your reply and actions.

Yours faithfully,

Johnny McElligott

Attachments:

11. Pre-planning Consultations by Shannon LNG
12. Shannon LNG Terminal EIS Vol 1 of 4 issue 1.
13. Application for Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan
14. Full application for weather station 063428
15. SemEuro Planning for Petroleum Storage facilities
16. Final Reply from Kerry County Council on Complaint from Kilcolgan Residents Association on breach of procedure

From: McElligott, John
Sent: 21 November 2007 10:50
To: 'ombudsman@ombudsman.gov.ie'
Cc: 'jbradley@CLARECOCO.IE'; 'Adam Kearney Associates'
Subject: FAO Local Authority Section: Complaint concerning refusal to carry out an SEA on variation No 7 of 2007: further information

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
safetybeforelmg@hotmail.com
Tel: (087) 2804474

21st November 2007

Local Authority Section,
The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
ombudsman@ombudsman.gov.ie

Dear Sir/Madam,

We have received a clarification from John Bradley from Clare County Council as follows in the email below which he wants brought to your attention. Could you please add this to the file we submitted you on November 19th 2007 please.

Yours faithfully,

Johnny McElligott
Tel: 087-2804474

From: John Bradley [mailto:jbradley@CLARECOCO.IE]
Sent: 20 November 2007 17:22
To: 'Adam Kearney Associates'
Subject: RE: Local Group Website

Hi Adam I want to clear up a point that I picked up in your letter to the Ombudsman. I stated that I could not **remember** receiving any SEA report from the Kerry County Council, in regard to this matter not that I had not received a SEA report. Please correct any misunderstanding in this regard. I understand that a SEA screening report was prepared but have no record of it in my files. Regards John Bradley

Kind Regards,
Johnny McElligott

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
safetybeforelng@hotmail.com
Tel: (087) 2804474

19th November 2007

The Office of the Ombudsman,
18 Lr. Leeson Street, Dublin 2
ombudsman@ombudsman.gov.ie

Complaint concerning refusal to carry out an SEA on variation No 7 of 2007 and unethical motivation of councillors in voting for rezoning which paved the way for a fast track Submission to An Bord Pleanála by Shannon LNG regarding the Proposed Liquefied Natural Gas (LNG) regasification terminal located on the Southern shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, County Kerry (reference PL08 .PA0002 and PC 08.PC0002).

Dear Sir/Madam,

From as early as May 2006, it was clear from booklets distributed by Shannon LNG (see attachment 1) that Shannon LNG was planning an LNG terminal on the site at Kilcolgan – the first of its kind in the country and one which would see 4.4 million gallons of water pumped from the Shannon Estuary every hour. The most serious environmental concern has always been that pumping over 108 million gallons of chlorinated and cooled water into the estuary daily will cause serious environmental damage to the eco-system of this SAC area. The withdrawal and discharge of huge volumes of seawater will affect marine life by killing ichthyoplankton and other micro-organisms forming the base of the marine food chain unable to escape from the intake area. Furthermore, the discharge of cooled and chemically-treated seawater will also affect marine life and water quality.

However, the site was still zoned Rural General and Secondary Special Amenity at the time.

To rezone the land to Industrial, a variation had to take place to the Kerry County Development Plan 2003-2009.

In March 2007, the site at Tarbert was therefore rezoned from “Rural General” to Industrial through variation No. 7 of the County Development Plan.

The stated purpose of the variation was as follows:

“The purpose of the variation is to facilitate consideration of suitable development of these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003-2009 which states: ‘lands have been identified at Ballylongford/Tarbert as suitable for development as a premier deep-water port and for major industrial development and employment creation’. The adoption of this variation gives effect to objective ECO 5-5 of the Kerry County Development Plan 2003-2009 which states: ‘It is an objective of Kerry County Council to identify lands in key strategic locations that are particularly suitable for development that may be required by specific

sectors. Land in such locations will form part of a strategic reserve that will be protected from inappropriate development that would prejudice its long-term development for these uses.”

However, extremely serious issues surrounding the rezoning of the landbank at Kilcolgan to Industrial from rural general in March of this year have now been uncovered and we are hereby lodging a formal complaint on this matter to the Ombudsman’s Office as the questions we raise bring in to serious disrepute the whole planning process in Kerry and are furthermore putting the lives of the people of Kilcolgan in danger through the attempts to fast track a Seveso 2 site without following all planning procedures correctly. As we raised these issues with Kerry County Council last week we feel that their answers are inadequate, hence our complaint to you.

Clare County Council objected to the rezoning (see attachment 2) on the grounds that:

“the proposed rezoning is likely to have a significant impact on the future development of the region, and will have a direct impact on the planned objectives for the Mid West Regional guidelines for the Shannon Estuary and in particular the Planning, Economic and Service Infrastructural development objectives for zone 5 of the plan. Any industrial development including the construction of a deepwater harbour will have a major impact on both the visual and ecological amenities of the area, and potentially on the Lower Shannon Estuarine Environment, including the foreshore of County Clare. Clare County Council would like an appraisal of any SEA investigation which may have been undertaken in respect of the proposed variation”. The Kerry County Manager replied: “Any future application of these lands will be subject to an Environmental Impact Assessment. This process will ensure that any proposals will take into account impacts on the visual and ecological amenities of the area. A copy of the SEA screening report for the proposed variation will be forwarded to Clare County Council.”

No SEA has been undertaken as required for a variation to the development plan under Statutory Instrument No 436 of 2004 Article 7 section 13K and article 12 schedule 2A of the same Statutory Instrument (<http://www.irishstatutebook.ie/2004/en/si/0436.html#article12>) where there will be a significant effect on the environment.

The County Manager Report’s conclusions on March 8th 2007 (see attachment 2) that *“it does not appear that there is a need for a SEA in this instance as the proposed variation is unlikely to result in development which would have significant effects on the environment”* are extremely questionable for the following reasons:

- i. it was known at the time of the report that Shannon LNG had an option to buy the lands subject to planning permission for the LNG terminal with the serious consequential effects on the environment as detailed above. Indeed, An Bord Pleanála wrote to the County Manager on February 7th, 2007 notifying them of Shannon LNG’s request for pre-application consultations under the planning and Development (Strategic Infrastructure) Act 2006 for an LNG terminal on the said site.
- ii. The waters of the Lower Shannon are in a candidate Special Area of Conservation (SAC) and therefore protected under the EU Habitats directive.
- iii. Clare County Council raised serious concerns that the construction of a deepwater harbour would have a major impact on both the visual and ecological amenities of the area and potentially on the Lower Shannon Estuarine Environment, including the

foreshore of County Clare, and requested an appraisal of any SEA investigation as detailed above.

- iv. The Senior Executive Planner of Clare County Council, John Bradley, who made the submission on behalf of Clare County Council, has confirmed that no such screen report was ever received by Clare County Council
- v. The EPA could not confirm receipt of the SEA screening report, even though Tom Sheehy of Kerry County Council maintains it was sent in December 5th 2006 (see attachment 8).
- vi. The ecological sensitivity of the area has been recognised in the Kerry County Development Plan (see attachment 4) in declaring both Ballylongford Bay and Tarbert Bay as areas of Ecological Importance but this fact was completely ignored in the report.
- vii. The Department of the Environments Guidelines for Local Authorities on implementation the SEA directive are clearly not adhered to as the site is a Seveso 2 site surrounded by SAC and NHA areas as per sections 3.5 and 3.10 (2) (see attachment 5)

“3.5 The key to deciding if SEA will apply will be *whether the plan would be likely to have significant effects on the environment*. The decision should not be determined by the size of an area alone. It will also be influenced by nature and extent of the development likely to be proposed in the plan and its location (e.g. close to or within an SAC, SPA or NHA), and its broad environmental effects”

“Criteria for Determining the Likely Significance of Environmental Effects

3.10 Schedule 2A to the Planning and Development Regulations 2001 sets out two main types of criteria for determining whether a plan would be likely to have significant environmental effects:

(1) Characteristics of the Plan: for example, the scale of development likely to take place over the life of the plan, or the degree to which it promotes sustainable development. Does the plan set out environmentally-friendly objectives? What environmental problems are of particular relevance to the plan?

(2) Characteristics of the effects and of the Area likely to be affected: for example, the magnitude, cumulative nature and reversibility of the effects, or the value and vulnerability of the area likely to be affected by implementation of the plan. How many people are likely to be affected by the plan? Are there areas of conservation sensitivity (such as natural habitats) within or adjacent to the area covered by the plan? Much of the advice contained in the Department's Guidance (*August 2003*) on EIA sub-threshold Development (www.environ.ie) regarding areas of conservation sensitivity is also of relevance for SEA. How intensive is the nature of the proposed landuse? Is there a risk of accidents, *e.g. involving Seveso landuses?*”

- viii. The Ballylongford Screening report (see attachment 7) makes no mention of Shannon LNG having an option to purchase land on the site subject to planning permission for an LNG terminal, even though this was known since at least May 2006 and that this was already discussed in the Kerry County Council meeting of 20 June 2006 (see attachment 9) as follows:

“20. Establishment of a committee to deal with infrastructural development and Planning issues relating to the Ballylongford Land Bank Pursuant to notice duly given Cllr. J. Brassil proposed:-

“In light of the major announcement made by Minister Micheal Martin regarding the development of the Shannon Development owned Ballylongford land bank that Kerry County Council put a team of people together to specifically deal with the infrastructure development and planning issues that will be associated with this project.”

Mr. C. O’Sullivan, SEO Corporate Services read the following report:-

The Ministers announcement in relation to the proposals for Ballylongford is to be welcomed. Preplanning discussion with Shannon LNG will shortly commence. The necessary planning and infrastructure teams will be put in place as discussions develop more fully the particular project proposal and the needs of the Ballylongford Land Bank generally. Project progress will be overseen by Sub Committee of Senior Management Team. The situation will be kept under review as the project progresses.

Cllr. J. Brassil welcomed the report and said that this has the potential to be a huge project for North Kerry and he called on the Executive to give it every support.

Cllr. L. Purtill welcomed the recent announcement for the development of part of Ballylongford Land Bank and supported Cllr. Brassil’s motion.“

Without any information in the public domain regarding the scoping or the actual execution of an SEA (see attachment 6), this rezoning is fundamentally unsound and invalid.

On March 12th 2007, from the minutes of the Kerry County Meeting (see attachment 3) it can be confirmed that Mr. McMahon, director of planning, circulated his SEA screening report (see attachment 2) to the councillors and briefed them on it.

Councillor O'Sullivan proposed acceptance of the variation having considered the County Manager's Report and this was seconded by councillor Beasley.

All the councillors present voted for the motion (Beasley, Brassil, Buckley, Cronin, Ferris, S.Fitzgerald, Foley, Gleeson, M.Healy-Rae, Leahy, McCarthy, McEllistrim, Miller, O'Sullivan, Purtill, T. Fitzgerald).

The following councillors were absent: Cahill, Connor-Scarteen, Fleming, D. Healy-Rae, MacGearailt, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea and Sheahan.

Our complaint is that an SEA should have been undertaken by the statutory body (Kerry County Council) as requested by Clare County Council who quite rightly pointed out that the rezoning would have a direct impact on the environment and the planned objectives for the Mid West Regional guidelines for the Shannon Estuary. We believe that this was not undertaken because pressure to fast-track the rezoning for the Shannon LNG company took precedence over following the correct procedures to the detriment of the Shannon Estuary, its environment and environs and to the people living and owning property adjacent to the land bank. In our opinion both the County Manager and the elected representatives were collectively responsible for this deliberate effort to push through the development at all costs.

On November 26th 2007, Kerry County Council is due to have its next meeting where its position on the submission to An Bord Pleanala concerning the Shannon LNG planning application will be decided. For this reason, we request you deal with this serious complaint with the greatest urgency. Furthermore, we bring to your attention that Councillor John Brassil is Chairman of Shannon Development and request that he and other councillors with links to Shannon Development and the developer on the site declare their interests and absent themselves from the Council Meeting while this issue is being discussed on ethics grounds.

Our submission to An Bord Pleanala is attached giving a clear explanation of the serious concerns we have about the proposed development (see attachment 10).

Our complaint is very serious, because if the planning authorities will not follow their own rules then why bother having a planning process?

Yours faithfully,

Johnny McElligott

Attachments:

1. Shannon LNG Booklet May 2006
2. Kerry County Manager's report on variation No 7 to Kerry County Development Plan
3. Minutes of March 12th Meeting of Kerry County Council
4. Kerry County Development Plan – Appendix 1G
5. SEA Guidelines
6. Notice of proposed variation to Kerry County Development Plan
7. Ballylongford Screening Report
8. Email Communication with Kerry County Council

9. Minutes of June 20th 2006 Meeting of Kerry County Council
10. LNG Planning Submission by Kilcolgan Residents Association

ATTACHMENTS:

1. Shannon LNG Booklet May 2006
2. Kerry County Manager's report on variation No 7 to Kerry County Development Plan
3. Minutes of March 12th Meeting of Kerry County Council
4. Kerry County Development Plan – Appendix 1G
5. SEA Guidelines
6. Notice of proposed variation to Kerry County Development Plan
7. Ballylongford Screening Report
8. Email Communication with Kerry County Council
9. Minutes of June 20th 2006 Meeting of Kerry County Council
10. LNG Planning Submission by Kilcolgan Residents Association
11. Pre-planning Consultations by Shannon LNG
12. Shannon LNG Terminal EIS Vol 1 of 4 issue 1.
http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf
13. Application for Weather Station on a 10M. High mast with Security fencing by Shannon LNG at the site of the proposed LNG terminal in Kilcolgan
14. Full application for weather station 063428
15. SemEuro Planning for Petroleum Storage facilities
16. Final Reply from Kerry County Council on Complaint from Kilcolgan Residents Association on breach of procedure

<http://www.kerrycoco.ie/ballylongfordvariation.asp>

COMHAIRLE CONTAE CHIARRAÍ

KERRY COUNTY COUNCIL



COMHAIRLE CONTAE CHIARRAÍ

KERRY COUNTY COUNCIL

PUBLIC NOTICE

PLANNING AND DEVELOPMENT ACTS 2000 - 2006

NOTICE OF PROPOSED VARIATIONS OF THE KERRY COUNTY DEVELOPMENT PLAN 2003 - 2009

Kerry County Council, pursuant to the provisions of Section 13 of the Planning and Development Act, 2000, (as amended), has prepared a variation of the Kerry County Development Plan 2003 - 2009 as follows:-

To rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43acres) currently zoned as Rural General and 83ha (205.1 acres) currently zoned as Secondary Special Amenity, in the townlands of Reenturk, Rallappane and Kilcolgan Lower, to Industrial zoning.

Reason: The purpose of this variation is to facilitate consideration of suitable development on these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003 – 2009 which states: 'Lands have been identified at Ballylongford / Tarbert as suitable for development as a premier deepwater port and for major industrial development and employment creation'

Objective ECO 5-5 of The Kerry County development Plan 2003-2009 states 'It is an objective of Kerry County Council to identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors. Land in such locations will form part of a strategic reserve that will be protected from inappropriate development that would prejudice its long-term development for these uses'

A copy of the proposed variation may be inspected during office hours (9.00a.m. - 5.00 p.m.) from Wednesday 7th February, 2007 to Thursday 8th March, 2007, both dates inclusive, at :-

- The Planning Department, County Buildings, Tralee
- The County Council Offices, Bridge Road, Listowel.

Observations and submissions in respect of the proposed variation should be made in writing, addressed to Lorraine Sheehan, Planning Department, Kerry County Council, Áras an Chontae, Tralee and marked 'Submission - Variation to the County Development Plan, Ballylongford / Tarbert' to be received before 4.00 p.m. on Thursday 8th March 2007, and will be taken into consideration before the making of the variation.

Kerry County Council
Rathass, Tralee, Co. Kerry, Ireland
Tel: +353 066 7183500 Fax: +353 066 7129764
E-mail: kcc@kerrycoco.ie
Webdesign: webteam@kerrycoco.ie

STRATEGIC ENVIRONMENTAL ASSESSMENT

Screening Report

Report Pursuant to Article 13k Planning And Development (Strategic Environmental
Assessment) Regulations 2004

**Kerry County Council Development Plan
2003-2009
Proposed Variation**

November 2006

1.0 INTRODUCTION

Kerry County Council intend to make a variation to the Kerry County Development Plan 2003 under Section 13 of the Planning and Development Act 2000(as amended). The purpose of this screening report is to consider whether the proposed variation requires Strategic Environmental Assessment (SEA) in terms of the Provisions of Article 13k of The Planning and Development (Strategic Environmental Assessment) Regulations 2004. It shall consider whether or not the proposed variation is likely to have significant effects on the environment.

2.0 PROPOSED VARIATION

The proposed Variation is to amend the Kerry County Development Plan 2003 - 2009 to rezone lands of 188.8 hectares from its current zoning of 'Rural General' and 'Rural Secondary Special Amenity' to 'Industrial'.

3.0 CONTEXT

The area of land proposed for rezoning is located on the Ballylongford Land Bank in North County Kerry to the Northeast of the village of Ballylongford and to the West of Tarbert Village. The lands border Ballylongford Bay, which forms part of the Shannon Estuary.

The council's objective in proposing this variation is to ensure that sufficient land is zoned for industrial use throughout the county. The lands proposed for variation are currently zoned Rural General (106.15 ha.) and Rural Secondary Special Amenity (82.65 ha.). The *Rural General* zoning designation refers to rural landscapes that generally have a higher capacity to absorb development than other rural zoning designations. The *Rural Secondary Special Amenity* designation refers to areas which are generally sensitive to development proposals.

4.0 MANDATORY REQUIREMENTS

In terms of SI No. 436 of 2004 Planning and Development (Strategic Environmental Assessment) Regulations 2004 where a planning authority proposes to make a variation of a development plan under section 13K of the Act it shall consider whether or not the proposed variation would be likely to

have significant effects on the environment. An assessment of the Proposed Variation in terms of the criteria set out in Schedule 2A of the Regulations is set out in Section 5. below.

5.0 ASSESSMENT IN TERMS OF SCHEDULE 2A OF THE PLANNING AND DEVELOPMENT (STRATEGIC ENVIRONMENTAL ASSESSMENT) REGULATIONS 2004

1.0	The Characteristics Of The Plan Having Regard In Particular To;
1.1	<p>The degree to which the plan sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources,</p> <p>The variation does not set a framework for projects and other activities, rather it responds to the comprehensive development framework set out in the Kerry County Development Plan 2003 - 2009. This plan sets out policies and objectives to ensure the proper and sustainable development of the County. Through the zoning process, a framework is established for the location of particular land uses and types of development.</p> <p>Any proposed development of the lands will have regard to the general planning, design and environmental standards and criteria and all relevant policies and objectives set out in the Kerry County Development Plan 2003 – 2009 and relevant National and European guidance.</p>
1.2	<p>The degree to which the plan influences other plans, including those in a hierarchy,</p> <p>The variation does not influence other plans, rather it responds to the standards and guidelines set down in the National Planning Policy Hierarchy.</p>
1.3	<p>The relevance of the plan for the integration of environmental considerations in particular with a view to promoting sustainable development,</p> <p>Any development undertaken as a result of this variation will be required to comply with the environmental standards and guidelines set out in local, national and European policy documents. As the statutory plan for the area, the Kerry County Development Plan 2003 –</p>

2009 which was prepared under the Planning and Development Acts 2000-2004, will guide the integration of environmental and sustainability considerations into development proposals for the lands.

The current Kerry County Development Plan 2003 – 2009 outlines a number of provisions to ensure the integration environmental considerations into development proposals and promote of sustainable development in the County. (See below).

- *Employment & Economic Activity:* Policy objective ECO 5-24 seeks 'the integration of environmental considerations into the proposed new developments'.
- *Environmental Protection:* The council ensures environmental protection and prevention of pollution under policy objective EN 10-1 ensures that '*all necessary measures to prevent pollution in order to maintain the maximum quality of the environment of County Kerry*' should be taken.
- *Groundwater Protection:* Policy Objective EN 10 – 12 ensures all planning applications within 300m of any public or group scheme groundwater source will be assessed in terms of their potential impact on the water quality of that source. Additionally cumulative impacts of planning applications on existing groundwater schemes will also need to be considered.
- *Air Quality:* The objective of policy EN 10 – 16 is to ensure that the air quality of County Kerry is in accordance with prescribed standards. Therefore any new Industrial developments on the proposed subject lands will not adversely affect air quality.
- *EU and National Designations:* Kerry County Council strongly support the protection of EU and National Designations in County Kerry through the creation of regulatory policies in order to safeguard against adverse affects on these designated lands. Policy objective EN 10 – 18 ensures '*that any development proposal in the vicinity of or affecting in any way a designated SAC, SPA or NHA provides sufficient information showing how its proposals will impact on the habitat and appropriate amelioration will be indicated*'. It is a also an objective of Kerry County Council under policies EN 10 – 19, EN 10 – 20 and EN 10 –21 to maintain the conservation value of those sites identifies by Duchas, The Heritage Service, as Special Areas of Conservation, Special Protection Areas and Natural Heritage Areas.
- *Coastal Management:* Part of the proposed variation lands are located within the Coastal Development zone however there are a number of Policy objectives safeguarding against any environmental impacts on this area. Policy objective EN10 – 27 ensures that all applications for development are assessed '*both individually and cumulatively, within the designated Coastal Development Zone*'. Also, '*Developments will be judged in terms of their*

	<p><i>potential impact on natural and cultural heritage whilst considering potential risks from flooding and erosion.’ In addition policy objective EN 10 – 30 ensures the ‘precautionary principle’ is taken, and prohibits ‘developments that pose a significant or potential threat to the coastal environments.’</i></p>
1.4	<p>Environmental problems relevant to the plan,</p> <p>Possible environmental issues arising from the proposed rezoning relate to the impact of future development in terms of the capacity on the water supply and sewerage network, traffic and visual amenity.</p> <p>At this point in time, no specific significant environmental problems can be identified in relation to the above issues. Any proposed developments on the lands would be subject to assessment under the development control process and required to have regard to the general planning, design and environmental standards and policies set out in the Kerry County Development Plan 2003 – 2009</p> <p>Furthermore, it is considered that any environmental problems likely to arise would be resolved through Environmental Impact Assessment legislation. An EIS will be required if any project or development exceeds the specified thresholds under Part X of the Planning and Development Act 2000 and Schedule 5 Part 2 (12) of the Planning and Development Regulations 2001.</p> <p>With regard to services and traffic, any proposed development on the site would be subject to the availability/provision of water, surface water and sewerage facilities. Given the likelihood of mitigation measures being put in place and adherence to best practice in developing on site solutions with regard to drainage, traffic management and waste water treatment it is considered unlikely that there will be significant environmental impacts.</p> <p>It is considered that there is potential for significant visual impact, this however can also be mitigated against through the incorporation of design solutions and adherence to development control standards.</p>
1.5	<p>The relevance of the plan for the implementation of European Union legislation on the environment (e.g. plans linked to waste-management or water protection).</p>

	<p>While the lands are not subject to any designations, they are located in proximity to a number of areas designated for protection under national and EU Legislation. The Lower River Shannon is designated as a 'candidate SAC' (ref; 00216) and NHA (ref;001332), while the River Shannon and River Fergus Estuaries contain areas designated as SPAs.</p> <p>It is considered, given the size and extent of areas designated, the localised nature of the lands to be rezoned and the mitigation measures required by the policies and standards outlined in local and national planning guidance, that there is unlikely to be significant environmental impacts on these areas.</p>
--	--

2.0	Characteristics Of The Effects and Of The Area Likely To Be Affected, Having Regard, In Particular to;
2.1	<p>The probability, duration, frequency and reversibility of the effects.</p> <p>The industrial zoning objective will be in place until 2009. In 2007 the status of the zoning will be reviewed as part of the preparation of a new County Development Plan in 2009.</p> <p>It is anticipated that the policies, objectives and principles adopted as part of the Kerry County Development Plan 2003 - 2009 will ensure that the duration, frequency and irreversibly of the effects resulting from the proposed variation on the existing environment will not be significant.</p>
2.2	<p>The cumulative nature of the effects,</p> <p>It is considered that there is potential for some cumulative impacts due to the extent of land to be rezoned. However, given the likely phased basis of development and the provision of appropriate mitigation measures through the development control process it is considered that cumulative impacts can be mitigated against.</p>
2.3	<p>The transboundary nature of the effects,</p> <p>It is considered that there will not be any transboundary effects on the environment as a</p>

	result of the Proposed Variation.
2.4	<p>The risks to human health or the environment (e.g. due to accidents),</p> <p>The risk to human health will be dependant on the nature and type of industry proposed in the area. However given the distance to the nearest settlements (Ballylongford 2.3km and Tarbert 3.9km) and the standards controlling the development and operation of industries it is not considered that the proposed variation would pose any particular risks to human health in the context of accidents.</p> <p>Development control and policy and objectives contained within the Kerry County development Plan 2003 - 2009 (outlined above in section 5 1.4) will ensure appropriate assessment of any development on the lands. Additionally, polluting industries are subject to Environmental Protection Agency licensing.</p> <p>An EIS will be required if any project or development exceeds any one of the specified thresholds under Part X of the Planning and Development Act 2000 and Schedule 5 Part 2 (12) of the Planning and Development Regulations 2001 set out the statutory requirements in relation to the need for Environmental Impact Assessment.</p>
2.5	<p>The magnitude and spatial extent of the effects (geographical area and size of the population likely to be affected),</p> <p>The area of land to be rezoned under the proposed variation is 188.8 hectares. In the 2002 census Ballylongford had a population of 405 persons with Tarbert village at 805 persons (2006 figures not available). It is therefore considered that the magnitude and spatial extent of the likely effects are not significant in the context of the geographical area and population likely to be affected.</p>
2.6	<p>The value and vulnerability of the area likely to be affected due to:</p> <ul style="list-style-type: none"> • Special natural characteristics or cultural heritage, • Exceeded environmental quality standards or limit values, • Intensive land-use,

	<p>No likely significant effects on either special natural characteristics or cultural heritage are anticipated.</p> <p>Part of the area is zoned as a Secondary Special Amenity Area, which is 'generally' sensitive to development', however it is not designated under national or EU legislation.</p> <p>There are no protected structures on the lands. However there are two sites listed on the 'Record of Monuments and Places' (ref; Reenturk and KE 003 014). It is likely that there will be an impact on these.</p> <p>Development of the site shall be subject to an application for planning permission and no development shall be permitted which would exceed environmental quality standards or limit values.</p>
2.7	<p>The effects on areas or landscapes which have a recognised national, European Union or international protection status</p> <p>While the lands are not located within SAC, SPA or NHA the northern boundary is adjacent to the Ballylongford SAC and the Shannon Estuary SPA and NHA.</p> <p>The variation is not regarded as having any significant effect on these designated areas as regulatory policy measures have been put in place within the Kerry County Development Plan in order to safeguard and mitigate against development proposals in the vicinity of or affecting in any way a designated SAC, SPA or NHA.</p>

6.0 STATUTORY CONSULTATION

In line with the requirement under Section 13A (4) is proposed to consult with the following authorities;

- The Environmental Protection Agency (EPA)
- The Department of the Environment, Heritage and Local Government (DEHLG)
- The Department of Communications, Marine and Natural Resources (DCMNR).

7.0 DETERMINATION IN TERMS OF ARTICLE 13K

In terms of the provisions of Article 13K of the Regulations, following the appropriate consultation period the planning authority shall determine whether or not implementation of the Proposed Variation would be likely to have significant effects on the environment, taking account of relevant criteria set out in Schedule 2A of the Regulations (see section 5 above) and any submission or observation received from the environmental authorities (see section 6 above).

8.0 CONCLUSION

On balance it is considered that the Proposed Variation is not likely to have significant effects on the environment for the reasons detailed above. It is proposed to initiate the procedures for the variation of the Kerry County Development Plan in order to facilitate balanced growth by the promoting the strengthening of rural communities by facilitating job creation, decrease in numbers that commute to work and improvement of services.

The policy and objectives contained within the Kerry County Development Plan 2003 - 2009 will ensure the appropriate assessment of any proposed developments on the lands so as to prevent any adverse effects. The nature of the proposed variation is considered to be relatively minor. Therefore it does not appear that there is a need for a SEA in this instance as the proposed variation is unlikely to result in development which would have significant effects on the environment.

Attachment 15: Communication from SemEuro concerning petroleum storage facilities near Shannon LNG site and SemEuro information at An Bord Pleanala

From: Spencer, John [mailto:jspencer@SEMGROUPLP.COM]
Sent: 21 November 2007 12:55
To: McElligott, John
Cc: Majors, Randy; Parker, Kieren
Subject: RE: PC0008 Case type: Pre-Application Consultation at An Bord Pleanala by SemEuro
Importance: High

Dear Mr McElligott,

Thank you for your note of last night which I have now had the opportunity to study.

SemEuro Ltd has several diverse operating divisions, one of which, SemEuro Supply Ltd, is the company of which I am Managing Director. A search on the internet for SemEuro will indeed direct you to me however in this instance I am not really the person you need to be in touch with as I am not at all familiar with the proposal you mention.

Our business developments are handled at a group rather than divisional level and therefore you would be much better served by communicating with them.

In the first instance you should contact the SemEuro Ltd President and COO, Randy Majors:

e-mail: rmajors@semgrouplp.com
Tel: +1 918 524 8186

Mr. Majors is based in Tulsa, Oklahoma, USA (there is a six hour time difference between Eire and Oklahoma) and is totally familiar with our project in Ireland. Please be warned that the US is about to embark on its annual Thanksgiving Day holiday (and long weekend) so there may be some delays in communications.

You may also contact Kieran Parker who is based in the UK although his knowledge may be less specific:

e-mail: kparker@semgrouplp.com
Tel: +44 797 152 5593

I have taken the liberty of redirecting your e-mail to them in any case, if you do not hear back from them or are unable to contact them feel free to let me know and I will try to track them down for you.

Yours sincerely

John Spencer
Managing Director
SemEuro Supply Ltd

-----Original Message-----

From: Darren Coombes [mailto:d.coombes@pleanala.ie]
Sent: 22 November 2007 12:14
To: McElligott, John
Subject: Re: PC0008 and PA0002 - what is the link

John,

To reply in short to your telephone query, the site currently being discussed at pre-consultation stage is proposed for an adjacent site to the Shannon LNG proposed development.

In relation to your request for information on pre-consultation meetings on PC0008, this is not a decided case and thus cannot be made available for public access. This is not available under the Freedom of Information Act.

The complete file will be available for public viewing once a decision has been made.

In relation to your other comments, I'm not in a position to respond, but would suggest that you put any such comments in writing to the Secretary of An Bord Pleanala at 64 Marlborough Street, Dublin 1.

I trust the above is of assistance.

Regards,

Darren Coombes

Subject: PC0008 and PA0002 - what is the link
Date sent: Thu, 22 Nov 2007 11:20:30 -0000
From: "McElligott, John"
<John.McElligott@cwmsg.cwplc.com>
To: <d.coombes@pleanala.ie>
Copies to: <bord@pleanala.ie>,
"Adam Kearney Associates" <info@akassociates.ie>,
<catrionagriffin068@eircom.net>,
<morganheaphy@eircom.net>,
<noelheaphyspar@eircom.net>

Kilcolgan Residents Association

c/o Johnny McElligott

Island View,

5 Convent Street,

Listowel,

County Kerry

safetybeforelng@hotmail.com

Tel: (087) 2804474

22nd November 2007

Re: PC0008: () Kerry County Council Petroleum storage installation and related marine facilities at Ballylongford, Co. Kerry. Case reference: PL08 .PC0008 Case type: Pre-Application Consultation Status: Case is due to be decided by 29-11-2007 EIS required: No SEMEuro (Michael Punch and Partners and Byrne O'Cleary)

Dear Darren,

Following our conversation a few minutes ago this is our position:

1. Kerry County Council councillors are due to vote on Monday November 26th 2007 on the position they are to take in their submission to An Bord Pleanala for the Shannon LNG proposal PA0002 at Kilcolgan (they have 10 weeks whereas we only had the minimum 6 weeks)
2. SemEuro are in the pre-application consultation stage for a petroleum storage facility as described above in PC0008
3. I contacted John Spencer, the managing director of SemEuro in Geneva on Wednesday and he referred me to Kieran Parker of the SemGroup in the UK. Kieran Parker just confirmed a few minutes ago over the phone that I should contact Shannon LNG if I have any questions and that he could not comment any further.

This now therefore means that this planning process is diving quickly into farcical proportions as the local authority of Kerry County Council does not even know about SemEuro and therefore Shannon LNG's true intentions and you do not even seem to know where SemEuro is actually building. People have been misleadingly lead to believe locally that SemEuro is intending to build on the Ballylongford to Asdee side of Ballylongford Bay but we are now coming quickly to the conclusion that SemEuro are actually applying for planning adjacent to the Shannon LNG site on the landbank. What does this say for top-tier Seveso 2 sites' exclusion zones on the SAC area of the Lower Shannon and the Ballylonford and Tarber Bay areas defined as of significant ecological importance in the Kerry County Development Plan 2003-2009 ? Also, I note from memory that in your pre-application consultations with Shannon LNG,

Shannon LNG said that their own development would be incompatible with a parallel planning application being mooted for the same area - which we are now taking to be SemEuro to whom they are in fact linked it would now appear.

What we want to know today is:

1. Where is the SemEuro application for exactly - i.e. the name of the townlands?
2. Why has the information on SemEuro not been in the public domain as it has a huge bearing on the real intentions of Shannon LNG and has deprived the general public timely access to information on intentions and possible alternative uses of the site to participate fully in the planning process?
3. Is Kerry County Council aware of the SemEuro pre-application consultations?
4. We need copies today of all pre-application consultation documentation at your disposal by SemEuro. If you do not give us this as pertinent to PA0002, we are hereby requesting it under Freedom of Information legislation. This is not company-sensitive information.
5. Please add out objections to PA0002 to the PC0008 file as the objections are similar.

Appendix Petition 5

SemEuro application for Petroleum Storage installation and related marine facilities at Ballylongford, County Kerry.

Oil giant plans massive storage site at Tarbert

28/11/2007
Kerryman

By Aidan O'Connor

A MULTI-NATIONAL energy company is looking to establish a massive petroleum storage facility on the Ballylongford landbank adjacent to the planned LNG gas storage plant.

Tensions are already running high in the Tarbert/Ballylongford area over the proposed multi-million euro LNG gas terminal, which is currently before An Bord Pleanála.

But the landbank controversy has taken a new twist as it emerged this week that SemEuro has written to An Bord Pleanála seeking advice on how to progress with plans for a petroleum storage facility.

The company wants to know if it can apply directly to An Bord Pleanála for planning permission or if has to go through Kerry County Council.

Fears among the local Kilcolgan residents Association about the SemEuro project are greater than those held about the proposed LNG terminal.

SemEuro is a subsidiary of SemGroup, about the fifth largest private company in the United States. SemEuro was formed last year to expand the company's petroleum and oil storage facilities in northern Europe. Its sister company, SemLogistics, owns one of the largest storage and terminal facilities in the United Kingdom at Milford Haven in Wales. That facility has storage capacity for 9.4 million barrels of petroleum products including crude oil, gasoline and jet fuel.

Johnny McElligott of the Kilcolgan Residents Association said that he had serious concerns about the proposal. He said that a 'tank farm' similar to that in Milford Haven would pose serious health and safety risks for very few jobs in the area.

Meanwhile, it is likely that the LNG project will be the subject of a full oral hearing. Already millions of euro have been spent by LNG and An Bord Pleanála has requested the Health and Safety Authority and a marine ecologist to prepare reports on the site and the proposal.

WEDNESDAY DECEMBER 5, 2007 **The Kerryman**

Petroleum firm in talks over landbank

By Aidan O'Connor

SHANNON Development has confirmed it has entered into talks with SemEuro, the multinational energy company looking to establish a massive petroleum storage facility on the Tarbert/Ballylongford landbank adjacent to the planned LNG gas storage plant.

Discussions began with SemEuro after Shannon Development advertised for expressions of interest for further potential projects on the Tarbert/Ballylongford landbank last November.

SemEuro has written to An Bord Pleanála seeking

advice on how to progress with plans for a petroleum storage facility.

The company wants to know if it can apply directly to An Bord Pleanála for planning permission or if has to go through Kerry County Council.

SemEuro was formed last year to expand the company's petroleum and oil storage facilities in northern Europe. Its sister company, SemLogistics, owns one of the largest storage and terminal facilities in Britain at Milford Haven in Wales.

In a statement issued last week, Shannon Development said the dis-

cussions with SemEuro are at an early stage and no decision has been taken by Shannon Development in relation to the SemEuro proposal or in relation to the remaining 300 acres on the landbank.

The SemEuro proposal has no connection with or bearing on the Shannon LNG proposal.

In April 2006, Shannon Development granted an option agreement on 281 of its 600 acre landbank to Shannon LNG, an Irish subsidiary of Hess LNG Limited.

The purpose of the option agreement was to allow time

for detailed design and appraisal of their proposal to build a €500 million liquefied natural gas (LNG) receiving terminal on the Shannon Estuary, and for full consultation with the relevant authorities and with the local community.

Last September, Shannon LNG submitted a planning application to An Bord Pleanála and a decision is expected in mid 2008.

The LNG proposal continues to be met with opposition from the local Kilcolgan Residents' Association who also have concerns about the proposed SemEuro project.

Oil storage facility proposals withdrawn

By DÓNAL NOLAN

PRELIMINARY proposals for a massive oil-storage project on the Tarbert/Ballylongford land-bank have been withdrawn from An Bord Pleanála by the company behind the venture.

SemEuro Petroleum withdrew its project having submitted a pre-application file to An Bord Pleanála on March 20 of 2007. Like the

Shannon LNG gas-terminal project the planning application would have been made under the provisions of the Strategic Infrastructure Act, allowing it to be fast-tracked without going through the local authority for planning permission.

Few details of the project were available to the public while it awaited further processing by An Bord Pleanála. However, it is known that the proposal involved 30 large

storage tanks for gasoline, kerosene, gas oil and diesel with a total capacity of 220 million gallons. The site would have had a capacity for a turnover of three to five million tonnes of fuel oil each year.

The submission also shows that NORA — the National Oil Reserves Agency — were looking at the site as well with a view to becoming an anchor tenant and that 100,000 tonnes storage capac-

ity there would be used by the state agency for the strategic storage of national fuel stocks. Under this function, the project would have qualified for the provisions of the Strategic Infrastructure Act, 'an installation for the surface storage of oil or coal, where the storage capacity would exceed 100,000 tonnes'.

The Kerryman understands that NORA are actively another possible site

in the Tarbert area, but this was unconfirmed at the time of going to print.

An Bord Pleanála said that the SemEuro project had never made it as far as full application stage, but that the appeals board had engaged in 'pre-application' talks with the company. They described the talks as being of a preliminary nature only, but said the project had been withdrawn by SemEuro before it could be processed

as a full application.

"The scale of the SemEuro plan is frightening in anyone's book," Safety Before LNG spokesperson Johnny McElligott said. He claimed the 79,000-cubic metre oil storage facility under construction in Foynes currently will provide for 15 per cent of the nation's needs, compared to the SemEuro plant which would have seen 1million cubic-metres provided for.

EU Petitions Committee to hear case against LNG

BY DÓNAL NOLAN

THE EU Petitions Committee are to finally hear a petition against the Ballylongford Landbank gas terminal plans at 4pm on Monday next, March 31.

Johnny McElligott, a spokesperson for the Safety Before LNG group, will be given the opportunity to speak in support of his petition against the gas terminal in the European Parliament in Brussels on Monday.

Tarbert Development Association, which supports plans for the gas terminal, says it hopes the petition will prove unsuccessful.

"We are mindful of the democratic process of course but we hope that it wouldn't be successful because there is simply too much at stake," spokesperson John Fox told *The Kerryman*.

"People are crying out for work in North Kerry, unemployment figures are at an

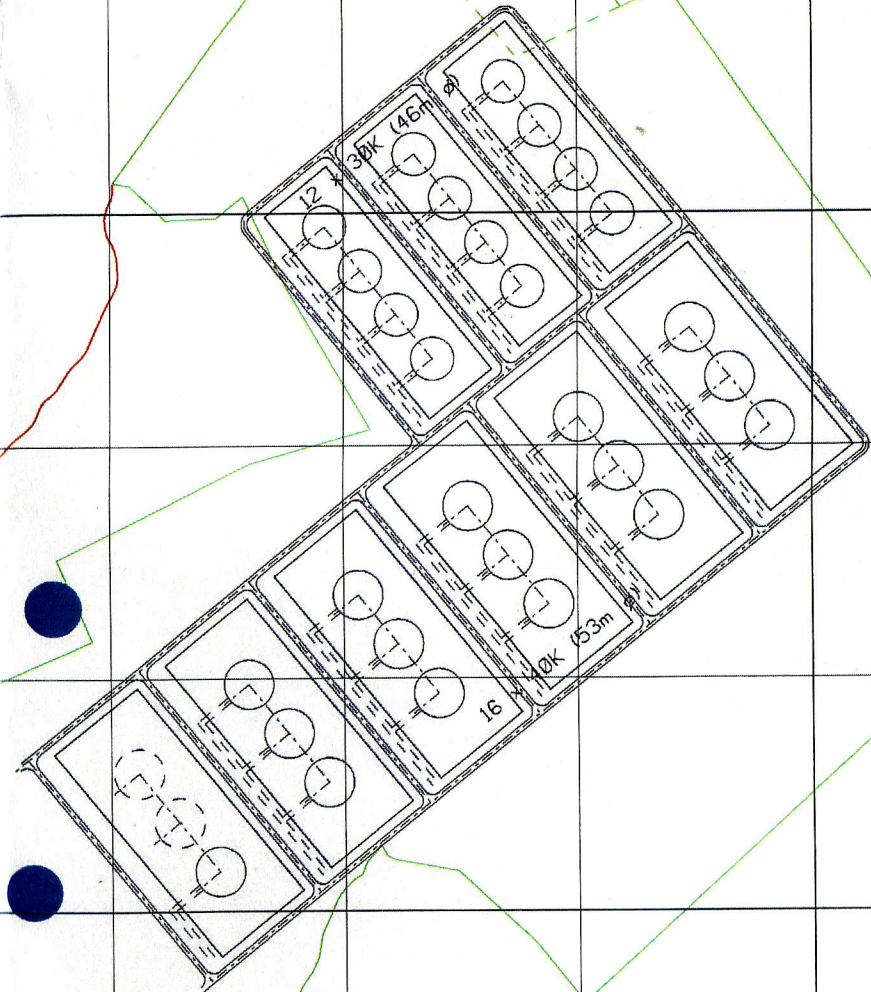
all-time high and we are being presented now, in the guise of the LNG terminal, with an opportunity to weather the recession in North Kerry and West Limerick. We urge people to do what is in the best interests of the community now. We are very conscious of the environment and of our safety and we see ourselves as merely custodians of our place for future generations, no more than that," Mr Fox added.

Mr McElligott, however, said his group has the same considerations at heart. He said opposed to the plans are on four main grounds: No marine LNG risk assessment has been carried out; no emergency plan to protect people living alongside the plant has been laid out; no strategic risk assessment for an energy hub on the southern shore of the estuary has been undertaken; and planning permission was not given in light of the All-Island strategy document for gas storage.

Conceptual Layout ONLY

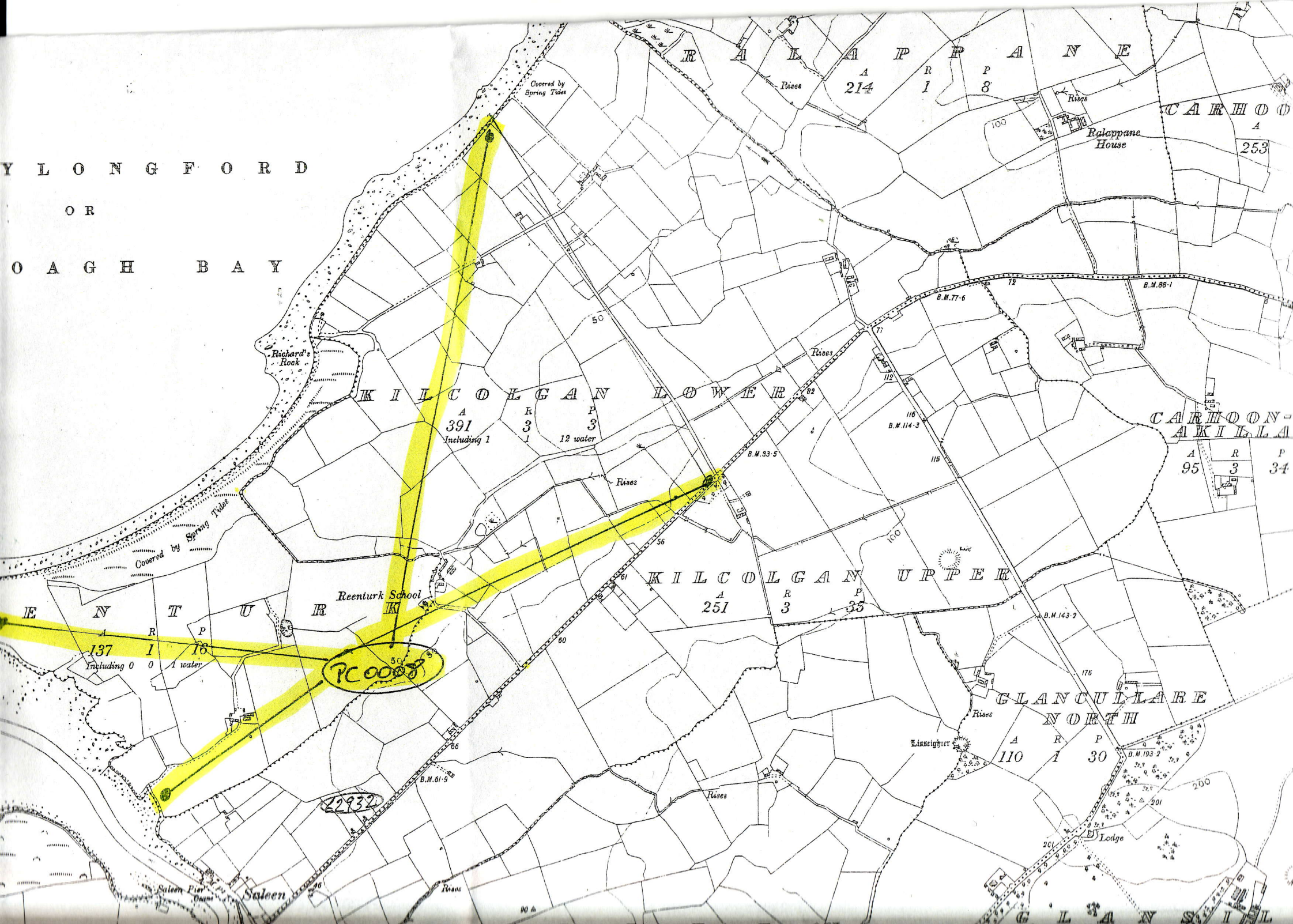


Ballylongford Bay



Y LONG F O R D
O R

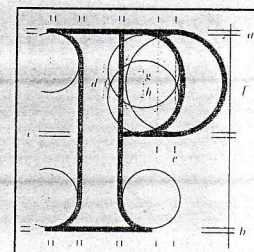
O A G H B A Y



Our Ref: PC0008

The County Manager,
Kerry County Council,
County Buildings,
Rathass,
Tralee,
Co. Kerry.

An Bord Pleanála



22nd March, 2007

**Notification of request for Pre-Application Consultations
Planning and Development (Strategic Infrastructure) Act
2006.**

Re: Petroleum storage installation and related marine facilities at
Ballylongford, Co. Kerry.

Dear Sir/Madam,

Please be advised that the Board has received a request to enter into pre-application consultations in relation to the above-described proposed development. This request has been received in accordance with section 37B of the Planning and Development Act, 2000 as amended.

A copy of the request is enclosed for your information.

If you have any queries please do not hesitate to contact the Board.

Please quote the relevant reference number in any correspondence or telephone contact with the Board.

Yours faithfully

Marcella Doyle
Marcella Doyle
Senior Executive Officer

Registered Post

64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.

Our Ref: PC0008

Your Ref: 07P0145

FBS: 403:01.01.05

Thomas Leonard,
Michael Punch & Partners & Byrne Ó Cléirigh,
30A Westland Square,
Pearse Street,
Dublin 2.

22nd March, 2007

Re: Petroleum storage installation and related marine facilities at Ballylongford,
Co. Kerry.

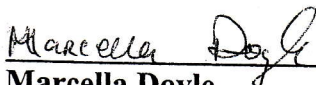
Dear Sir,

An Bord Pleanála has received your request to enter into pre-application consultations under section 37B of the Planning and Development Act, 2000 as amended in respect of the above mentioned proposed development.

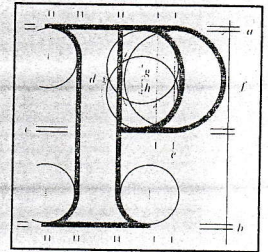
The Board will revert to you in due course in respect of the above matter. If you have any queries in the meantime please contact the undersigned officer of the Board.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence with the Board.

Yours faithfully,


Marcella Doyle
Senior Executive Officer

An Bord Pleanála



64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.



Michael Punch
& Partners
CONSULTING ENGINEERS



For the attention of Mr. Dermot Collins

Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1

AN BORD PLEANÁLA	
TIME _____	BY _____
20 MAR 2007	
LTR-DATED _____	FROM _____
PL _____	

16th March, 2007

Ref: 07P0145
FBS: 403: 01.01.05

Re: Request for Pre Application Consultation Meeting

Dear Mr. Collins,

On behalf of our Client, SemEuro, we request a pre-application consultation meeting with An Bord Pleanála in respect of a petroleum storage installation and related marine facilities in Co. Kerry. It is our opinion that the proposed installation, which is currently at a preliminary design stage, qualifies as an infrastructure development under the Seventh Schedule of the Planning and Development (Strategic Infrastructure) Act 2006.

Name and Address of Applicant

SemEuro,
Waterston,
Milford Haven,
Pembrokeshire,
SA73 1DR,
Wales.

Name and Address of Agent

Michael Punch & Partners and Byrne Ó Cléirigh (MPP-BÓC),
30A Westland Square,
Pearse Street,
Dublin 2.

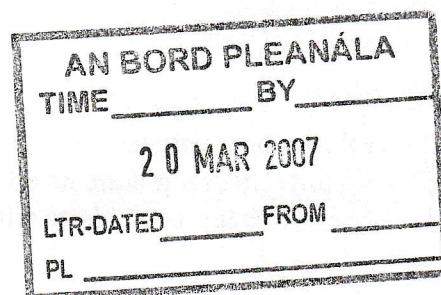
General Description of Development

The proposed development is an oil storage and distribution facility for petroleum products (gasoline, kerosene, gas oil / diesel). The site will comprise 40 to 60 atmospheric storage tanks, ranging in capacity from 5,000 to 100,000 cubic metres. All tanks will be constructed in accordance with the American Petroleum Institute standard (API 650).

Products will be transferred to and from the site via two deep-water jetties capable of berthing ships of up to 150,000 DWT. The site will have a throughput of 3 to 5 million tonnes annually.

Address of Proposed Development

Ballylongford
Co. Kerry



Description of Site and Surroundings

The site comprises approximately three-hundred acres at the townlands of Reenturk and Kilcolgan Lower and is located on the southern shore of the Shannon estuary, approximately 5 km west of Tarbert. Kerry County Council recently prepared a variation to the County Development Plan in which the land will be zoned as Industrial. The purpose of this was to allow consideration of suitable development on these lands. The Development Plan also states that this location is "suitable for development as a premier deepwater port and for major industrial development and employment creation." The proposed site forms the western part of a land bank that has been designated for development by Shannon Development. The eastern part is the site of the proposed Shannon LNG storage facility.

Site Location Plan

Enclosed.

Applicant's Interest in the Land

Shannon Development, the owners of the land, placed an advertisement in the Irish Times on 23rd November 2006 seeking expressions of interest for a development project at the Ballylongford site. Following consideration of the Applicant's submission, Shannon Development has written to the Applicant stating that the Company wishes to engage with SemEuro Ltd. in order to move the project through the process of due diligence.

Class of Development from 7th Schedule

The development qualifies as "An installation for the surface storage of oil or coal, where the storage capacity would exceed 100,000 tonnes" under the 7th Schedule of the Act.

Name of Local Planning Authority

The local planning authority for the area in which the site is located is Kerry County Council.

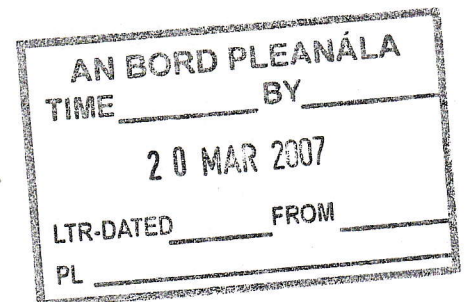
Reason the Development is considered to be Strategic

In addition to being used for importing and exporting shipments of petroleum products, it is intended that the National Oil Reserves Agency (NORA) will be an anchor tenant, with over 100,000 tonnes of the site's capacity being allocated for the strategic storage of petroleum products. ||

Yours sincerely,



Thomas Leonard



For the attention of: Ms. Marcella Doyle

Senior Executive Officer,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

10th May 2007

Ref: 07P0405
FBS: 403: 01.01.05

**Re: Petroleum storage installation and related marine facilities at
Ballylongford, County Kerry (PC0008)**

Dear Ms. Doyle,

We refer to your letter of 11th April 2007 requesting submission of additional information in regard to the proposed development of a petroleum storage installation and related marine facilities at Ballylongford, Co. Kerry. We set-out this additional information below.

Further Details of the Proposed Development

1 million cubic metres equals 219,969,248 gallons → { The site will comprise approximately thirty storage tanks and will have a total capacity in the order of 1,000,000 m³. It will be used for the storage of Class I, II and III petroleum products. The site design will be finalised prior to submitting the pre-consultation documentation to An Bord Pleanála and will be based on the recommendations from best practice as well as on the findings of a hazard identification exercise.

SemEuro has examined the possibility of locating this development in a number of different areas around Ireland. This site has been selected because of the fact that it is located close to deep waters which can facilitate large vessels and it comprises a sufficiently large area of land zoned for industrial use. In addition, the pattern of existing land use and of proposed development in the vicinity of the site is compatible with the development of a petroleum storage installation.

Reasons that Proposed Development should be considered to be Strategic Infrastructure

Arising from membership of both the European Union (EU) and the International Energy Agency (IEA), Ireland has an obligation to maintain 90 day reserves of national strategic stocks (its "compulsory stock obligations", or "CSOs"). Ireland's IEA CSO for 2006 amounted to 2,278,800 tonnes of Crude Oil Equivalent (or 2,110,000 tonnes of refined

30a Westland Square, Pearse Street, Dublin 2, Ireland.

Telephone: + 353 - 1 - 6770733. Facsimile: + 353 - 1 - 6770729. Email: Admin@boc.ie. Web: www.boc.ie

petroleum products) - higher than the EU CSO due to; a) differing methods of calculation, and b) different times for changing the year that the data is based on.

The issue of possibly increasing the CSO from 90 day reserves to 120 day reserves has been raised in recent years. In addition it should be noted that Ireland's CSO in absolute terms will grow with increasing energy consumption.

Ireland meets its CSOs through a combination of:

- (i) Stocks owned and held by the National Oil Reserves Agency (NORA) (either in Ireland or abroad). These stocks accounted for 45 day reserves of the IEA CSO as at 1 March 2007, with 9 day reserves held abroad;
- (ii) Stocks covered by NORA under short-term commercial contracts (either at home or abroad) with an option to purchase, in emergency circumstances, during the period of the contract ("stock tickets"). Stock tickets accounted for 33 day reserves of the IEA CSO as at 1 March 2007, all of which were held abroad;
- (iii) Operational stocks held in Ireland by industry/large consumers; these are stocks held at major ports, the Whitegate refinery and by large oil consumer companies such as the ESB which would be legally and physically amenable to the Minister's control in the event of an emergency under the Fuels Acts 1971 and 1982. Industry stocks that have already been delivered to filling stations etc. are not included. Industry/ Consumer stocks accounted for 40 day reserves of the IEA CSO as at 1 March 2007.

During the past year the issue of available oil storage in Ireland has been raised both by the Irish political parties and by government agencies. Notably:

- In its paper *A Baseline Assessment of Ireland's Oil Dependence Key Policy Considerations*, April 2006, Forfás states that "Ireland has limited oil storage facilities...";
- During the second reading speech on amendments to the National Oil Reserve Agency Bill 2006, the Minister of State at the Department of Enterprise, Trade and Employment commented that "...our ability to continue to attract high levels of foreign direct investment and to provide a supportive environment for Irish industry generally will depend on our capacity to deliver a secure and uninterrupted energy supply....";
- The *Energy White Paper 2007 - "Delivering a Sustainable Energy Future for Ireland"* provides that "we will, in light of the recent National Oil Stockholding Review, rebalance the strategic oil reserve by maximising Ireland's wholly owned stocks of oil and the level of stocks held on the island, subject to increased storage availability and value for money consideration".

As at 1 March 2007 approximately 36% of Ireland's strategic stocks were held abroad. A development of this scale would enable Ireland to reduce the national dependence on overseas storage of strategic reserves.

The proposed project is also a real example of an undertaking which, situated within the Limerick-Shannon Gateway, is consistent with the National Spatial Strategy's objective of counterbalancing the dynamism of the eastern part of Ireland. The only oil storage terminal of significance in the whole of Ireland is the terminal operated by ConocoPhillips at Bantry

Bay, and is used only by NORA and by ConocoPhillips for storing bulk cargoes destined for international markets. There are plans to close down much smaller obsolete or outdated terminals in Galway and in Cork. The long-term, sustainable economic activity inherent in the development, and its potential importance as a strategic hub for supplying refined petroleum products to the inland market, would strengthen the regional development of the Limerick-Shannon gateway in line with the National Spatial Strategy.

Based on the above, we feel that SemEuro's proposal would qualify as strategic infrastructure, firstly under paragraph (a) of Section 37A(2) of the Planning and Development (Strategic Infrastructure) Act 2006 (the Act) as the development would be of strategic economic importance to the State and the region, and also under paragraph (b) of Section 37A(2) of the Act, as the development would contribute substantially to the Limerick-Shannon Gateway element of the National Spatial Strategy.

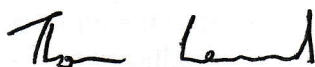
Issues on Which Advice is Sought from An Bord Pleanála

We seek guidance from the Board on the following issues relating to the planning application for the petroleum storage installation and related marine facilities at Ballylongford:

- Confirmation that the proposed development would, if carried out, fall within paragraphs (a) and (b) of Section 37A(2) of the Act;
- Details of the procedures involved in making a planning application and in considering such an application under the Act;
- Details of the plans, particulars or other information which the Board will require for the purposes of consideration of this application;
- Details of the time frames and sequencing to be applied to the application process;
- Details of what considerations, related to proper planning and sustainable development or the environment, may, in the opinion of the Board, have a bearing on its decision in relation to this application;
- Any further guidance under Article 41 of the Planning and Development Regulations, 2006.

Should the Board require any further information or clarification with regard to the above, please contact the undersigned.

Yours sincerely,



Thomas Leonard, Chartered Engineer

PRIVATE & CONFIDENTIAL

PC0008

Written record of pre-application consultation between An Bord Pleanála and prospective applicant (SemEuro) in relation to a proposed petroleum installation and related marine facilities at Ballylongford, County Kerry.

An Bord Pleanála Reference Number: 08.PC0008

Venue: An Bord Pleanála Conference Room

Date: 10th May, 2007

In attendance:

Representing ABP

Mr Des Johnson, Deputy Planning Officer
Mr Kevin Moore, Senior Planning Inspector
Ms Marcella Doyle, Senior Executive Officer
Mr Leonard Mangan, Administrative Assistant

Representing Prospective Applicant SemEuro/Michael Punch & Partners

Mr. Joe Murphy
Mr Kevin Whooley
Mr Tom Leonard
Mr Kieran Parker

The consultation was chaired by Mr Des Johnson, Deputy Planning Officer and commenced at 2.30pm. Details of attendees were exchanged.

Introduction:

The Board advised the prospective applicant that:

The meeting was considered by it to be a preliminary meeting the purpose of which would be for the Board to obtain information from the prospective applicant in respect of the proposed development including details as to why the prospective applicant considers the proposed development to be strategic infrastructure.

The Board would keep a record of the meeting and a copy would be sent to the prospective applicant when finalised.

A record of the meeting would be made available to the public at the end of the pre-application consultation process and a decision would be made by the Board on whether or not the proposed development is strategic infrastructure.

The Board may require the prospective applicant to carry out consultations with the public in advance of any application being submitted.

The Board may require the prospective applicant to submit additional information during the pre-application process, if deemed necessary.

The holding of consultations does not prejudice the Board in any way and cannot be relied upon in the formal planning process or in any legal proceedings.

The prospective applicant submitted a letter to the meeting in response to the Board's request for additional information (appendix A).

The prospective applicant outlined the background of the company and stated that Sem Logistics were not involved in oil exploration or retail sales, but all the stages in between. The proposed development would be an oil storage facility which would source its product from oil refineries in other parts of Europe. Sem Logistics already operate other sites of this type in Europe, one in Wales (Milford Haven) and one in Switzerland (Geneva). The oil stored at the facility would be a refined product, not crude.

Site Identification and Selection

The prospective applicant indicated that the site would be used for class 1, 2 and 3 product storage. Sem Logistics had been evaluating a number of sites around Europe and Ireland was considered a very favourable location because of its geographical position in a European context and its proximity to various shipping routes in the Atlantic Ocean. The development envisaged would be a sea-in, sea-out storage facility terminal. Future inland distribution of oil was a possible consideration but not favoured at this stage. The site is quite sloped in parts and is on the eastern side of a Special Area of Conservation (SAC) site. Kerry County Council had recently made a decision to rezone the site for industrial use and Shannon Development had earmarked the site and surrounding lands over a long period. The site is accessible to deep water and vessels in excess of 150,000 tonnes were operating in ports nearby (Foynes, Tarbert). The prospective applicant stated that the proposed development would be designed to incorporate health and safety issues. A conceptual layout plan was submitted to the meeting (Appendix B).

The Board asked the prospective applicant to outline the need for such a development from a planning point of view.

The prospective applicant stated that the site concerned was a very large site, the only comparable site in Ireland being Bantry Bay. A previous preliminary meeting was held with Kerry County Council who seemed favourable to a project of this kind. It was also stated that the Government supported such a project. In case of a future energy crisis or shortage, Ireland would be at a serious disadvantage without its own strategic stock reserves. Ireland also has an obligation under EU law and various treaties to

build up its own strategic stock reserves in case of just such an emergency scenario.

The site would be seen by the applicant as a potential storage & distribution hub for the West Coast of Ireland. Its product would be sourced principally from refineries in the North Sea and other locations throughout Europe. There would be 3 main movement types of the product:

- Transatlantic shipments
- Local Customers
- Strategic Reserves

Shipment volumes would be determined chiefly by market demand and oil prices. It is expected that between 2 and 4 million tonnes of oil would move in & out of the port annually – this translates to approximately 200 ships per annum. The applicant repeated that at this stage it had no plans to distribute its product inland but admitted this was a possibility if market demands gave rise to such a need.

The Board raised issues under the following headings:

Alternative Considerations

The prospective applicant stated that they had been looking at sites throughout the Island of Ireland and indeed the rest of Europe. It stated the site in Kerry was its absolute preferred location and was by far the most suitable site for this type of project that they had seen. Foynes port can only take smaller types of vessels than the ones required for this project. There was no envisaged need to deepen the berth at the proposed site location. Berthing could also take place some distance offshore, one or two hundred metres if necessary. The prospective applicant had also discussed the project with Foynes Harbour Company who seem to be comfortable with the proposed location of the jetty.

Terms of Consideration of layout & Safety Regulations

The prospective applicant said that consultations have been held with the Health & Safety Authority in relation to the risks associated with operation of a site such as this. Emergency plans for both this and an adjacent LNG site operation could be complementary and compatible. The Milford Haven site operates very safely and successfully. The Health & Safety Authority have also issued guidelines in the event of a 'worst case scenario' type incident which the prospective applicant has familiarised themselves with.

The Board asked the prospective applicant what it thought in terms of the proximity to the adjacent LNG site if both were in operation. The prospective applicant replied that each site would have to do their own

individual hazard analysis. The prospective applicant indicated that the risk assessment was under consideration - there are 2 levels of risk assessment: (1) Fire explosion and (2) Risk of accident. The Board emphasised that it would have to have regard to major accident scenarios according to legislation and that it was an issue to be addressed at a very early stage in the application process.

Marine/Ecological Impact

The prospective applicant claimed to have a lot of experience with similar types of project and foreshore lease application and was very aware of the sensitivity of the local ecology. It said it was aware that dolphins had been sighted during a previous dredging exercise in the Shannon Estuary. So far the prospective applicant had not undertaken any site investigation but had worked in similar projects in the area and any site preparation works would be designed to minimise the marine impact. A jetty would be preferred for construction and pipelines could be sub-sea if required. The sub-structure of the proposed development would likely be suspended and the super structure would be concrete. Most construction materials would be brought in by barge.

The prospective applicant agreed that any hydrogeological exploration would be carried out bearing in mind the sensitivities of the local ecology. No geotechnical investigations had been carried out thus far. The prospective applicant indicated that the marine/ecological impact would be addressed in the EIS. The Board also pointed out the importance of taking into consideration the Habitats Directive, Article 6. The Board stressed again that the onus was on the prospective applicant to demonstrate that there was significant scientific evidence that the project would not have a detrimental effect on the integrity of an SAC and SPA and this should be addressed in any subsequent application to the Board.

Emissions & Energy Requirements

The prospective applicant stated that there were unlikely to be a high level of emissions from the site as it was not a production facility. There would obviously be some noise during the construction phase but as the surrounding area had previously been zoned for industrial purposes, there were few if any inhabited homes nearby which would be adversely affected.

There would not be any special requirements in terms of energy needs and grid accessibility. Their main requirements would be to operate pumps and keep an IT network operational.

Links to National Grid/Electricity Demand

The prospective applicant indicated that the local supply of electricity would be sufficient for the proposal to operate and that there would be no demand for a higher grade of service.

Archaeological Considerations

The prospective applicant indicated that there have not been any archaeological site investigations carried out as yet but they are aware of certain flagged archaeological sites from previous discoveries and have had these sites marked on their preliminary site drawings.

Road Network

The Board pointed out that if the proposed development is to be a road based operation; this would need careful consideration. Access to the rail network may be an option and this matter may need to be addressed.

Consultations to date

The prospective applicant stated that no formal consultations had taken place, however a meeting had taken place with Kerry County Council. The prospective applicant understood that there would be a requirement to enter into extensive consultations with local residents and the public at large.

The Board asked the prospective applicant whether any consideration had been given in sharing out the resources or workload in terms of the construction and operation of the site with the prospective applicant for the adjacent Shannon LNG site. The prospective applicant stated that in an ideal world this would be a workable arrangement but that in practice it would be wary of inviting what would effectively be a partner on a project of such scale and importance and could not risk missing important deadlines or encountering stressful financial issues because of the under-preparedness of a separate organisation over which it would not be able to exercise control. For this reason it believed that it was necessary to retain complete separate ownership of the projects.

Again the prospective applicant stressed that its intention would be that all product movements would be done by barge but that in the event that road distribution did become necessary, the local road network would be taken into consideration.

The Board will await a response from the prospective applicant in connection with the issues raised above before any further progress could be made in the case.

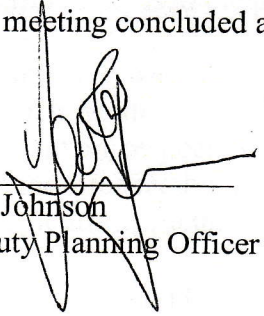
The Board outlined the next stage of the process and advised the prospective applicant of the following:

- The Board will make a decision as to whether or not the proposed development is deemed to come under the category of strategic infrastructure.
- While the process was somewhat informal until a planning application was lodged, the level of detail so far provided indicated that the proposed development was at a very preliminary, conceptual stage and that the next stage of the process should include a greater level of detail. A request for a follow-up meeting should come from the prospective applicant.
- The Board would be engaging a different planning inspector to make a report on any application in due course.

The Board gave a summary overview of the main items covered at the meeting as follows:

Introductions
 Oil industry background
 Need for proposed development
 Site Rezoning
 Site identification & selection
 Alternative considerations
 Local Road Network
 Marine/Ecological Impact
 Construction methods
 Berthing arrangements
 Energy Requirements
 Security
 Consultations to date

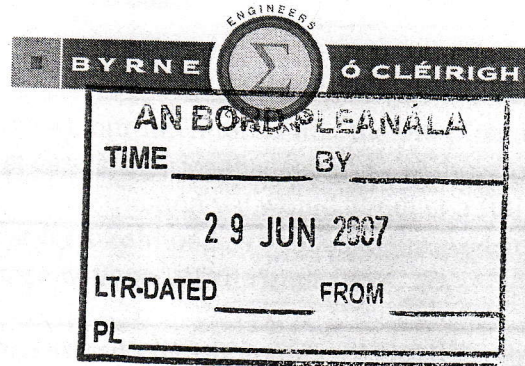
The meeting concluded at 4.25pm.


 Des Johnson
 Deputy Planning Officer

14 June 2007



Michael Punch
& Partners
CONSULTING ENGINEERS



For the attention of: Ms. Nichola Meehan

Executive Officer
An Bord Pleanála
64 Marlborough Street
Dublin 1

Ref: 07P0558
FBS: 403: 01.01.05

**Re: PC 08.PC0008 Petroleum Storage Installation and related Marine
Facilities at Ballylongford, Co. Kerry**

Dear Ms. Meehan,

We refer to the notes of meeting with ABP on 10th May 2007. We wish to clarify a few of the points raised in these notes, for the record.

The company is referred to as Sem Logistics in the notes but should be referred to as SemEuro Limited (or SemEuro). SemEuro was founded by SemGroup L.P. in 2005, and owns two distinct but related businesses - SemLogistics Milford Haven Limited, which operates the storage facility at Milford Haven, Wales referred to in the notes, and SemEuro Supply Limited, a petroleum trading and marketing company based in Geneva, Switzerland.

In relation to paragraph 5 on page 2, we would like to clarify that neither SemEuro nor any subsidiary is involved in oil exploration, refining or retail sales. In addition, neither SemEuro nor any subsidiary operates a petroleum storage facility in Geneva. As stated above, SemEuro Supply Limited does, however, have a trading office in Geneva.

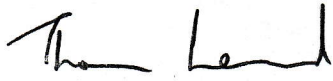
It would not be true to state that the Government supports this project (page 2) - SemEuro has not yet spoken with any level of government; however, SemEuro has spoken with the National Oil Reserves Agency (NORA). Ireland's membership of both the European Union and the International Energy Agency oblige Ireland to maintain 90 day reserves of national strategic stocks. A large portion of these stocks is currently held abroad, some of which as stock tickets, and there is a desire at a political level and also within NORA to maximise the level of stocks held here in Ireland. You will recall that during its discussions with our client NORA understandably stated that it could not give its support to the project, and indeed could not support any project of this nature, but at the appropriate time SemEuro is hopeful that NORA will agree to become a tenant.

In terms of the two levels of risk assessment (page 4), our intention is that the pre-planning assessment will focus on the impacts of the worst case scenarios that can arise at the site and assess their potential impacts off site. Prior to construction we would conduct a fully comprehensive risk assessment that would look at the likelihood as well as the impacts of all major accidents that could arise (including those with no off site impacts).

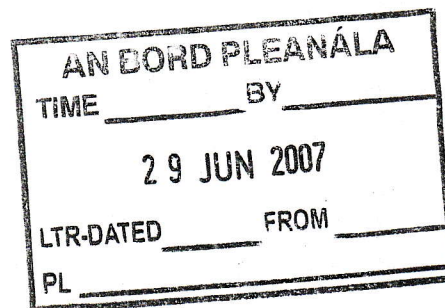
In relation to the electricity supply (page 5), to restate our client's comments SemEuro has not yet assessed the capacity of the local supply although it does not expect the electrical requirements of the site to be significant. Electricity is mainly required for pumps and office electronics and SemEuro proposes to calculate the expected power requirements for this development and provide such requirements to ABP prior to the next consultation meeting.

In relation to paragraph 6 on page 5, SemEuro plan that in addition to the local movement of product by barge, transatlantic movement will require the use of large vessels.

Yours sincerely,



Thomas Leonard



Our Ref: PC 08.PC0008
Your Ref: 07P0558

K. Moore

Thomas Leonard
Michael Punch & Partners &
Byrne Ó Cleirigh,
30a Westland Square,
Pearse Street,
Dublin 2.

10th July 2007

Re: Petroleum storage installation and related marine facilities at
Ballylongford, Co. Kerry.

Dear Sir,

An Bord Pleanála has received your recent letter in relation to the above mentioned case. The contents of your letter have been noted.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

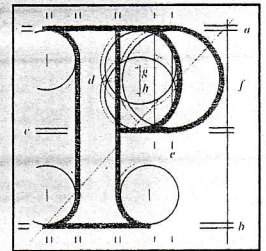
Yours faithfully,



Siobhan White
Executive Officer.

ch08.ltr

An Bord Pleanála



64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.

List of Attendees

Project:	(Ref. ABP PC0008)
Date:	10 th May, 2007
Venue:	Conference Room, An Bord Pleanála, 64 Marlborough Street, Dublin 1.
Meeting:	Pre-Planning Consultation

Name	Company	Title	Status (vis a vis the Proposed Development)
Kieren Parker	SemEuro	Business Development Manager	Applicant
Tom Leonard Chartered Engineer	Byrne Ó Cléirigh	Associate Partner	Consultant to SemEuro on proposed Ballylongford Development
Kevin Whooley Chartered Engineer	Michael Punch and Partners	Regional Director	Consultant to SemEuro on proposed Ballylongford Development
Joseph Murphy Chartered Engineer	Michael Punch and Partners	Director	Consultant to SemEuro on proposed Ballylongford Development



Michael Punch
& Partners
CONSULTING ENGINEERS



AN BORD PLEANÁLA	
TIME _____	BY _____
19 NOV 2008	
LTR-DATED _____	FROM _____
PL _____	

For the attention of Mr. Stephen Sutton

Administrative Assistant
An Bord Pleanála,
64 Marlborough Street,
DUBLIN 1.

Date: 17th November, 2008
Ref: 08P1086
FBS: 403: 01.01.05

**Re: Petroleum Storage Installation and related Marine Facilities at
Ballylongford, Co. Kerry**

Dear Mr. Sutton,

We apologise for the delay in responding to your letter of 16th October. Our client, SemEuro Ltd, has not been able to reach an agreement with Shannon Development and so is not pursuing this option at present.

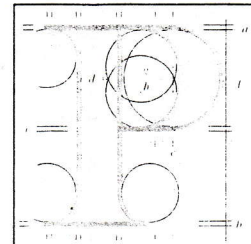
Yours sincerely,

Thomas Leonard

Our Ref: 08.PC0008

Your Ref: 07P0145

An Bord Pleanála



Michael Punch & Partners &
Byrne Ó Cleirigh,
30a Westland Square,
Pearse Street,
Dublin 2.

16th October 2008

Re: Petroleum storage installation and related marine facilities at
Ballylongford, Co. Kerry.

Dear Sirs,

I have been asked by An Bord Pleanála to refer to the above-mentioned case.

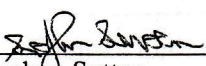
Having regard to the period of time since you last corresponded with the Board, you are hereby requested to advise of the current position with regard to the said case.

Any submission in response to this letter should be received no later than **5.30 p.m. on the 6th of November, 2008.**

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,


Stephen Sutton
Administrative Assistant

64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.

Our Ref: 08.PC0008

Your Ref: 07P0145

Michael Punch & Partners &
Byrne Ó Cleirigh,
30a Westland Square,
Pearse Street,
Dublin 2.

9th December 2008

Re: Petroleum storage installation and related marine facilities at
Ballylongford, Co. Kerry.

Dear Sirs,

An Bord Pleanála has received your recent letter and notes that your request for pre-application consultations in relation to the above-mentioned proposed development has now been withdrawn.

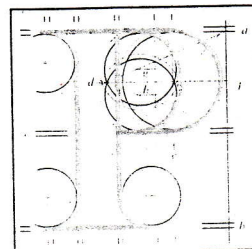
If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

Kieran Somers
Kieran Somers
Executive Officer

An Bord Pleanála



64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.

Our Ref: 08.PC0008

Your Ref:

County Manager
Kerry County Council
County Buildings
Rathass
Tralee
Co. Kerry

9th December 2008

Re: Petroleum storage installation and related marine facilities at
Ballylongford, Co. Kerry.

Dear Sir/Madam,

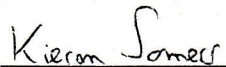
An Bord Pleanála refers to the above-mentioned proposed development.

Please be advised that the request for pre-application consultations in relation to this case has been withdrawn.

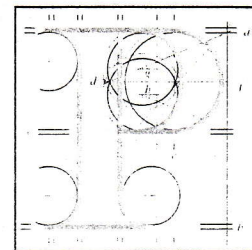
If you have any queries in relation to the matter please contact the undersigned officer of the Board.

Please quote the above-mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,


Kieran Somers
Executive Officer

An Bord Pleanála



64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.

Appendix Petition 6

Planning and Development Act 2000, Section 5 referral on whether changes to the Shannon LNG project at Tarbert, County Kerry granted permission under PA0002 constitute work on the original project which is or is not development and is or is not exempted development.

Our Ref: RL 08.RL2607
P.A.Reg.Ref: GA 00003
Your Ref:

J. McElligott & R. O'Mahoney
Safety Before LNG,
Island View,
Convent Street,
Listowel,
Co. Kerry

Date:

17 FEB 2009

Referral Re: Whether works associated with Shannon LNG project
(PL08.GA003) is or is not development or is or is not exempted
development.
Ralappane, Co. Kerry.

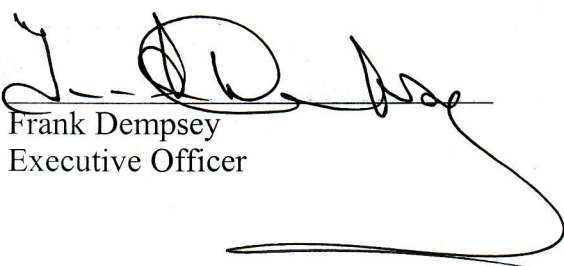
Dear Sirs,

An Bord Pleanála has received your letter in which you intended to make a
referral under section 5 of the Planning and Development Acts 2000 to 2007.

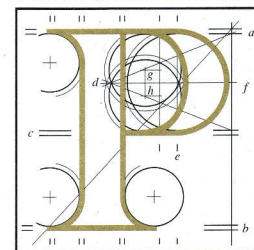
Having reviewed the submitted documentation the Board has decided that the
referral is invalid as no question has been raised that comes within the scope of
section 5 of the Planning and Development Acts 2000 to 2007.

The documents lodged by you and a cheque for the money lodged are enclosed.

Yours faithfully,


Frank Dempsey
Executive Officer

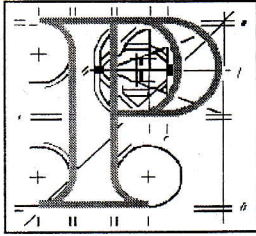
An Bord Pleanála



64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.



Board Direction

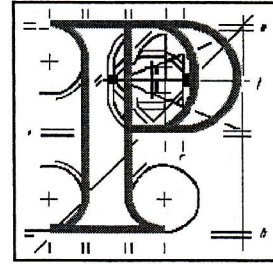
Ref: 08.RL2607

The submissions on this file and the file memoranda were considered at a Board meeting held on 16th February 2009.

The Board decided, in accordance with the recommendation of the ADP, that the referral is invalid as no question has been raised that comes within the scope of Section 5 of the Act. Fee to be returned.

Board Member: Brian Hunt Date: 17th February 2009.
Brian Hunt

Memorandum



To:- Board

Re:- File ref.08.RL2607

Subject:- Validity of referral

This file involves the referral, by the “Safety before LNG” group, c/o J. McElligott and R O’Mahony, of the decision (or purported non-decision) of Kerry County Council, under Section 5 of the Act, dated 16th December 2008, in respect of their submission to the Council of 27th/28th November 2008.

The submission related to the question as to whether or not changes to the Shannon LNG project (permitted by the Bord under file ref PA0003), as a result of the current proposal for a gas pipeline (file ref GA0003) would represent a material change to the original LNG project as to constitute development that is not exempted development.

Background

The Council’s decision was that the function of a Section 5 reference is to clarify whether particular works or use constitute development or exempted development, and that, as the works involved were the subject of 2 planning applications to the Board under the 2006 Act, the “determination under Section 5 was “not relevant and inappropriate in this instance”.

In their referral to the Board, the referrers have argued that Kerry County Council was wrong to have rejected their Section 5 request, and consider that the Council “seems to be of the opinion that since planning permission for a pipeline has now been applied for separately then this does not represent any material change in the original permission given for an LNG terminal, which did not include the pipeline”. The referrers ask the Board to determine the matter. They submit that the provision of the proposed pipeline involves material changes to the permitted LNG terminal, and request a declaration as to whether or not such changes to the Terminal project are or are not development and are or are not exempted development.

The referrers’ submission, which is quite lengthy and includes a number of appendices, is somewhat opaque, and refers to a number of other matters, including an alleged lack of safety assessment of the overall project, and lack of full and comprehensive assessment of the environmental impact of the overall project, due to

the separation of the different aspects of regulatory regime to differing agencies in Ireland. They also criticise the conduct of the oral hearing on the pipeline case, alleging that witnesses were not permitted to ask questions and raise issues on safety matters, and on the LNG terminal.

It would appear to me, from a careful examination of the submitted documentation, that the essential argument put forward by the referrers, under Section 5, is that, by having two separate planning applications, the applicants for the development (Shannon LNG Ltd) have engaged in "project splitting", by separating the two components of what is an overall scheme. Their request to the Board is summarised as follows:-

"We are of the opinion that the current GA0003 application before the Board should be for a pipeline and an LNG terminal. We are essentially requesting a declaration as per our original request to the Council, because it represents a MATERIAL CHANGE to the original project and is contrary to the EIA Directive".

Assessment

I have read the entire submission, and have also checked the content of the two planning applications, for respectively the LNG Terminal and the Pipeline.

I note that the Terminal proposal, for which permission has already been granted by the Board, included a gas metering building, and "all associated on-site infrastructure required to serve the proposed development" (see copy of public notice from that file, attached).

I note that the pipeline proposal, while it shows the proposed pipeline commencing/terminating in this gas metering building, indicates that the gas metering building is part of the Terminal application, and is shown on the submitted drawings for that application "for illustrative purposes only" (see copy of page 29 from the EIS).

Hence it is evident to me that there are no actual works envisaged in the overall combined project that were not included or contemplated in either of the two planning applications. In layman's terms, in the first part of the process, the Terminal, the gas is offloaded into the terminal site and stored, and directed to a metering building. In the latter, it is taken from this metering building, and transmitted into the grid network by means of the pipeline.

For this reason, there is no actual new development proposed at the Terminal site as a result of the pipeline proposal, and therefore there are no changes, material or otherwise, of the Terminal development, resulting from the provision of the pipeline.

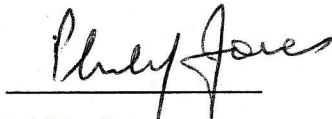
All of the proposed works are, of course, development and are not exempted development, but they are the subject of valid planning applications. Those in the Terminal are now, as a result of the Board's permission, permitted development, and if the Board grants permission for the pipeline proposal, those works would also be permitted development. However, that is not what was queried by the referrers.

I am also satisfied that the "project splitting" mentioned by the referrers is not within the ambit of Section 5, which is designed to determine whether or not particular works or changes of use are or are not development and are or are not exempted development.

I consider that all of the other arguments put forward in the lengthy submission are not within the ambit of Section 5, and many would appear to be legal in nature, and hence a matter for the courts.

Recommendation

I therefore conclude that there is nothing in the referrers' submission that raises any question that falls to be determined within the ambit of Section 5 of the Act. I would therefore recommend that the Board should invalidate the referral, as the Planning Authority had done, and return the fee.

A handwritten signature in dark ink, appearing to read "Philip Jones", written over a horizontal line.

Philip Jones

Assistant Director of Planning

11th February 2009

LNG
Terminal
V. 1.1

Planning and Development Acts 2000 to 2006

NOTICE OF DIRECT PLANNING APPLICATION TO AN BORD PLEANÁLA IN RESPECT OF A STRATEGIC INFRASTRUCTURE DEVELOPMENT

In accordance with Section 37E of the Planning and Development Act 2000 as amended by the Planning and Development (Strategic Infrastructure) Act 2006 Shannon LNG Limited gives notice of its intention to make an application for permission to An Bord Pleanála in relation to the following proposed development:

The proposed development is a liquefied natural gas (LNG) regasification terminal, located on the southern shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, Co. Kerry, comprising a new marine jetty with mooring and breasting dolphins and vehicle access, gangway tower, equipment to unload LNG from ships, monitor house, seawater intake and outlet, seawater pump house and screening equipment, jetty gate house, pipe racks and pipe tracks with LNG pipelines and seawater pipelines, plate and frame heat exchangers, 4 no. LNG storage tanks (each approximately 200,000m³ in volume) with ancillary platforms, pumping equipment and vents, LNG vaporisation process equipment including compressor house, boil-off gas condensers, high pressure send-out pumps, shell and tube heat exchangers, monoethylene glycol (MEG) storage tank, MEG circulation pumps, MEG transfer pumps, MEG expansion tank, local instrument equipment room, heater building, main control room, LNG impounding basins, main electricity substation, process area electricity substation, utility area electricity substation, nitrogen generation plant comprising air purification equipment, evaporators, compressors, cold boxes, nitrogen trim heater, liquid nitrogen vaporisers, liquid nitrogen storage vessels, instrument air system comprising air receivers, air compressors, compressor aftercoolers and air driers, ancillary equipment and facilities, gas metering building, workshop and warehouse building, external storage areas, guard house, firewater pump house, materials jetty, administration building, car parking, demolition of existing derelict dwellings and farm buildings, site roads, earthworks, underground and above-ground drainage including outfall to estuary, water supply services, utility systems, embankment and pond, construction laydown areas, operational laydown areas, security fence, landscaping, works to existing public road to accommodate two new entrances to the development, and all associated on-site infrastructure required to serve the proposed development.

An Environmental Impact Statement has been prepared in relation to the application.

The proposed development relates to the provision of an establishment to which the Major Accident Directive applies.

The proposed development comprises or is for the purposes of an activity requiring an Integrated Pollution Prevention and Control (IPPC) Licence.

The planning application and the Environmental Impact Statement prepared in connection with this application may be inspected free of charge or purchased on payment of a specified fee during public office opening hours for a period of seven weeks commencing on 28 September 2007 at the following locations:

The Offices of An Bord Pleanála 64 Marlborough Street, Dublin 1.

The Offices of the relevant Planning Authority: Kerry County Council, County Buildings, Rathass, Tralee

The application may also be viewed/downloaded on the following website:

<http://www.shannonlngplanning.ie>

Submissions or observations may be made only to An Bord Pleanála ('the Board') 64 Marlborough Street, Dublin 1 during the above-mentioned period of seven weeks relating to -

- (i) the implications of the proposed development for proper planning and sustainable development, and
- (ii) the likely effects on the environment of the proposed development, if carried out.

Any submissions/observations must be received by the Board not later than 5.30p.m. on the 16 November 2007 and must include the following information:

- (i) the name of the person making the submission or observation, the name of the person acting on his or her behalf, if any, and the address to which any correspondence relating to the application should be sent,
- (ii) the subject matter of the submission or observation, and
- (iii) the reasons, considerations and arguments on which the submission or observation is based in full.

Any submissions or observations which do not comply with the above requirements cannot be considered by the Board.

The Board may in respect of an application for permission decide to -

- (a) (i) grant the permission/approval, or
- (ii) make such modifications to the proposed development as it specifies in its decision and grant permission/approval in respect of the proposed development as so modified, or
- (iii) grant permission/approval in respect of part of the proposed development (with or without specified modifications of it of the foregoing kind), and any of the above decisions may be subject to or without conditions,

or

- (b) refuse to grant the permission/approval.

Any enquiries relating to the application process should be directed to the Strategic Infrastructure Section of An Bord Pleanála (Tel. 01-8588100)

Pig-Trap (bi-directional)

The function of the pig-trap (and associated equipment) is to launch (or retrieve) a 'pig' which is propelled through the pipeline. Pigs are used for two purposes: initially during the gassing-up/commissioning to clean and dewater the pipeline, and later, when the pipeline is operational, an intelligent pig is sent through the pipeline to monitor pipeline conditions such as the wall thickness of the pipeline. Refer to **Section 3.5.3** for a description of the 'pigging' process.

Meters

The metering facilities will be part of the permitted Shannon LNG Terminal development. They are described in this EIS for illustrative purposes only. The proposed Shannon LNG meters will be of the multi-path ultrasonic type. The meters may be housed in a building or structure of a suitable design.

3.7.2 Foynes AGI

The Foynes AGI is the interface between the Shannon Pipeline and the national gas network. The Foynes AGI will facilitate the Shannon Pipeline in metering and controlling the gas flow and the transfer of custody of gas to Bord Gáis, and will allow Bord Gáis to receive the gas into the national gas network. There are two parts to the Foynes AGI, one for the Shannon Pipeline one for the Bord Gáis pipeline system. The facilities at Foynes AGI are described below under two headings: the Shannon Pipeline facilities, and Bord Gáis facilities.

3.7.2.1 The Shannon Pipeline Facilities

The Shannon Pipeline part of the AGI will contain the following elements:

Pig-Trap (bi-directional)

Pig-Traps are described in detail in **Section 3.7.1**.

Meters

The proposed Shannon Pipeline meters are described in **Section 3.7.1**. This meter at the Foynes AGI will be the official meter for the natural gas custody transfer.

Access, Security and Maintenance

The operational equipment will be enclosed within a security fence, and landscape planting will be undertaken to screen the installation. A closed-circuit television system will be installed in the AGI, and will be monitored by Shannon LNG. The AGI will normally be unmanned; however it will be visited regularly by maintenance personnel. Normal maintenance will require vehicular access, and access will be gained from the local road at Leahys townland.

3.7.2.2 Bord Gáis Facilities

The configuration of the Bord Gáis part of the AGI is based on information provided by Bord Gáis. It will be typical of existing Bord Gáis AGIs on the national gas network. It contains filters, meters, heaters, pressure regulators and a flow control system. The layout, sizing and extent of the Bord Gáis buildings and equipment presented in this EIS are typical for an installation of this size and function. Changes are expected based on detailed design to be conducted later, although these changes are not expected to materially increase the impact of the facility on the environment or residents in the area.

Our Ref: RL 08.RL2607
P.A.Reg.Ref: GA 00003
Your Ref:

J. McElligott & R. O'Mahoney
Safety Before LNG,
Island View,
Convent Street,
Listowel,
Co. Kerry

Date:

17 FEB 2009

Referral Re: Whether works associated with Shannon LNG project
(PL08.GA003) is or is not development or is or is not exempted
development.
Ralappane, Co. Kerry.

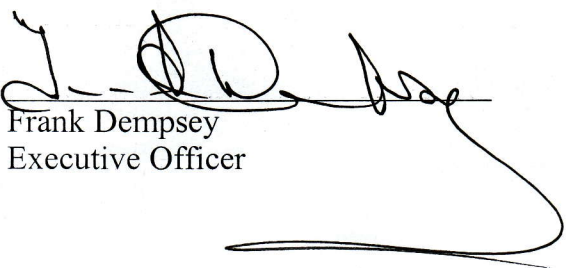
Dear Sirs,

An Bord Pleanála has received your letter in which you intended to make a
referral under section 5 of the Planning and Development Acts 2000 to 2007.

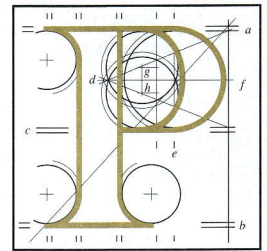
Having reviewed the submitted documentation the Board has decided that the
referral is invalid as no question has been raised that comes within the scope of
section 5 of the Planning and Development Acts 2000 to 2007.

The documents lodged by you and a cheque for the money lodged are enclosed.

Yours faithfully,


Frank Dempsey
Executive Officer

An Bord Pleanála

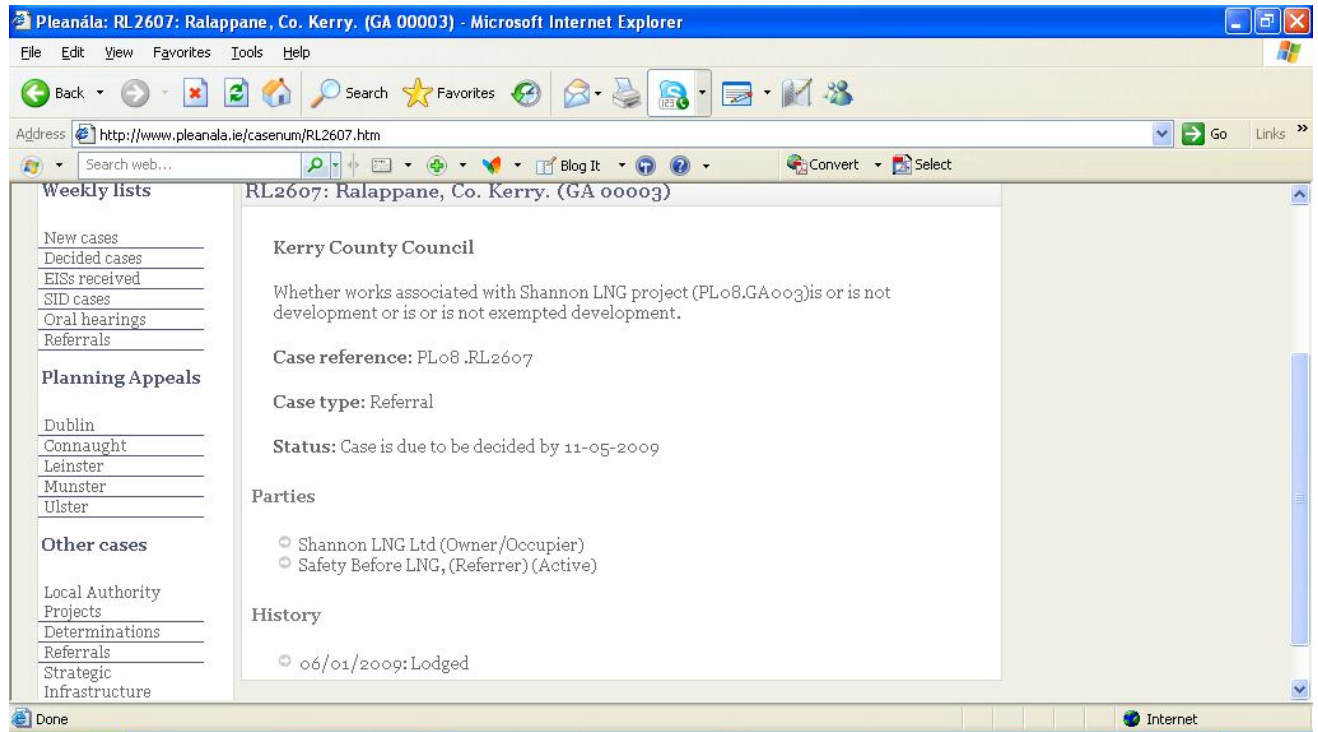


64 Sráid Maoilbhríde,
Baile Átha Cliath 1.

Tel: (01) 858 8100
LoCall: 1890 275 175
Fax: (01) 872 2684
Web: <http://www.pleanala.ie>
email: bord@pleanala.ie

64 Marlborough Street,
Dublin 1.

Section 5 referral to An Bord Pleanála on project splitting of Shannon LNG project with a decision due by May 11th 2009:





Safety Before LNG
Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

Safety before LNG

Protecting the Shannon Estuary and its people

5 January 2009

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Re: Section 5 referral on whether changes to the Shannon LNG project at Tarbert, County Kerry granted permission under PA0002 constitute work on the original project which is or is not development and is or is not exempted development.

Dear Sir,

We are hereby referring to An Bord Pleanála the Planning and Development Act 2000, section 5 ruling by Kerry County Council received by us on December 16th 2008.

The 'Safety Before LNG' group represents people from both Kilcolgan and the wider community and is advocating responsible strategic siting of LNG terminals in areas which do not put people's health and safety in danger.

Please find enclosed a cheque for €220, the required fee for this referral.

We are also attaching the following documentation:

- I) Original Section 5 Submission to Kerry County Council
- II) Section 5 Appendix 1. Signed Submission by MEP Ms. Kathy Sinnott.
- III) Section 5 Appendix 2. Signed Submission by 'Friends of the Irish Environment'.
- IV) Section 5 Appendix 3. Shannon LNG Information booklet, Issue 5 November 2008.
- V) Section 5 Kealy and Pierce Brosnan Signed Submission
- VI) Section 5 Susan Jordan of the California Coastal Protection Network Signed Submission
- VII) Section 5 Pobal Chill Chomain, County Mayo, submission
- VIII) Section 5 Steve Goldthorpe, Energy Analyst, submission
- IX) Section 5 reply from Kerry County Council of December 16th 2008.

Kerry County Council, in its reply, seems to be of the opinion that since planning permission for a pipeline has now been applied for separately then this does not represent any material change to the original permission given for an LNG terminal, which did NOT include the pipeline.

However, as highlighted by us in our section 5 request to Kerry County Council, we are seeking a declaration under Section 5 (1) of the Planning and Development Act 2000 on whether changes to the Shannon LNG terminal project constitute work on the original project which is or is not development and is or is not exempted development.

We are of the opinion that the current GA0003 application before the Board should be for a pipeline AND an LNG terminal. We are essentially requesting a declaration on whether or not “project splitting” is development which is not exempt as per our original request to the Council, because it represents a MATERIAL CHANGE to the original project and is contrary to the EIA Directive.

We are especially concerned that Kerry County Council can deem our referral to it as “not relevant and inappropriate” and would hope that An Bord Pleanála will, at the very least, apply prudence in examining the issues we have raised here.

We have serious concerns about the cumulative impacts of this LNG project which have not been assessed to date. The largest LNG tankers in the world will be coming to store LNG in the most sizeable hazard in Ireland in the world’s largest LNG storage tanks. This is effectively a third-world project in a first-world country.

1. There has been NO marine risk assessment of an LNG spill on water. This assessment should be comparative.
2. There has been No marine risks assessment of an LNG accident from ships travelling in the Shannon Estuary. The Health & Safety Authority confirmed at the recent An Bord Pleanála oral hearing in Listowel on December 1st 2008 into the pipeline that its remit stopped at the shoreline and the planning advice it gave to An Bord Pleanála did not include any risks on water nor any deliberate acts such as terrorism or sabotage.
3. No consideration has been given to the consequences of an LNG accident or the consideration of an emergency plan. No account has been taken of how and if an emergency plan can even be implemented for the given site and project.
4. It is our contention that the interactions between the decision-making bodies (such as the Foreshore Section, An Bord Pleanála, the EPA, the CER and the HSA) are illegally totally inadequate and currently almost non-existent, cannot be assessed and that the procedural requirements of the EIA Directive are not being respected. This is compounded by the level of project-splitting of this development. An infringement notice has been issued by the EU Commission against Ireland for the lack of interaction between the EPA and An Bord Pleanála. There is no integrated assessment of this project in our opinion.
5. Following the unexpected quick end to the An Bord Pleanála oral hearing into the LNG pipeline held at Listowel on December 1st and 2nd 2008, the Safety Before LNG group is calling for an investigation into what it now perceives as serious irregularities

in the planning process for the Shannon LNG project.

- a. The group's technical expert, Peter North, was not allowed to cross-examine the developer at the oral hearing on the QRA the developer used to calculate the risk of the project, because the inspector, Anne Marie O'Connor noted that this document had not been submitted to the planning authority and would have to be assessed by the CER. This brought a rapid close to the oral hearing because our hands were effectively tied.
- b. Peter North said that the risk could be 1000 times more than that stated by Leon Baudoin for the developer, who had himself referred to the same QRA at the same oral hearing when describing the risks to individuals as "insignificant"
- c. The QRA had been supplied to Safety Before LNG by the Robert O'Rourke of the CER on November 27th 2008 at 16:40 who stated "The Commission is currently reviewing the Section 39A application from Shannon LNG and we will be in contact with you in due course in relation to your submission. In the meantime we have passed on your submission to Shannon LNG and have asked them to provide a response. For your information, please find attached a Quantative Risk Assessment undertaken by Shannon LNG, this document is also available on Shannon LNG's website."
- d. In its initial submission the CER said it would not have an Oral hearing if An Bord Pleanála had one, but this was retracted by Denis Cagney of the CER at day 1 of the oral hearing when we indicated that we would be cross-examining the CER.
- e. Patrick Conneely, senior inspector of the Health and Safety Authority, admitted at the hearing on day 1 that the H S A advice to An Bord Pleanála stopped at the shoreline, did not include any risks from LNG tankers moving in the estuary, did not include any LNG spill on water and did not include risks from deliberate acts such as sabotage or terrorism.
- f. When questioned by Peter North, Denis Cagney of the CER admitted that it did not have the ability in house to assess the risks from the LNG project.
- g. The Safety Before LNG group was also not allowed to submit evidence from a New Zealand-based energy analyst Steve Goldthorpe who questioned the entire logic of the LNG project. He stated that "the entire supply of natural gas for power generation in Ireland in 2007 would correspond to 38 shiploads of LNG per year". As the developer anticipates 125 ships a year then it is now evident that the LNG is for eventual export and that lower Irish corporation tax would be a motivating factor. This cannot therefore be said to be in Ireland's national interest.
- h. We are of the opinion that Shannon LNG provided information to the planning authorities which was misleading, if not downright false - an offence under the planning laws.
 - i. they claimed that "spillages of LNG is likely to evaporate quickly on discharge" which is not true.
 - ii. the risks from the pipeline could be up to 1000 times more risky than submitted by Leon Baudoin.

To repeat ourselves, the proposed LNG terminal will be the most sizeable hazard in Ireland, the impacts of which will be felt by many different interest groups beyond the local area. .

The 'Safety Before LNG' group are now accusing the statutory bodies of cutting corners in the assessment of the most sizeable hazard in Ireland because all the statutory bodies have still refused to undertake or demand an LNG Marine Risk Assessment dealing with the consequences of an LNG spill on water and do not have the expertise inhouse to deal with the overall safety issues of the LNG project

6. Shannon LNG has delayed the construction date of its proposed Liquefied Natural Gas regasification terminal at Tarbert County Kerry, according to industrial news agencies in the US. Texas-based Industrial Info Resources reported on December 23rd 2008 that Shannon LNG, a wholly-owned subsidiary of Hess LNG, has delayed the construction date but remains committed to constructing the first-ever Irish LNG-receiving terminal. However, no future date has been disclosed. The 'Safety Before LNG' group highlighted at an oral hearing held by An Bord Pleanála in Listowel on December 1st and 2nd 2008 into the proposed pipeline from the LNG plant, evidence from New Zealand-based energy analyst, Steve Goldthorpe, who noted that "the entire supply of natural gas for power generation in Ireland in 2007 would correspond to 38 shiploads of LNG per year".

As already mentioned above, Shannon LNG, however, has stated in its formal planning application documents that it has plans for deliveries of up to 125 shiploads of LNG per year. We believe that this latest news would confirm our suspicions that Hess is only interested in an LNG plant in Ireland if it can either monopolise the Irish Market or else export gas via the interconnector, benefitting from Ireland's low corporation tax. This project by a foreign multinational cannot therefore be deemed to be in the national or public interest and we now request that the department assesses this information in detail.

7. The Irish Constitution – Bunreacht na hEireann – states in Article 40 (1) that “All citizens shall, as human persons, be held equal before the law”. It states in Article 40 (3)(1) that “The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen”. And in Article 40(3)(2) it states that “The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.” We expect that An Bord Pleanála, as an organ of the state should uphold these aforementioned constitutional rights. Residents of a sparsely-populated area must be afforded the same degree of protection from danger as residents of a more densely populated area, such as Dublin would be as obliged by Article 40(1).

It was made quite clear to everyone involved at the An Bord Pleanála pipeline oral hearing in Listowel on December 1st and 2nd 2008, that the inspector was only concerned about the pipeline and would not entertain any reassessment of the original planning application. She was therefore considering the pipeline as a standalone project.. This referral therefore requires a ruling by the board on whether the pipeline represents a material change to the original planning permission that would require a completely new planning application.

Yours sincerely,

Johnny McElligott and Raymond O'Mahony

Safety Before LNG

<http://www.safetybeforelng.com>

e-mail: safetybeforelng@hotmail.com

Tel.: +353-87-2804474

Address: Island View, Convent Street, Listowel, County Kerry, Ireland

Kerry County Council reply:

Planning Department,
Kerry County Council,
County Buildings,
Tralee,
County Kerry.

HS/PG
16th December, 2008

Mr. Johnny McElligott
Island View,
Convent Street,
Listowel,
County Kerry

Section 5 Referral relating to the Shannon LNG project

Dear Sir,

I wish to refer to the Section 5 referral accompanied by a fee of €80 as received from you on 27th and 28th November, 2008.

The function of a Section 5 reference is to clarify whether particular works or use constitute development or exempted development within the meaning of the Planning and Development Acts, 2000 to 2007.

You will be aware that the Shannon LNG project is the subject of 2 no. planning applications to An Bord Pleanála in accordance with the Strategic Infrastructure Act 2006. You will also be aware that:

- a) a decision to grant permission on the first application per Bord Pleanála reference 08.DA0003 (in respect of the LNG terminal) has been made;
- b) an oral hearing relating to the second application per Bord Pleanála reference 08.GA0003 (in respect of the pipeline to the grid network) has been conducted with a decision now pending on the application.

Given that the development in question is the subject of a current permission / current application, the Planning Authority considers that a determination under Section 5 of the Planning and Development Act, 2000 is not relevant and inappropriate in this instance.

A refund of the fee of €80 as submitted with the referral application is currently being arranged and will be forwarded to you in due course..

Yours faithfully,

A.O. Planning



Safety Before LNG
Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

Safety before LNG

Protecting the Shannon Estuary and its people

28 November 2008

Planning Department
Kerry County Council
Council Buildings
Rathass
Tralee
Co. Kerry
By email to: kcc@kerrycoco.ie and plan@kerrycoco.ie

RE: Section 5 declaration on whether changes to the Shannon LNG project at Kilcolgan, Tarbert, County Kerry granted permission under PA0002 constitute work on the original project which is or is not development and is or is not exempted development.

Dear Sir/Madam,

This is an application to Kerry County Council seeking a declaration under Section 5 (1) of the Planning and Development Act 2000 on whether changes to the Shannon LNG project constitute work on the original project which is or is not development and is or is not exempted development.

The 'Safety Before LNG' group represents people from both Kilcolgan and the wider community and is advocating responsible strategic siting of LNG terminals in areas which do not put people's health and safety in danger. See attached signed submissions by Ms. Kathy Sinnott M.E.P.¹ and Mr. Tony Lowes for "Friends of the Irish Environment"² on whose behalf this submission is also, therefore, being made.

Shannon LNG was granted planning permission for an LNG terminal at Tarbert on March 2008 directly through the fast-track planning procedure of the Strategic Infrastructure Act 2006 by An Bord Pleanála. Shannon LNG has now applied for a 26-kilometre gas pipeline from the proposed LNG terminal under planning reference GA0003. Please consider the following issues in making your decision:

¹ See 'Section 5 Appendix 1' – Signed submission by Ms. Kathy Sinnott M.E.P.

² See 'Section 5 Appendix 2' – Signed submission by "Friends of the Irish Environment".

1. We are of the opinion that the result of the European Court of Justice ruling of July 3rd 2008 regarding the inadequate Environmental Impact Assessment (EIA) at Derrybrien³ is that any new information on a project that has an EIA would **require a new EIA on the entire project** to assess their environmental effects as obliged by the EIA Directive .
The court ruled as follows :

“ that, by failing to adopt all measures necessary to ensure that:

- *projects which are within the scope of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment either before or after amendment by Council Directive 97/11/EC of 3 March 1997 are, before they are executed in whole or in part, first, considered with regard to the need for an environmental impact assessment and, secondly, where those projects are likely to have significant effects on the environment by virtue of their nature, size or location, that they are made subject to an assessment with regard to their effects in accordance with Articles 5 to 10 of Directive 85/337, and...*

Ireland has failed to fulfil its obligations under Articles 2, 4 and 5 to 10 of that directive;”

An extensive programme of pre-development archaeological testing has already taken place on the site which included building a road through the site. This was detailed in Chapter 14.6 of Volume 2 of the EIS submitted by Shannon LNG to An Bord Pleanála for planning application PA0002. Indeed, chapter 7.2 of the same volume describes the archaeological investigation itself as the first of six broad areas of construction activity on the site. This therefore means that this project is development that has already begun and any modifications to this project therefore constitute a project to which the ECJ ruling of July 3rd 2008 applies because **this project has been “executed in part”**.

A modification to the Shannon LNG project was officially made by application GA0003 to construct a 26-kilometer pipeline from the proposed LNG terminal to the national gas grid at Foynes in County Limerick. We question that the environmental report accompanying this application was inadequate as per the ECJ ruling of July 3rd 2008. We are now requesting a declaration from Kerry County Council on whether or not this modification is or is not exempted development.

2. An official application for a 26-kilometre pipeline is a material change to the permitted LNG terminal as it is an integral part of the project. This is a perfect example of project-splitting which is contrary to the EU EIA Directive. The original planning permission was for a terminal only; the new application is for a pipeline to this LNG terminal. Our contention is that the **project is to be therefore considered as a new one - a pipeline AND an LNG terminal**, compared to the information available during the first assessment. We are now requesting a declaration from Kerry County Council on whether or not this modification to

³ European Court of Justice ruling C-215/06: [http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher\\$docrequire=alldocs&numaff=C-215/06&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100](http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher$docrequire=alldocs&numaff=C-215/06&datefs=&datefe=&nomusuel=&domaine=&mots=&resmax=100)

the original project is or is not exempted development. In response to a question⁴ raised by Member of the European Parliament (M.E.P.) Ms. Kathy Sinnott, the EU Commission responded on this issue as follows on November 7th, 2008:

“When referring to the addition of information requiring a new Environmental Impact Assessments (EIA), the Directive does not provide for a deadline to re-conduct an assessment on the basis of supplementary information. This process depends on the importance of the new elements brought forward and it is for the Member States to appreciate if a new EIA is needed. This could be the case if the project is to be considered as a new one, compared to the information available during the first assessment.”

In addition, the following works have not yet even been considered for this project:

- a. The developer has only made vague references to its plans for the rest of its site on the land bank. They suggest maybe a gas-fired power station which would, they say, “be the subject of a separate planning application and EIS” (EIS volume 1 page5). On November 2008, Shannon LNG announced in its information booklet, issue 5 that:

*“Shannon LNG has registered an electricity generation company with the Companies Registration Office. Ballylongford Electricity Company Ltd. has been registered in order to provide a vehicle, should it be required, to manage the operation of a separate electricity generation business associated with the proposed LNG Terminal.”*⁵

- b. Shannon LNG also states (EIS volume 1 page5) that electricity to be supplied via 110kv lines from the ESB network at Tarbert will also “be the subject of a separate planning application”. On November 2008, Shannon LNG announced in its information booklet, issue 5 that
*“Shannon LNG has accepted an offer from Eirgrid for a power supply to the site. The supply will be from Tarbert”.*⁶
- c. Shannon LNG goes on to state (EIS volume 1 page5) that Kerry County Council will upgrade the coast road from Tarbert which “will also be the subject of a separate planning application”.

3. Planning permission was given for the LNG terminal without any conditions attached on the obligation to first obtain all other environmental permits e.g. an Integrated Pollution Prevention and Control (IPPC) licence from the Environmental Protection Agency (EPA). No EPA licence has yet been obtained. It is our contention that applying for a pipeline for a project that has not yet obtained an EPA licence is a modification to the original permission that constitutes development which is not exempted development and we are now asking Kerry County Council to rule on this question. There is no integrated assessment of this project in our opinion. Our contention is that the **interactions between the decision-making bodies is totally inadequate and currently almost non-existent and cannot be assessed and that the procedural requirements of the EIA Directive are not being respected.** In response to a question (reference E-4740/08EN) raised by Member of the European

⁴ Question to the EU Commission raised by MEP Ms. Kathy Sinnott: reference E-4740/08EN
<http://www.europarl.europa.eu/sides/getDoc.do?sessionId=ADB262D6911C8729563B6D432D65463B.no&type=WQ&language=BG&reference=E-2008-4740&secondRef=0>

⁵ See ‘Section 5 Appendix 3’ below: Shannon LNG Information Booklet, Issue 5, November 2008

⁶ See ‘Section 5 Appendix 3’ below: Shannon LNG Information Booklet, Issue 5, November 2008

Parliament (M.E.P.) Ms. Kathy Sinnott⁷, the EU Commission responded on this issue as follows on November 7th, 2008:

“Directive 85/337/EEC⁸ does not exclude the possibility that more than one authority may make a decision in respect of a proposed project. However, it must be ensured that the procedural requirements of the Directive are respected. It should be noted that the Directive makes provision for assessing the interactions between different factors. If different factors are the subject of decisions by different decision-making bodies, arrangements must be adequate to ensure that these interactions are assessed.

The Commission is aware that, in Ireland, approval of certain kinds of projects requires both a planning consent and separate pollution-control consent. It has some concerns that the current Irish legislation does not fully ensure the assessment of interactions (Infringement procedure 1997/4703).”

In response to a question (reference E-4066/08EN) raised by Member of the European Parliament (M.E.P.) Mr. Proinsias De Rossa⁹, the EU Commission responded on September 2nd 2008:

“Infringement 1997/4703 is now chiefly about the conformity of Irish legislation used to implement Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment⁽¹⁾. The directive lays down a set of requirements to be met by national authorities when submitting, or determining whether to submit, certain projects to environmental impact assessment. As of 31 July 2008, the status of the procedure was that the Commission had decided to refer Ireland to the European Court of Justice but had not yet executed this decision.”

4. The extension of the LNG project represents a broadening of the public affected by this project and therefore renders, among others, conditions 37 and 38 of the original planning permission unenforceable because the local communities between Kilcolgan and Foynes have been disenfranchised and excluded from any benefits or protections.
5. The original planning application permission PA0002 references condition 45 in condition 40 but only 40 conditions are listed. Conditions 41 to 45 are therefore missing and this planning permission is therefore invalid as unenforceable.
6. The original planning application was for an LNG terminal. The Irish Health and Safety Authority (HSA) advice to An Bord Pleanála on that project only covered the risks on the land. The HSA remit for this application stopped at the water's edge. An Bord Pleanála

⁷ Question to the EU Commission raised by MEP Ms. Kathy Sinnott on 8 September 2008: reference E-4740/08EN

<http://www.europarl.europa.eu/sides/getDoc.do?jsessionid=ADB262D6911C8729563B6D432D65463B.no&del?type=WQ&language=BG&reference=E-2008-4740&secondRef=0>

⁸ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment.

⁹ Question to the EU Commission raised by MEP Proinsias De Rossa on 18 July 2008 reference E 4066/08 EN <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2008-4066+0+DOC+XML+V0//EN>

made its planning decision without obtaining any HSA expertise on any risk assessment of an LNG spill on water from LNG tankers travelling in the estuary. Our understanding is that the EPA did not attend the original oral hearing into the LNG terminal. Since a planning application has now been submitted for a pipeline, gas will be able to leave the site so the transport of LNG to the site on the estuary will now be able to realistically take place. This represents a material change to the original project and an assessment of the risks and consequences of an LNG spill on water from a moving vessel on the estuary needs to be analysed. This means that this is not a separate project but a whole new project that is work that constitutes development which is not exempted development. We now request that Kerry County Council rules on this assertion.

In conclusion, we want a determination on whether planning permission for part of a dangerous LNG project split into its constituent parts, each of which is an integral part of the one project, is invalidated and therefore represents development which is not exempt when permission for the next constituent part (in this case the LNG pipeline) is applied for. We are therefore requesting a declaration on whether or not “project splitting” is development which is not exempt.

We have forwarded you the required fee of 80 Euro and await your feedback.

Yours faithfully,
Johnny McElligott

Section 5 Appendix 1. Signed Submission by MEP Ms. Kathy Sinnott.
Attached in a separate file

Section 5 Appendix 2. Signed Submission by 'Friends of the Irish Environment'.

From: admin@friendsoftheirishenvironment.net
To: safetybeforelng@hotmail.com
Subject: RE: Section 5 referral on Shanonn LNG project
Date: Wed, 26 Nov 2008 15:03:28 +0000

Hi Johnny –

This is good and we'd be delighted to sign!

Tony

From: Safety Before LNG [mailto:safetybeforelng@hotmail.com]
Sent: 26 November 2008 11:52
To: Tony Lowes Friends of the Irish Environment
Subject: Section 5 referral on Shanonn LNG project

Hi Tony,

Could you please confirm by email that would like the 'Friends of the Irish Environment' to be added to the attached section 5 referral to Kerry County Council on the Shannon LNG project.?

Kind Regards,

Johnny McElligott

Safety Before LNG
<http://www.safetybeforelng.com>
e-mail: safetybeforelng@hotmail.com
Tel.: +353-87-2804474
Address: Island View, Convent Street, Listowel, County Kerry, Ireland

Section 5 Appendix 3. Shannon LNG Information booklet, Issue 5 November 2008.

Shannon Pipeline Application.

An Bord Pleanála has announced that it will conduct an Oral Hearing on the Shannon Pipeline Application in the Listowel Arms Hotel, commencing Monday, 1st December 2008.

The proposed Shannon Pipeline will connect the national gas grid near Foynes to the LNG Terminal, thereby extending the gas grid to Kerry for the first time.

The Shannon Pipeline planning application was submitted to An Bord Pleanála on the 14th August 2008. The proposed pipeline comes within the Strategic Infrastructure provisions of the Planning and Development Act.

On the 5th September 2008, an application under the Gas Acts was made to the Commission for Energy Regulation for Consent to construct the Pipeline.

Over a year prior to lodging the Planning Application, Shannon LNG met with the Farming Organisations to agree Wayleave Arrangements for Landowners along the pipeline route.

Subsequently, Shannon LNG met with individual Landowners to discuss the proposed Pipeline route.

Shannon LNG also entered into consultation with interested parties and in May 2008 held information evenings for the wider community in Foynes and Tarbert.

Terminal Planning Permission secured

In January of this year, An Bord Pleanála conducted an eight day Oral Hearing in Tralee on the planning application for the LNG Terminal. The Board subsequently granted permission for the Terminal on 28th March 2008.

In June 2008, two High Court applications were made to have An Bord Pleanála's decision judicially reviewed. The case involved An Bord Pleanála, the Health & Safety Authority and the Attorney General with Shannon LNG as a Notice Party.

The case commenced in the Commercial High Court on 14th October 2008 and was later withdrawn by the parties who had sought the judicial review.

Thus Shannon LNG has secured full planning permission for the Terminal.

WORK ONGOING

Initial Archeological Work

Archaeological test trenching was undertaken on the site in recent months. The work also included a wade and metal detection survey in the stream running through the site. The work was undertaken in accordance with the terms of the Terminal planning permission and under licence from the Department of the Environment, Heritage and Local Government.

The work was in preparation for the detailed archaeological work, which will entail excavation and recording of the identified areas, and will be carried out a later date.

Power Supply to Site

Shannon LNG has accepted an offer from Eirgrid for a power supply to the site. The supply will be from Tarbert.

Electricity Generation

Shannon LNG has registered an electricity generation company with the Companies Registration Office. Ballylongford Electricity Company Ltd. has been registered in order to provide a vehicle, should it be required, to manage the operation of a separate electricity generation business associated with the proposed LNG Terminal.

New Appointment

Shannon LNG is pleased to announce the appointment of Martin Regan as Commercial Manager. Martin has 15 years experience in the gas & electricity sectors. Previously Martin operated a consultancy practice specialising in gas and electricity regulation, capacity planning and economic analysis. Prior to that Martin worked for BG Group plc in Ireland, UK and Asia in engineering and commercial roles in the gas and electricity sectors.

Contact Details

Shannon LNG Limited,
Clieveragh Business Park,
Listowel, County Kerry
Tel: 068 53 310

**Submissions to An Bord Pleanala and Irish and European Statutory Bodies and representatives in
Respect of LNG gas and petroleum Storage facilities at Kilcolgan, County Kerry and on the
Southern Shores of the Shannon Estuary.**

Case reference: Liquefied Natural Gas re-gasification terminal proposed for Ralappane and Kilcolgan Lower, Co. Kerry; associated pipeline and works and compulsory purchase of lands (Bord Pleanala references PC0002, PA0002, GC0003, GA0003, DA0003); the proposed SemEuro Petroleum Storage facility adjacent to the proposed LNG site (Bord Pleanala reference PC0008); Section 5 referral under the Planning and Development Act 2000 questioning exempted status of works on proposed LNG project; submissions to all the Irish and European statutory bodies from whom permits are required for the proposed LNG terminal and to whom submissions may be made concerning the aforementioned projects

Name of Person (or agent) making submission/observation: Johnny McElligott (Group submission for the 'Safety Before LNG' group representing people from the wider community which is advocating responsible strategic siting of LNG terminals in areas which do not put people's health and safety in danger)

Address to which Correspondence should be sent: Island View, 5 Convent Street, Listowel, Co. Kerry, Ireland.

Subject matter of submission or observation: Proposed LNG Terminal: Recommending complete Rejection of the Planning application – to include the LNG terminal, the associated Naural Gas pipeline, the compulsory purchase of lands, the proposed Gas powered electricity-generating plant and all associated works on and near the site sold by Shannon Development to Shannon LNG as well as an objection to gas and oil storage facilities by SemEuro adjacent to the Site (Bord Pleanala Reference PC0008) and on the southern shores of the Shannon Estuary.

Reasons/Considerations/Arguments:

We are objecting to the entire proposed LNG terminal and associated pipeline and projects due to, among other things, the health, safety, environmental, economic and residential amenity grounds supported in detail in the attached documentation as well as due to the lack of a strategic environmental assessment of the development of the site specifically or of oil and gas storage facilities on the southern shores of the Shannon Estuary in general.

DATE

NAME

ADDRESS

SIGNATURE

1/10/08

Kathy Sinnott

Kathy Sinnott MEP
St. Joseph, Ballinabearna,
Ballinacorney, Co. Cork



Safety Before LNG
Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

Safety before LNG

*Protecting the Shannon Estuary and
its people*

9 December 2008

Planning Department
Kerry County Council
Council Buildings
Rathass
Tralee
Co. Kerry
By email to: kcc@kerrycoco.ie and plan@kerrycoco.ie

RE: Section 5 declaration on whether changes to the Shannon LNG project at Kilcolgan, Tarbert, County Kerry granted permission under PA0002 constitute work on the original project which is or is not development and is or is not exempted development.

Dear Sir/Madam,

Please find attached supporting our section 5 referral to Kerry County Council, submissions from Susan Jordan (Director of California Coastal Protection Network), actor Pierce Brosnan and his wife Keely, and Steve Goldthorpe (New Zealand based energy analyst).

You will note that Steve Goldthorpe points out in section 2.5 that "the entire supply of natural gas for power generation in Ireland in 2007 would correspond to 38 shiploads of LNG per year". Considering that Shannon LNG is planning 125 tankers a year, it would seem logical to assume that the LNG is for export and the siting decision is motivated by lower corporation taxes in Ireland. Why should a multinational obtain a monopoly position of this strategic infrastructure?

We await your feedback.
Yours faithfully,

Johnny McElligott

November 28th, 2008

Planning Department
Kerry County Council
Council Buildings
Rathass
Tralee
County Kerry

**RE: Support for Section 5 Declaration filed by Safety Before LNG
Challenging Permissions for Shannon LNG Project**

Dear Sir/Madam,

It has recently come to our attention that Ireland is considering the construction of an LNG import terminal on the Shannon Estuary between Tarbert and Ballylongford in County Kerry. However, it is clear from a review of the approval process so far that this proposal has been fast-tracked and piecemealed by separating the terminal itself from its associated pipeline and that no coherent assessment of the serious and significant risks to public health and safety has been undertaken.

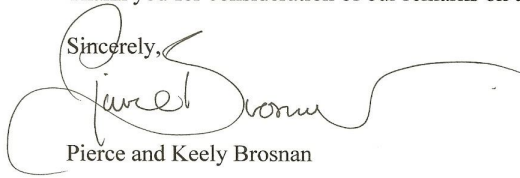
The decision to approve and construct an LNG terminal is a gravely serious matter that demands the utmost scrutiny and review. We learned this first hand by participating in the review an LNG terminal proposal for offshore California put forth by the largest mining company in the world, BHP Billiton. What we found was a massive, industrial facility that would have polluted our community in violation of existing air quality laws and that posed serious long term risks to public safety and security. After four years of hearings and testimony in opposition to this terminal, our elected officials resoundingly rejected the proposal and Governor Arnold Schwarzenegger vetoed it as an unacceptable choice for California.

We strongly support Safety Before LNG's request that the Planning Department find that this project and its associated pipeline must be thoroughly reviewed for the serious cumulative risks it poses for the local population and the environment. In today's day and age when the world is focused on reducing green house gas emissions and ensuring an environment

that will support and sustain future generations, it is imperative that we concentrate on renewable sources of energy and avoid continued dependence on imported and polluting fossil fuels.

Thank you for consideration of our remarks on this important subject.

Sincerely,

A handwritten signature in black ink, appearing to read "Pierce and Keely Brosnan", with a large, stylized initial "P" and a long, sweeping horizontal line extending to the right.

Pierce and Keely Brosnan



CALIFORNIA COASTAL PROTECTION NETWORK
906 Garden Street, Santa Barbara, CA 93101 • 805-637-3037
WWW.COASTALADVOCATES.COM

November 28th, 2008

Planning Department
Kerry County Council
Council Buildings
Rathass
Tralee
County Kerry

**RE: Support for Section 5 Declaration filed by Safety Before LNG
Challenging Permissions for Shannon LNG Project**

Dear Sir/Madam,

The California Coastal Protection Network is a non-profit environmental advocacy organization based in the United States. Our organization is one of the top experts on Liquefied Natural Gas (LNG) in the United States and undertook the successful campaign to stop the largest mining company in the world, BHP Billiton, from building a massive offshore LNG import terminal off the California Coast.

It has come to our attention that Ireland is considering the construction of an LNG import terminal on the Shannon Estuary between Tarbert and Ballylongford in County Kerry. However, it is clear from a review of the approval process so far that this proposal has been fast-tracked and piecemealed by bifurcating the terminal itself from its associated pipeline and that no coherent assessment of the serious and significant risks to public health and safety has been undertaken. This is both contrary to Irish law and basic commonsense.

LNG Terminals have been touted by resource extraction industry as the cheap, safe, reliable and clean way to increase energy supply. Unfortunately, this industry mantra is contrary to the hard facts:

LNG is not safe: Despite industry protestations to the contrary, it has been effectively proven and acknowledged by the US Government that LNG terminals and tankers are both terrorist targets and significant safety risks. In the case of the BHP Billiton proposal that was to be located roughly 12 miles offshore, a top independent LNG safety expert hired by CCPN determined that the resulting vapor cloud flash fire from a release of LNG would extend up to 7.3 miles from the terminal and would engulf the nearby shipping lanes and anything else in its path. In the case of Shannon LNG, D. Jerry Havens one of the most conservative and foremost experts on LNG safety in the world has determined that residents and property within 3 miles of the terminal would be at serious risk for death and injury. These are not risks that should be borne by local residents without a serious consideration of other alternative LNG sites if, indeed, the country is committed to constructing an LNG terminal on or off its shores.

LNG will not be cheap or reliable: LNG companies make many promises but the fine print protects the companies who stand to profit – in this case Hess LNG and Poten and Partners. These two companies are in the LNG business and have met stiff opposition for their attempts to build another LNG import terminal at Weaver's Cove, Massachusetts. Further, recent price fluctuations in the international market for LNG mirror those for oil and already LNG shipments have already being diverted to those countries willing to pay the highest price for the cargo. When one considers that over sixty percent (60%) of global natural gas reserves lie within three countries, Russian, Iran and Qatar, it is clear that increased reliance on LNG is a risky economic proposition. Talks of an LNG cartel have been revived and it is likely that LNG purchasing nations will have little if any control over the future cost of LNG imports. Creating a dependency on imported LNG for over 40% of Ireland's natural gas supply creates a serious economic vulnerability for a country when other potential alternatives exist.

LNG is not clean: One of the most specious claims made by the industry is that LNG is clean and should be part of our global 'clean

energy future.’ What the LNG industry does not tell you is that the green house gas (GHG) emissions generated by the extraction, liquefaction, transportation, regassification and combustion of LNG far exceeds the emissions generated by the extraction and combustion of domestic natural gas. The bottom line is that like oil, LNG is an imported fossil fuel. When all of its emissions of its life cycle are accounted for, it is much closer to coal than clean, renewable energy sources. Further, depending on terminal design, LNG pollutes the marine environment by consuming and discharging massive amounts of seawater for storage and regassification damaging the marine environment.

CCPN urges the Planning Department to find that Shannon LNG’s proposal to build an LNG terminal and its associated pipeline be reviewed in its entirety for its cumulative impacts on the Shannon Estuary and on the people who will reside in proximity to the proposed terminal. If the project can withstand the scrutiny of appropriate environmental and security review, it will be approved. If, however, it is found that the proposed LNG terminal carries unacceptable risks to both human health and safety as we believe it does, it will be denied and alternatives will be found.

In the United States as coastal states like California, Oregon, Massachusetts, Connecticut, New York and others have become better educated about LNG terminals and tankers and the long-term significant impacts they pose, they have objected to top down approvals by the federal government. Given the risks associated with these proposals, it is imperative that local, state and federal government abide by the law and require that these terminals undergo the serious scrutiny they deserve. Further, understanding the financial consequences that a renewed reliance on an imported fossil fuel will bring to all countries should be given serious weight in any decision to allow an outside, profit-oriented entity to control LNG imports.

CCPN would be happy to provide the extensive documentation compiled during its 4 year review of the proposed BHP Billiton LNG terminal and to convey the many documents and reports that have been compiled by the U.S. Government on the subject of LNG terminals and tankers.

Thank you for consideration of our remarks on this important subject.

Sincerely,

A handwritten signature in black ink, reading "Susan Jordan" in a cursive script, followed by a horizontal flourish.

Susan Jordan, Director

Glengad
Pollathomas
Ballina
County Mayo
086 3123439

18th December 2008

Planning Department
Kerry County Council
Council Buildings
Rathass, Tralee
County Kerry

RE: The “Safety Before LNG” group’s request for a declaration under Section 5 of the Planning and Development Act 2000 - on proposed changes to the Shannon LNG project at Kilcolgan, Tarbert, County Kerry - dated 28th November 2008.

Dear Sir/Madam

I am writing to you on behalf of Pobal Chill Chomaín (a local community group in Kilcommon Parish in North Mayo) to express our support for the “Safety Before LNG” group - representing the vested interests of the people of Kilcolgan and the wider community - in their efforts to secure a sustainable development that ensures the health and safety of their people and their environment.

The potential impacts associated with major gas projects are well known to our community, with the development of the Corrib offshore gas field currently being proposed to be situated in the heart of our parish. As a community we have faced the difficulties of participating in the planning process in a fair and equitable manner, and we recognise and share many of the concerns expressed by the residents of Kilcolgan in recent times in relation to the planned LNG installation on the Shannon estuary.

Our own experiences have shown that there are serious deficiencies in the planning, licensing and regulatory systems in this jurisdiction - and particularly with reference to the practice of project-splitting - which gives rise to inadequate protection for people and the environment when faced with large-scale industrial projects.

What is of great concern is that the authorities are just not capable of handling projects of this type and scale, and this is even more serious when the consequences of such developments are potentially catastrophic. This is clearly the case with hazardous pipelines, refineries, and the transportation and storage of Liquefied Natural Gas.

Pobal Chill Chomaín wishes to urge Kerry County Council to give serious consideration to the proposed changes to the Shannon LNG project and its associated impacts, and to act in the best interests of those people who would be directly affected by this development.

Yours sincerely

John Monaghan
Spokesperson, Pobal Chill Chomaín

Steve Goldthorpe Energy Analyst Ltd.

P.O. Box 96, Waipu 0545, New Zealand.

Phone/Fax:- +64 9 432 0532

Mobile:- +64 0274 849 764

Email: Steve.Goldthorpe@xtra.co.nz



BEFORE AN BORD PLEANÁLA

IN THE MATTER

of Case [GA0003](#)

Gas pipeline to connect Shannon LNG Terminal at Ralappane, Co. Kerry to existing natural gas network at Leahys, Co. Limerick;

AND

of Case [DA0003](#)

Application for an acquisition order for the Shannon LNG Terminal at Tarbert, Co. Kerry to the Bord Gáis Eireann Network at Foynes, County Limerick;

AND

Proposal to locate the Shannon LNG terminal at Tarbert, Co, Kerry.

APPLICANT

Shannon LNG

RESPONDENT

Safety Before LNG

STATEMENT OF EVIDENCE OF STEPHEN HENRY GOLDTHORPE

1. Introduction

- 1.1 My name is Stephen Henry Goldthorpe. I am a graduate chemical engineer with 30 years experience in technical and economic assessment of energy conversion processes. From 1979 to 1995 I worked for the British Coal Corporation in the Project Assessment and Development Branch in Cheltenham, UK.



- 1.2 From 1995 to 2002 I worked in New Zealand for URS Corporation as an environmental engineering consultant. For the last 6 years I have been managing director of Steve Goldthorpe Energy Analyst Ltd, which is an independent New Zealand consultancy. I am an active member of the Sustainable Energy Forum of Aotearoa Incorporated.
- 1.3 Since May 2008 I have been providing technical and strategic assistance to the BurningBridges Group, which is based in New Plymouth, New Zealand. That group is coordinating opposition to the creation of an LNG importing facility in the Port of New Plymouth. Through that work I have become familiar with many aspects of the LNG industry and the strategic issues surrounding the global expansion of trade in LNG. Through that work I have become acquainted with the proposal by Shannon LNG to build an LNG terminal in Ireland. Through that work I have become acquainted with the campaign by Safety Before LNG to oppose the Shannon LNG proposal.
- 1.4 I have observed several similarities between the situation in New Zealand and the situation in Ireland. I therefore offer An Bord Pleanála an international perspective on the matter of the proposed Shannon LNG terminal and its consequences. I propose an alternative energy strategy for Ireland. I am willing address any questions from An Bord Pleanála on this submission.¹
- 1.5 I am aware that safety is the overwhelming concern of the people living near to sites that are proposed for LNG terminals; in Ireland, in New Zealand and elsewhere. Based on my research of the safety issues, I have good reason to be sympathetic with their concerns about the inherent danger associated with LNG terminals generally, and the proposed New Plymouth plant in particular. However, I will make no further comment on the safety issue in this submission.

2. Rationale for importing LNG

- 2.1 In both New Zealand and Ireland the creation of an LNG importing terminal would result in the introduction of a major new source of energy into the mix of energy resources available to meet the energy needs of

¹ I am unable to attend in person the An Bord Pleanála hearings at the Listowel Arms Hotel, which start on December 1st 2008, because I live in New Zealand. I would be pleased to present this submission personally to the hearing and answer questions on it via an audio or video link. Alternatively, I authorise Mr Johnny McElligott or his nominee to read this submission to the hearing on my behalf.



each country. A comparative summary of the national energy balances of Ireland and New Zealand in 2007 is shown in Exhibit 1.

- 2.2 In New Zealand the known domestic natural gas resources are inadequate to meet on-going essential needs in the long term, so new discoveries are needed because there are no near neighbours who could provide future gas supplies by pipeline. Modest new gas discoveries are needed to provide essential gas supplies to meet domestic, commercial and industrial needs. Major new gas discoveries would be needed to provide sufficient gas to meet and expand the discretionary use of natural gas for power generation. The rationale for the creation of an LNG importing terminal in New Zealand is that it is a back-up plan in case the search for new gas fields is unsuccessful.
- 2.3 In the case of Ireland, indigenous energy resources fall far short of energy demand, so coal, oil and gas are imported. Natural Gas is imported via two sub-sea pipelines from the UK. Exhibit 2 shows natural gas supply and use in Ireland. Power generation accounts for over half of the natural gas use in Ireland. Additional natural gas imports will be required to meet and expand the discretionary use of natural gas for power generation.
- 2.4 Exhibit 2 shows a 58% increase in the quantity of natural gas imported into Ireland through the gas pipelines from the UK over seven years since the turn of the century. That rate of growth is not sustainable.
- 2.5 To provide context to the data in Exhibit 1, I note that the capacity of a large LNG tanker is about 3 PJ of energy. Therefore the entire supply of natural gas for power generation in Ireland in 2007 would correspond to 38 shiploads of LNG per year.
- 2.6 These matters provide a rationale for the creation of a natural gas importing terminal in Ireland.

3. Energy supply strategy

- 3.1 Although Exhibit 1 shows significant differences in the scale of indigenous energy resources, there are a number of similarities between Ireland and New Zealand, which reflect global energy supply trends.
- Natural gas is established as a significant component of the mix of energy resources used for power generation;



- The development of natural gas fired power generation has historically been based on the availability of low cost natural gas supplies;
- The indigenous supply of natural gas is declining;
- There is uncertainty about the scope for new indigenous natural gas resources to significantly change the energy supply scene;
- Future natural; gas cost will be higher than historical prices, particularly if natural gas is imported as LNG;
- The use of renewable energy resources for economically competitive power generation is limited in its scope; at least in the short term;
- The use of oil for power generation is minor and is increasingly uneconomic;
- The use of coal for power generation is an established component of the mix of resources used for power generation;
- There is no inherent shortage of coal in the foreseeable future that might result in escalation of coal price.

3.2 In the light of these observations, I conclude that it is economically and strategically advisable for both Ireland and New Zealand to move away from gas-fired electricity generation.

3.3 Whilst sustainable electricity supplies preferably need to be made from renewable resources, the scale of renewable energy resources in Ireland shown in Exhibit 1 indicates that large scale replacement of gas by renewables in the short term is unrealistic.

3.4 Accordingly, I conclude that it is economically and strategically advisable for Ireland to transition from gas to coal as its principal controllable primary energy source for power generation.

4. Cost comparison of Electricity Generation from LNG and Coal

4.1 If a state-of-the-art natural gas combined cycle power station at 52% thermal efficiency has a specific investment of €750/kWe and an equivalent state-of-the art supercritical coal-fired power station at 42% thermal efficiency has a specific investment of €1500/kWe, then, at 70 % load factor and at 15% of capex per year for capital charge and non-fuel

operating costs, the non-fuel costs of power generation would be 18 €/MWh and 37 €/MWh respectively.

- 4.2 If the long term imported coal price is 2 €/GJ then coal-fired power generation would be the economically preferable option if the imported LNG price is more than 5 €/GJ.
- 4.3 The future price of LNG is uncertain and is rising, because demand for this commodity is high and production is constrained by capacity limitations. The price of LNG is expected to track the price of crude oil.
- 4.4 If the long term oil price were to stabilize at about US\$100/bbl (i.e. the likely cost of producing oil from coal, oil shale, tar sands etc.) and the cost of landed LNG were to stabilize at about 90% of the cost of crude oil on an energy equivalent basis, then, at an exchange rate of 1.3 US\$/€ the long term price of landed LNG would be about 11 €/GJ.
- 4.5 A report² recently prepared by independent economic analysts on future energy prices indicates a likely mid-range oil price in the region of US\$120/bbl from 2010-2020, subsequently rising progressively to US\$200/bbl by about 2030 and US\$400/bbl by 2060. This report also suggests parity between LNG and oil prices on an energy equivalent basis. These figures correspond to a likely mid-range landed LNG price rising from around €15/GJ to €25/GJ or more over a 20 year period.
- 4.6 These estimates of long term LNG prices are two to five times higher than the price required to be economically competitive with 2 €/GJ imported coal for power generation.

5. Greenhouse gas consequences

- 5.1 Coal fired power generation is more greenhouse intensive than gas-fired generation. The CO₂ emissions from the natural gas and coal power station stacks would be 360 and 780 kg CO₂/MWh respectively, based on the above comparison.
- 5.2 However, a more realistic assessment of greenhouse gas emission consequences is obtained using Full Fuel Cycle (FFC) methodology in which emissions from fuel production and processing is also taken into

² Transport fuels and other energy forms – Price forecasts to 2060; Auckland Regional Council 26th November 2008; prepared by McCormickRankinCaney; www.mrcagney.com



account. The FFC methodology typically adds about 10% to imported coal and 20% to pipeline gas CO₂ emission factors.

- 5.3 Using these factors the greenhouse gas emissions from gas-fired and coal-fired generation would be about 858 and 432 kg CO₂/MWh respectively. Hence power generation from local pipeline gas typically has 50% of the greenhouse gas footprint of coal-fired generation.
- 5.4 However, in the case of LNG a substantial amount of additional energy is used in the liquefaction process, cryogenic transportation and the regasification process.
- 5.5 I carried out a study in support of an environmental impact assessment for an LNG liquefaction facility in West Australia supplying LNG to gas consumers in California. In that case, I assessed the Full Fuel Cycle emission factor to be 40% greater than the combustion emission factor.
- 5.6 On that basis the FFC emission factor for the gas option would be 504 kg.CO₂/MWh. In other words LNG-supplied gas-fired power generation would have 59% of the greenhouse gas footprint of coal-fired generation.

6. Uncertainty of long term availability of LNG

- 6.1 Prudent investment in an LNG receiving terminal and commitment of the associated dedicated infrastructure has to be based on confidence that LNG will be available on demand from the global LNG market for the life of that infrastructure into the long term future.
- 6.2 I observe that: -
- Liquefaction of natural gas is only carried out where more lucrative local markets for natural gas resources do not exist;
 - LNG production for export is in direct resource competition with the production of methanol for export, which is a potential transport fuel;
 - In some cases LNG production is only carried out as a means of disposing of a by-product of associated gas to facilitate access to oil resources;
 - There are reports of constraints on construction capacity and specialist expertise for the construction of LNG production facilities. These constraints are reportedly unlikely to be resolved for a decade;

- The shipping of LNG on the high seas in tankers is a fragile energy transport method that is susceptible to disruption by terrorism or piracy;
 - There are reports from the USA of some LNG importing terminals lying idle due to the inability to source LNG at an economic price;
 - There is a high demand for LNG from the USA, Japan and other major trading nations. This may cause LNG traders to be unwilling to make supplies available to small independent market players, such as Ireland and New Zealand, except at a premium price.
 - The global production capability for conventional oil is showing signs of falling short of global oil demand. This phenomenon, known as Peak Oil, will exacerbate the above pressures on the global LNG market.
- 6.3 In view of these observations, I conclude that it would be imprudent to invest in major LNG infrastructure that relies upon a plentiful supply of LNG from the global market.

7. An alternative energy option

- 7.1 Instead of importing expensive and unreliable LNG to meet Ireland's energy needs in the short term, I recommend that a more sustainable energy future should be based around the construction of an additional 1800 MW of new base-load coal fired power generation capacity as I have described earlier. This approximates to two more power stations of the size of the Moneypoint power station.
- 7.2 That scale of coal-fired generation would reduce the importing of natural gas from the UK into Ireland to 90% of the level that it was in year 2000. It would increase annual coal imports into Ireland to 2.3 times the amount of coal imported in 2007.
- 7.3 I recommend this as an economic and reliable interim energy strategy for Ireland to meet short term energy needs, whilst a longer term strategy is further developed, based on energy efficiency and conservation and renewable energy resources, to provide a sustainable energy future for Ireland in the long term.

Steve Goldthorpe

30th November 2008



Exhibit 1 Comparison of Energy Use in New Zealand and Ireland

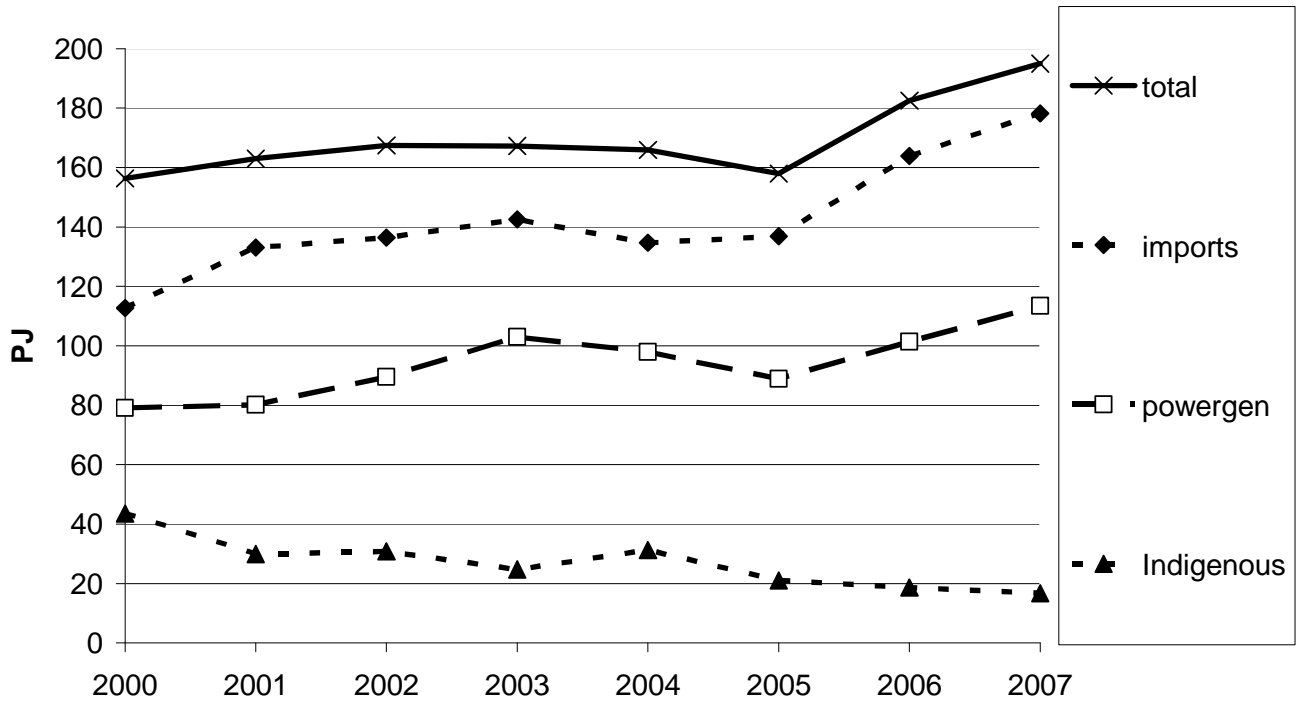
New Zealand - Energy Balance 2007 (NZ Ministry of Economic Development)				
Petajoules (Gross)	Fossil Fuels			Non-fossil
	Solid	Liquid	Gas	Renewables
Indigenous	125	93	170	229
Imported	-56	190	0	0
Total	69	283	170	229
Power generation	26	0	75	166
All other uses	43	283	95	45
Ireland - Energy Balance 2007 (Sustainable Energy Ireland)				
Petajoules (Gross)	Fossil Fuels			Non-fossil
	Solid	Liquid	Gas	Renewables
Indigenous	27	0	17	20
Imported	73	411	178	1
Total	100	411	195	21
Power generation	71	17	114	11
All other uses	29	394	81	10

(In 2007 the populations in both Ireland and New Zealand were about the same
at just over 4 million people)



Exhibit 2

Natural gas supply and use in Ireland (SEI data)



Appendix Petition 7

“Single Approach to Gas Quality” Commission for Energy Regulation, Decision
Paper CER/09/035 2nd March 2009



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Single Approach to Gas Quality

DOCUMENT TYPE:	Decision Paper
REFERENCE:	CER/09/035
DATE PUBLISHED:	2 nd March, 2009
QUERIES TO:	rorourke@cer.ie



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

*The Commission for Energy Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.*

www.cer.ie

CER – Information Page

Abstract:

This paper outlines the Commission's Decision in relation to the Gas Quality Industry Group's Report.

Target Audience:

The gas industry in Ireland and Northern Ireland, gas-fired power generations and those with an interest in gas safety issues

Related Documents:

- Gas Quality Industry Group Report
- Single Approach to Gas Quality: Consultation Paper

For further information on this decision paper, please contact **Robert O'Rourke at the Commission.**

Table of Contents

1	Introduction	4
1.1	The Commission for Energy Regulation.....	4
1.2	Background	4
2	Commission's Position on Report's Conclusions	6
2.1	Wobbe Index:	6
2.2	Measurement:	7
2.3	Report's Recommendations	9
3	Commission's Decision.....	10
3.1	Gas Quality Entry and Exit Specification	10
3.2	Emergency Gas Quality Specification.....	12
3.3	Issues for review	12
4	Next Steps.....	13

1 Introduction

1.1 *The Commission for Energy Regulation*

The Commission for Energy Regulation ('the Commission') is the independent body responsible for regulating Ireland's electricity and gas sector's. The Commission was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act, 1999. The enactment of the Gas (Interim) (Regulation) Act, 2002 expanded the Commission's jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act 2006 granted the Commission additional powers in relation to gas and electricity safety. The Electricity Regulation Amendment (SEM) Act 2007 outlined the Commission's functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the Commission and the Northern Ireland Authority for Utility Regulation (NIAUR). The Commission is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 *Background*

As part of the proposed Common Arrangements for Gas (CAG) the Commission and the Utility Regulator (the Regulatory Authorities) assessed a single approach to gas quality. The two jurisdictions currently operate under different gas quality specifications which would create significant difficulties operating the networks as one given the potential incompatibility between gas either side of the border.

On 20th June, 2008 the Regulatory Authorities published a Consultation Paper¹ along with a report² submitted by Bord Gáis Networks (BGN). This report formed the basis for much of the Consultation Paper and had two sets of recommendations; gas quality specifications and measurement arrangements. The Consultation Paper requested comments on the BGN Report, and on the Regulatory Authorities intention to adopt its recommendations, in addition to other issues raised such as the implications for security of supply and where the responsibility and cost for gas treatment should lie.

An industry workshop was held 9th July, 2008 in Belfast as part of the Consultation process. At that workshop there was a request from industry that the issue of gas quality be examined further by an industry group. The

¹ Single Approach to Gas Quality: Consultation Paper (CER/08/101)

² BGN Report on Gas Quality Arrangements in the Republic of Ireland (CER/08/102)

Regulatory Authorities agreed to this request, deferring a Decision on gas quality until the publication of an industry report in December of 2008. Accordingly the Regulatory Authorities issued a public invitation requesting participation from industry representatives. The Gas Quality Industry Group was established and held its first meeting on 5th September, 2008.

The Gas Quality Industry Group has submitted a Report on its findings and recommendations; this Report is published alongside this Decision Paper and forms the basis for the Commission's Decision.

The Regulatory Authorities would like to take this opportunity to thank all of the members of the Group for their time and contributions to this process. The expertise and insight provided by each member of the Group was highly valuable, helped the process significantly and is greatly appreciated.

2 Commission's Position on Report's Conclusions

The Group made several findings based on the discussions and information presented at the meetings. These are outlined in detail in the Report and so are not reproduced here. Based on these findings the Group reached some broad conclusions. The Commission gives its position on these conclusions below.

It should be noted that while there was not complete consensus on all of the issues discussed by the Group the conclusions and recommendations discussed in this paper reflect the general opinion the Group reached.

2.1 *Wobbe Index:*

Based on the substantial body of research currently available, particularly in relation to domestic appliances in the UK and Ireland, and the responses of power generators the Group concluded that the current gas quality specification stated in the Code of Operations is too wide and should be narrowed. In narrowing the specification the general view was that aligning with the GS(M)R would be most appropriate, given that this is effectively the specification of the gas currently being delivered to the ROI transportation system and would ensure harmonisation with the gas quality specification in NI, facilitating the physical flow of gas between both jurisdictions. It should be noted however that there was a difference of opinion amongst the Group as to whether there was a need to make a decision on gas quality in advance of LNG being available in Ireland.

The Commission supports this conclusion, and supports the view that a decision should not be deferred any further. Given the evidence presented to the Group the Commission is of the view that there may be a serious safety issue were gas at the extremities of the current Code of Operations specification to enter the transportation system. Therefore, given that the current specification is too wide, the Commission considers it appropriate that the GS(M)R be adopted for three reasons.

Firstly, the primary reason is safety. Effectively Ireland currently operates within the GS(M)R and experience to-date suggests no safety issues with this range of gas quality in addition to this the bulk of available research shows that operation within the GS(M)R range is safe but that there are potential safety issues outside of this range. The Commission therefore considers it prudent to adopt the GS(M)R. However, the Commission is cognisant of the opinions expressed by some members of the Group that a range slightly wider than the GS(M)R could be adopted without raising safety concerns.

Secondly, gas quality is an important issue for gas-fired power generators. The extent to which quality presents a difficulty to generators varies from plant to plant and accordingly generators were not in full consensus regarding a detailed gas quality specification but generally agreed that the Wobbe Index should be brought in line with GS(M)R at a minimum. The main issue for all generators was the Wobbe index and the rate of change of the Wobbe Index of the gas being delivered; a sudden change could cause damage to the plant and/or cause it to trip. Generally speaking, a variance of +/- 2% could be tolerated without bringing the plant off-line and a +/- 5% variance could be accommodated by some plant but would require the plant to come off-line for adjustments to be made. This raises the possibility that if gas at the higher end of the current Code of Operations specification entered the system a significant portion of Ireland's generation capacity would be unavailable. The Commission is of the view that the current specification in the Code of Operations raises the potential for a serious issue in relation to electricity security of supply and that therefore the range should be narrowed.

Thirdly, given the initial rationale that the specification should be narrowed in line with the GS(M)R it makes sense to narrow the specification to the same specification as used in NI. To arbitrarily choose a similar but different specification to GS(M)R may address the safety concerns but would then create difficulties moving gas from ROI to NI and may require treatment facilities on the border. The main objective of the CAG is to operate the system on an all-island basis, including the physical flow of gas between both jurisdictions.

The Commission considers it appropriate that a decision on gas quality be made now because the current specification is accepted as being too wide and so does not serve its purpose. The Commission will continue to monitor developments in gas quality, in particular the work of the CEN Study, and will review elements of the gas quality specification as these developments come to light.

2.2 Oxygen

The Report recommends the adoption of the GS(M)R limit on oxygen; the main reason being that it provides additional options for the treatment of gas, particularly in the case of LNG. The Group were of the opinion that the limit of 0.2%mol, as opposed to the proposed 0.001%mol, would not give rise to any safety or pipeline integrity issues. However the Report recommends an examination of the relationship between the water content and oxygen limit with a view to revising the water content limit to a limit appropriate to an oxygen limit of 0.2%mol.

The Commission supports this recommendation but notes that while the GS(M)R oxygen limit meets the objectives of the CAG it is not within the very tight NTS entry specification limits³. Therefore it may not be possible to flow gas from the island to Great Britain without further treatment. The Regulatory Authorities will re-examine the oxygen limit as part of the further work to be undertaken by the Gas Quality Industry Group. This group will continue to meet regularly to review gas quality issues and the oxygen limit may be revised downwards in the future should it be considered necessary to align to the entry specifications in both jurisdictions with those of National Grid.

2.3 Measurement:

The issue of measurement was addressed by the Group, but no consensus was reached and it was concluded that further work was necessary. Gaslink, in line with the original BGN proposals, proposed that they independently measure the full range of gas quality parameters at each entry point. Generators were of the opinion that there should be monitoring of gas quality on the network and that the results be communicated, possibly in real time, to interested parties. The off-shore operators questioned firstly the need to separately measure quality at entry creating duplication, as this is currently measured by the operator and secondly whether the cost involved was justified.

The Commission supports the conclusion that further work is required, and will progress this in 2009. At this stage, in advance of this further work, the Commission is not taking a position in relation to measurement, but is broadly supportive of the full range of gas quality parameters being measured at entry and that timely information be made available to generators and other interested parties allowing for cost.

³ 0.001%mol; The NTS entry specifications are set out in National Grid's Ten Year Statement

2.4 *Report's Recommendations*

Based on the findings of the Group and the above conclusions the Report makes three recommendations:

- The adoption of the proposed specifications as an Entry/Exit Specification for the ROI and NI Transportation systems.
- Emergency limits based on the GS(M)R emergency limits should be adopted.
- The Gas Quality Industry Group should meet at least twice yearly to address the further work that has been identified.

3 Commission's Decision

3.1 Gas Quality Entry and Exit Specification

The Code of Operations will be modified to include the following parameters and specifications as the Entry and Exit Specifications to the Irish transportation system⁴.

Connected System Agreements (CSAs) may also need to be modified to give effect to this Decision and there may be additional measures including incorporation into the safety cases. It is possible that additional legislation may be required in Ireland to give legal effect to the decision. These issues are currently being assessed by the Commission.

Gas Component	Entry/Exit Specification
Hydrogen Sulphide	Max 5mg/m ³
Total Sulphur (including Hydrogen Sulphide)	Max 50mg/m ³
Hydrogen	Max 0.1%mol
Oxygen	Max 0.001%mol
Water Content	50mg/m ³
Wobbe Index	47.2 to 51.41 MJ/m ³ (Real Gross Dry)
Incomplete Combustion Factor	Max 0.48

⁴ For the avoidance of doubt this includes both entry to and exit from both the transmission and distribution systems.

Soot Index	Max 0.60
Gross Calorific Value	36.9 to 42.3 MJ/m ³ (Real Gross Dry)
Carbon Dioxide	Max 2.5%mol (Note 1)
Contaminants	Note 2
Odour	Note 3
Delivery Temperature	1 to 38°C
Organo Halides	Max 1.5mg/m ³
Radioactivity	Max 5 Becquerals/g
Ethane	Max 12%mol

Note 1: Limit will not be considered breached if the total inerts in the gas is low in the opinion of the Transporter.

Note 2: Gas delivered shall have no odour that might contravene the obligation of the Transporter to transmit gas which possesses a distinctive and characteristic odour. Where the Transporter requires gas to be odourised, the gas shall be odourised in accordance with the following specification: Odour intensity of 2 Olfactory degrees on the Sales Scale (Ref – IGE/SR/16/1989), or such other specification determined by the Transporter acting as a RPO.

Note 3: Natural gas shall not contain solid, liquid or gaseous material which may interfere with the integrity or operation of pipes or any natural gas appliance which a consumer or transporter could reasonably be expected to operate. With respect to Mist, Dust, Liquid gas

delivered shall be technically free in accordance with BS 3156 11.0 1998.

Note 4: Standard Reference Conditions: Combustion reference temp=15°C, Volume unit=m³ at 15°C and 1.01325 bar

3.2 Emergency Gas Quality Specification

At the sole discretion of the National Gas Emergency Manager, gas outside of the Entry/Exit Specification may be admitted to the system, without prejudice to the generality of this, a Wobbe Index of 46.50-52.85 MJ/m³ and the Incomplete Combustion Factor of ≤ 1.49 may apply in the event of a natural gas emergency.

3.3 Issues for review

As discussed above the Commission considers it prudent on the grounds of safety, electricity security of supply, and facilitation of CAG to bring the Wobbe Index in line with the GS(M)R range.

This Decision will be reviewed in full when further research in relation to gas quality becomes available, in particular the CEN (European Committee for Standardisation) Study on gas appliances and a recommended European gas quality specification is completed. This is due to be completed in 2012.

In the interim the Commission will work with the Gas Quality Industry Group, the HSE (NI) and the Utility Regulator to investigate the possibility of slightly increasing the upper limit of the Wobbe Index. Any such increase in the limit could only be considered following a full consideration of the safety issues involved.

The following parameters will be reviewed with the Gas Quality Industry Group in 2009:

- Oxygen
- Water content
- Carbon Dioxide and limit on total inerts
- Hydrocarbon Dewpoint
- Contaminants

4 Next Steps

The Gas Quality Industry Group has proven a constructive forum in which to discuss all of the issues relating to gas quality and has identified a significant number of issues that need to be addressed. Therefore, the Commission proposes to continue to facilitate the Gas Quality Industry Group, suggesting that it meet at least twice annually or as frequently as the Group considers appropriate.

In the first quarter of 2009 the Commission will propose terms of reference and a work programme for the Group. This will include the following items of work:

- Review and investigation of the parameters listed in this Decision as for review
- Further investigation on the appropriate upper limit of the Wobbe Index
- Measurement:
 - Consideration of necessary measurement arrangements at entry
 - Consideration of necessary monitoring arrangements on the network, including communications to interested parties
 - A system of alerts for gas quality excursions
 - A review of the estimated costs involved
- Consideration of the necessity of having separate entry and exit specifications for distribution and transmission.
- To monitor developments at an EU level relating to gas quality

Appendix Petition 8

“Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis”, Executive Summary , Jointly commissioned by the Department of Communications, Energy and Natural Resources and the Department of Enterprise, Trade and Investment, Northern Ireland. November 2007

Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis

Executive Summary



Jointly commissioned by the
Department of Communications, Energy and Natural Resources and the
Department of Enterprise, Trade and Investment, Northern Ireland

List of Consultees

Action Renewables
AES Kilroot Power Ltd
Bord Gáis Éireann
Calor Teoranta/Irish LP Gas Association
Cloghan Point LNG
Commission for Energy Regulation
ConocoPhillips Ireland Limited
Coolkeeragh ESB Limited
Davy
Department for Business, Enterprise and Regulatory Reform
EirGrid
ESB
ESRI
EU DG Energy and Transport
Firmus Energy
Geological Survey of Ireland
Geological Survey of Northern Ireland
Huntstown Power Limited
IBEC
Irish Offshore Operators Association
Irish Salt Mining and Exploration Company Limited
Island Oil and Gas plc
Marathon Oil Ireland Limited
National Oil Reserves Agency
Petroleum Affairs Division
Phoenix Natural Gas
Premier Power Limited
Premier Transmission Limited
Providence Resources Plc
Shannon LNG
Shell E&P Ireland Ltd
South West Scottish Offshore System
Sustainability Energy Ireland
Synergen – Dublin Bay Power Plant
The Northern Ireland Authority for Utility Regulation
Veridian Group Limited

Objectives

The objectives of this report are to assess the security of natural gas supplies for the island of Ireland, to consider the scope for a common approach to natural gas storage and Liquefied Natural Gas (LNG) and to make recommendations accordingly. Thus the report examines possible supply/demand scenarios for natural gas between now and 2020 and recommends how to address gas security of supply in the short, medium and long term.

All Island Gas Supply and Demand Scenarios

Average and peak gas demand were forecast for the residential, industrial and commercial and power generation sectors in order to provide aggregated all-Island estimates of gas demand to 2020 under different scenarios. Under the central case, annual demand on the island of Ireland is forecast to rise from about 5.7 billion cu metres (bcm) in the gas year 2006/2007 to around 8.0 bcm by 2020. The high and low cases estimate average demand about 15% above and 5% below the central case by 2020. Peak demand is expected to rise from 27.3 million cu metres/day (mcm/d) in 2006/7 to over 40 mcm/d by 2020. Gas demand on the island of Ireland is dominated by supplies for electricity generation, around 70% currently, compared with about one third in GB.

Current and future indigenous gas supplies were evaluated and a central case scenario for indigenous gas supply from now to 2020 was developed. This shows that the current level of production from the Celtic Sea of under 1 mcm/d will continue to decline for the next couple of years. By 2009 new moderate sized discoveries (around 3 bcm) in the Celtic Sea could be on production. A temporary increase of somewhat over 1.0 mcm/d will occur when the cushion gas in Southwest Kinsale Storage is blown down. This increase could come as early as 2009 when current gas storage contracts expire, although this is judged to be unlikely. The position will change substantially when the Corrib field comes onstream. At that time, total indigenous production should rise to some 10 mcm/d for about three years, after which it will begin to decline relatively sharply. There is considerable uncertainty of the situation post 2015, with the possibility of as yet undiscovered reserves in the Atlantic Margin being developed.

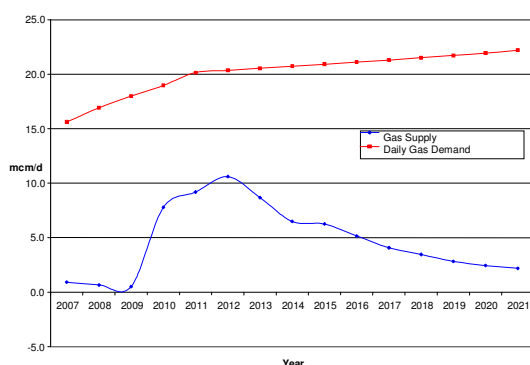
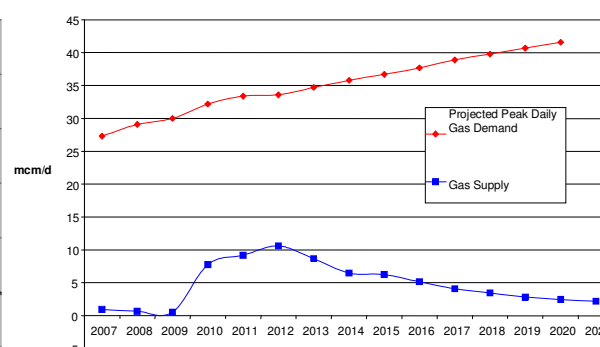


Fig. 1: Annual Daily Gas Demand/Indigenous Supply Balance



Annual Daily Peak Gas Demand/Indigenous Supply Balance

The current shortfall between annual daily gas demand and indigenous gas supply is about 15 mcm/d, with the peak demand shortfall amounting to 28 mcm/d. This shortfall is essentially made up from gas storage and imports from Great Britain (GB). The annual shortfall will fall to about 10 mcm/d when the Corrib Gas Field is at peak production. However, in the absence of any other discoveries and/or indigenous supply developments, the shortfall between annual daily gas

Executive Summary: All Island Natural Gas Storage & LNG

demand and indigenous gas production is projected to be around 20 mcm/d by 2020, with all of this being imported. The equivalent peak shortfall is projected at nearly 40 mcm/d.

- The gap between annual gas supply and demand will vary between 10 and 20 mcm/d from now to 2020
- Corrib contribution to gas demand will be relatively small and short lived
- Construction of LNG import facilities could add 11 mcm/d import capacity
- Until Corrib production comes on stream, the import requirement for peak demand is about 27 mcm/day

All Island Gas Imports & Security of Supply

The island of Ireland is linked to GB by three pipelines, two from the Dublin area at Ballough, and one north of Belfast. These connect into the Bord Gáis operated South West Scotland Onshore System (SWSOS) which runs some 80 kms to the National Grid exit point in Scotland. There is considerable flexibility built into in the operational layout of the interconnector infrastructure and robust emergency repair contract provisions are in place. Thus the probability of a sustained interruption to supplies through the SWSOS or at Ballough is considered to be very low. However the consequences to the island of Ireland should such an event occur, would be potentially very serious for the island of Ireland economy.

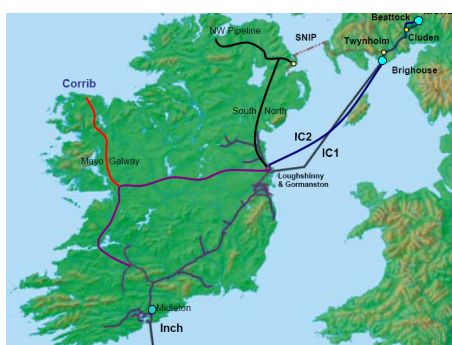


Fig. 2: The Ireland GB Interconnector System

Although GB has been a net exporter of natural gas during the last decade, it is expected to become a significant net importer of natural gas during the period to 2020. The GB market, encouraged by UK authorities, has responded to this changed situation by investing in new import pipelines, LNG import terminals and additional onshore gas storage facilities. These investments are expected to amount to some €15 billion during the period to 2010. This policy of diversifying supply sources and increasing flexibility in the supply chain is in line with EU policy.

The EU Council Directive 2004/67/EC concerning measures to safeguard security of natural gas supply requires, inter alia, member states to ensure supplies to domestic customers from disruption under various

circumstances. However, given the unique circumstances of the island of Ireland caused by the dependence on gas for electricity generation and the lack of diversified gas supply sources, measures that incorporate, and go beyond, the EU Directive are required. These measures should be designed to ensure a certain minimum security of supply based on diversification and/or storage. They would cover both the domestic gas market and the power generation sector and could be met by a variety of mechanisms, including new indigenous gas sources, pipeline inventory known as line pack, storage in depleted gas fields, salt caverns and LNG tanks and demand-side management, including the use of alternative fuels for power generation.

- GB will soon have significantly more surplus supply capacity (indigenous production, import and storage capacity) above expected level of demand than when it was dependent on only North Sea production
- GB would be affected by a shortage of natural gas and/or LNG supply in a tight market
- The island of Ireland has a small import requirement (in absolute volume terms) compared with GB and benefits from GB's increased supply diversity

All Island Gas Storage Options

Actual and potential gas storage options were examined. There is limited deep geological information for onshore Ireland. However, options for geological gas storage would appear to exist in the Larne Basin salt formations in Northern Ireland and in offshore depleted gas fields in the Celtic Sea, including the potential to expand the existing South West Kinsale storage facility. Shannon LNG Limited is proposing to construct an LNG import terminal on the Shannon estuary and other sites on the island of Ireland are being examined as potential locations for the import and storage of LNG. Any or all of these projects would enhance the security of gas supplies on the island of Ireland.

Storage Facility Capacities

Type	Capacity	Million cu metres	Basis
Salt Cavern	25 million cu metres	25	Average of 58 operational and approved caverns in GB
Depleted field	55 billion cu ft	312	Ballycotton production - 20-25% based on Southwest Kinsale
LNG Storage Tank	200,000 cu metres	120	Proposed Shannon LNG Tanks
LNG Peak Shaving Plant	12 mcm	12	4 operational in GB, range 4 - 20 million cu metres
LNG – Re-gasification vessel	82 mcm	82	138,000 cu metres of LNG per vessel
Pressurise Transmission system to 85 bar (linepack)	3.5 mcm	3.5	BGE estimate 3-4 million cu metres

Potential for Gas Storage Onshore and Offshore Ireland by Basin

BASIN	POTENTIAL
ONSHORE	
Permo-Trias	
Larne Basin (onshore/offshore)	High potential – salt caverns Moderate potential – sandstone aquifers
Lough Neagh Basin	Low to moderate potential sandstone aquifers
Rathlin Basin (onshore/offshore)	Low to moderate potential sandstone aquifers
Foyle Basin (onshore/offshore)	Low to moderate potential sandstone aquifers
Kingscourt	Low to zero potential - gypsum
Carboniferous	
Northwest Basin	Low potential – sandstone aquifers Low to zero potential – gypsum Low potential – gas reservoirs (not yet proven)
Clare Basin (onshore/offshore)	Low to zero potential – sandstone reservoirs Low potential – gas reservoirs (not yet proven)
Devonian	
Various onshore basins	Zero potential – sandstone reservoirs
OFFSHORE	
Mesozoic-Tertiary	
St Georges Channel Basin	Moderate potential – Jurassic gas reservoirs (non-commercial to date) Low to moderate potential – Jur. sandstone aquifers
North Celtic Sea Basin	High potential – Lower Cretaceous gas reservoirs (proven) *

Executive Summary: All Island Natural Gas Storage & LNG

	Moderate potential – Jurassic gas reservoirs (non-commercial to date) Moderate potential – Lower Cretaceous & Jurassic oil reservoirs (non-commercial to date) Low to moderate potential – sandstone aquifers
Fastnet Basin	Zero potential
Porcupine Basin	Moderate potential – Jurassic gas reservoirs (non-commercial to date) Moderate potential – Jurassic oil reservoirs (non-commercial to date) Low potential – sandstone aquifers
Slyne-Erris Basin	Low potential – Jurassic oil reservoirs (not proven) Moderate to good potential – Triassic gas reservoirs (proven)
Rockall Basin	Low to moderate potential – Jurassic to Permo-Trias gas reservoirs (proven, non-commercial to date)
Donegal-Malin Basin	Low potential – Permo-Trias to Jurassic sandstones
Permo-Trias / Carboniferous	
Kish Bank Basin	Low-moderate potential – Trias sandstone aquifers
Central Irish Sea Basin	Low potential – Trias sandstone aquifers
St Georges Channel Basin	Low potential – Trias sandstone aquifers
Portpatrick Basin	Low-zero potential – Trias sandstone aquifers
Peel Basin	Low-zero potential – Trias sandstone aquifers
East Irish Sea Basin	High potential – Trias gas reservoirs (proven) * Moderate potential – Trias oil reservoirs (proven) Low potential – Permo-Trias aquifers Zero potential – Carboniferous aquifers

- Disused and current mine workings pose considerable challenges for natural gas containment due to natural and anthropogenic breaching over time
- Substantial potential gas storage capacity exists onshore and offshore Ireland
- Depleted or marginally economic gas fields in the North Celtic Sea and salt cavern storage in Larne provide the best short to medium term options for gas storage independent of existing interconnectors.

Security of Supply Measures - Discussion

Although the short/medium term demand for natural gas on the island of Ireland can be forecast with some degree of confidence, the same cannot be said about how this will be supplied, other than that the SWSOS is likely to be the conduit for residual supply in the foreseeable future. The dilemma facing both policy makers and potential investors is that the situation is to some extent dynamic, with the potential of changing each year. For example, in 2007 a number of events have and could occur, any one of which change the security of supply situation in any future year. These include the CER/ESB decision to close a number of oil fired power stations in 2010, the award of salt exploration licences in Northern Ireland, the outcome of exploration in the Celtic

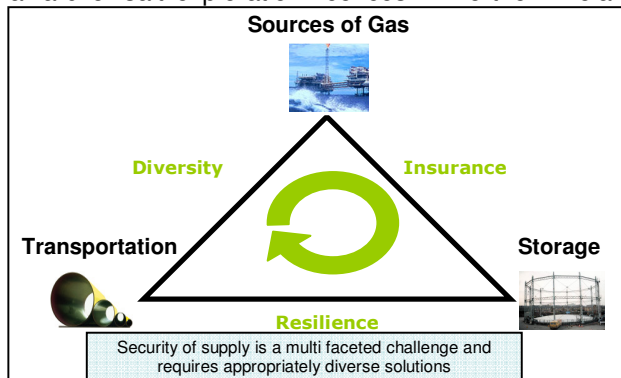


Fig. 3 Security of Supply Triangle

attention to the less likely scenarios, including matching peak demands and addressing low probability events such as infrastructure or market failure.

It is important to ensure that any measure that is proposed by policy makers to enhance the security of supply on the island of Ireland should not distort the market in such a way that it prevents the private sector providing solutions on a commercial basis. In an ideal world, the private sector would make the necessary investments to ensure a diversity of supply sources, including commercial storage of gas. This would appear to be occurring in GB with the encouragement of, but not compulsion by, government (and aided by substantial crucial investments in onshore assets underpinned by price regulation). To date, this has not occurred on the island of Ireland with the result that over 90% of gas supplies are imported from a single source and over 65% of electricity is generated using gas. Moreover, this will rise further as new gas fired stations are approved and when oil fired generation is closed.

This unique situation of low supply diversity and high dependence on gas for power generation on the island of Ireland requires a combination of strategic and commercial solutions to address security of gas supply.

- The EU requirement to protect the domestic gas sector is not intended to be an assurance of adequacy at the individual member state level
- There is already a basis for a security standard in place in NI & ROI
- Ireland is unique compared with other European countries in its lack of diversity of supply sources, high dependence on gas for power generation and very limited gas storage
- Any Security of Supply Standard should comply with the Directive and accommodate the special circumstances of the island of Ireland
- Some form of security provision should be made to insure against a major supply failure in GB
- Provision of storage on the island of Ireland to insure against supply failure in GB would more than cater for security of supply under severe weather conditions

Security of Supply Measures - Conclusions

Ireland has seen a rapid increase in the demand for gas in the last two decades during which time indigenous supplies have fallen as a result of the depletion of the Kinsale gas field. The consequence of this has been the need for increasing supplies of imports from GB. Northern Ireland was connected to GB in 1996 and since then has been wholly dependent on GB for its supplies. The interconnection of the two systems, both in Scotland and more recently on the island of Ireland, has made it appropriate to consider the issue of the security of supply of natural gas on an all Island basis.

The shortfall between indigenous gas supply and gas demand on the island of Ireland is made up of gas imports from GB through the three gas interconnectors. This maximum shortfall is reasonably predictable for the next ten years. A potential pipeline capacity constraint in the SWSOS has been identified by the CER in the latest Gas Capacity Statement by 2008/9 if Corrib is delayed and storage is not available. Subsequently a number of projects, if they progress through to development, could reduce the shortfall. Beyond ten years there is further uncertainty. By then the island of Ireland could move towards self sufficiency in gas or even become a net exporter if significant discoveries are made and developed offshore Ireland, renewable energy sources increase their contribution to electricity generation and energy efficiency targets are achieved. Alternatively, in the absence of any developments, it could become almost wholly dependent on imports as is the case now, but at a much higher volume.

In the meantime, the island of Ireland has effectively become part of the GB market, from both a supply and a price perspective. The island of Ireland, is fed from one of many exit points from the National Grid Transmission System and the island of Ireland price of gas is closely linked to the GB National Balancing Point (NBP). This British Isles gas market has a diversity of supply sources including its own production from the North Sea, pipelines from the Norwegian sector and the continent, and LNG terminals either in operation or under construction that can access supplies from around the world. Furthermore some onshore gas storage facilities exist in GB and others are under construction or in various stages of development or planning.

This situation would appear to be consistent with EU policy which is promoting the concept of regional markets by encouraging diversity of supply and increased cooperation in the event of disruption. The GB market clearly has a growing diversity of supply and Treaty arrangements exist between Ireland and the UK to ensure a sharing of available supplies in the event of shortage. The Treaty also contains provisions to guarantee that supplies are made available to Northern Ireland and the Isle of Man on a commercial basis.

The only formal supply security requirement on EU Members is to comply with Council Directive 2004/67/EC, which requires provisions to protect domestic customers. There is no requirement that such protection should be within national borders and on the basis that the island of Ireland is part of a wider British Isles market, the island of Ireland would seem to be in compliance. On this strictly legal basis, there would seem to be no external imperative for government intervention on the island of Ireland to ensure gas storage and/or LNG supplies are in place on the island of Ireland.

However, none of this takes into account the particular circumstances of the island of Ireland. Sitting on the far western edge of the pan-European gas market, the combination of a 90% dependence in part on a single piece of infrastructure for its gas supplies and a 65% and growing dependence on gas for electric power generation, make it uniquely vulnerable within the EU to the consequences of any disruption to gas supplies on a local and/or regional level.

Executive Summary: All Island Natural Gas Storage & LNG

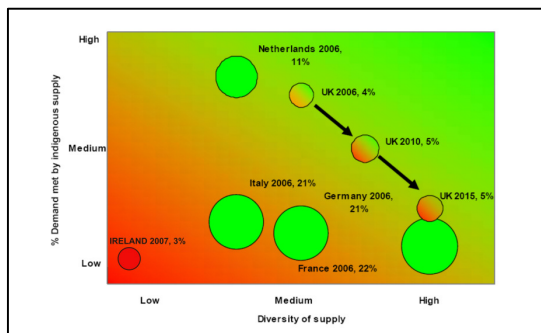


Fig. 4 High Imports Low Supply Diversity

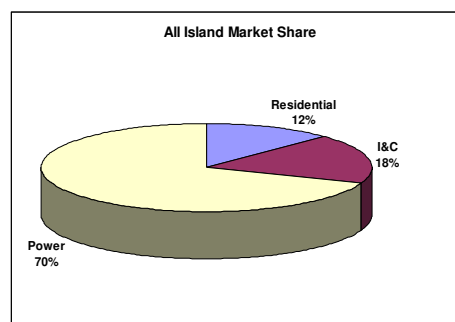


Fig. 5 High Dependence on Gas for Power Generation

Moreover, unlike most other countries, there is little surplus generating capacity in Ireland that is available in periods of relatively high demand. Thus serious consideration has to be given to the consequences of the possibility of an interruption to supplies through the SWSOS or at Ballough, however remote the probability that it might actually happen.

In the first instance, should imports cease from GB or be severely curtailed, the island of Ireland would not be able to comply with the EU Directive, having peak domestic demand of around 7 mcm/d and supply of about 4mcm/d in total, comprised of Kinsale production and withdrawal from Southwest Kinsale storage. The length of time that supplies to the domestic sector could continue would of course depend on the weather at the time and the linepack available, but it would be unlikely to exceed a few days. Line Pack held by BGÉ and Premier Transmission is understood as follows:

- BGÉ line pack that could be released in an emergency could amount to as much as around 11 mcm. However, the amount of stock in the system can vary considerably depending on the prevailing operating conditions and could well be below this at different times of the day.
- Premier Transmission has an effective line pack of about 4.3 mcm assuming SNIP is sourced at 65 bar and the pressure is dropped to its minimum of 12 bar. However, as is the case with BGÉ, the actual amount could be below this.

It is of course to be hoped that any curtailment of supplies via GB would be short-lived, and in most anticipated circumstances of key infrastructure failure, the transporters believe that repairs could be conducted within a matter of hours or days. However, restriction in supplies might be a consequence of difficulties in the GB market or further upstream that might be longer lived, albeit not necessarily causing complete loss of supplies. Furthermore, catastrophic loss of inaccessible pipeline infrastructure could require considerably greater remedy than a few days, although this may not directly impact on more than one of the interconnector links at once, enabling continuation of some level of supplies from GB (if necessary by re-routing and use of the South-North link).

The ability to supply the domestic market for even a short period of time in the event of a major failure of supplies from GB will be wholly dependent on the gas fired power sector switching off gas supplies immediately and running on alternative fuels for the duration of the gas supply disruption.

The principal conclusion of this report is that the consequences of any major failure of supplies from GB would be as significant for the power sector and thus the island of Ireland economy as a whole, as for the domestic gas market. Thus this situation needs to be addressed in an integrated and holistic way so as to provide an element of security to both sectors.

The EU requirement to protect the domestic gas sector should be seen (as it is) as a minimum standard for member countries, designed in part to reduce the risk of “weakest link” or domino effects between countries along the gas supply chain. It is not intended to be an assurance of adequacy at the individual member state level, since this requires appropriate consideration of specific national circumstances and needs. In the case of the island of Ireland, such consideration suggests a compelling case for measures that extend beyond the minimum EU standard.

Recommendations for Security of Supply Measures

Based on the island of Ireland's unique situation of low diversity of gas supply and high dependence on gas for power generation, together with the need for security of supply measures to go beyond the minimum EU standard, a number of short, medium and long term recommendations are made.

As noted above, the situation with regard to supply of gas to the island will change over the period covered by this report. Some of these changes are reasonably predictable (eg Corrib), some might or might not occur with or without government intervention or facilitation (eg Shannon LNG, commercial gas storage in the Celtic Sea or in salt caverns in Northern Ireland) and some that might occur (eg discoveries in the Atlantic Margin). Other possible projects that are less visible in the public arena might or might not occur with or without government intervention. Any of these have the potential to change the security of supply situation.

Short Term

- Ensure CCGT's maintain 5 days distillate storage
- Raise operational pressure on transmission system to increase linepack
- Increase offtake pressure from GB's National Grid exit point in Scotland

Medium Term

- Increase storage and deliverability at Southwest Kinsale
- Develop recent Celtic Sea discoveries as storage facilities
- Construct peak shaving LNG facility on the island of Ireland
- Develop rapid response LNG import facility
- Flatten Corrib production profile

Long Term

- Strategic gas storage in salt caverns
- Strategic gas storage in LNG tanks
- Strategic gas storage in depleted gas fields

Short Term Security of Supply Measures

In the short term, it is clear that the potential constraint identified in the CER's latest Gas Capacity Statement and the vulnerability to the over exposure to the GB gas market needs to be addressed and a number of policy and commercial measures are proposed that could be implemented within a relatively short timeframe. These include:

1. Ensuring all ROI's CCGT's maintain physical distillate stocks on site sufficient to operate at rated capacity for 5 days. Where onsite stocks have to be reduced for operational reasons, physical replacement stocks and transportation should be acquired beforehand to ensure that levels held on site only fall below 5 days supply for minimum periods. The CER should instigate a mandatory stock reporting system. It is recognised that there will be a cost for this, but it is a licence condition on all licensed power plants and thus not disadvantageous to any one plant. It is noted that different arrangements exist in Northern Ireland, with one gas fired plant maintaining 10 days back up fuel and a second one building a pipeline to an adjacent oil storage facility (see below).
2. Increasing operational pressures in the high pressure transmission system in the interconnectors and on the island of Ireland so as to increase linepack (see above) and thus inventory held outside of GB. It is recognised that there will be both an operational and cushion cost associated with this and the amount of commercial storage in its system that BGÉ can offer to third parties may fall.
3. Increasing minimum assumed normal operating pressures in SWSOS from 40 barg to 45 barg. This is already under discussion with National Grid and will add to the operational flexibility of the network in the event of problems elsewhere on the system.

It is believed that these measures could be implemented within a short time frame and would do much to enhance the security of gas supplies to domestic consumers and the electricity generating system. However, it should be noted that on their own, they would not ensure compliance with the EU Directive in the absence of supplies from GB.

Medium Term Security of Supply Measures

It is recommended that at least seven other measures be considered which could be implemented in the medium term and which would enhance the level of security of supplies to the gas market:

1. Marathon has indicated that it would be possible to increase storage at Southwest Kinsale by nearly 50% to around 350mcm from the current level of 200 mcm by drilling one additional well and twinning a pipeline to reduce pressure drop.
2. Island Oil and Gas has indicated that it is studying the possibility of developing one of the discoveries it has made in the Celtic Sea this summer as a storage facility in one form or another.
3. Peak shaving LNG plants are relatively common in the USA and are in use in a number of other countries. GB has four of these in operation at this time (Avonmouth, Dynevor Arms, Glenmavis and Partington ranging from about 100 mcm to 30 mcm each), although some of this capacity may be surplus to National Grid's current requirements. In the absence of other LNG facilities on the island of Ireland, consideration should be given to constructing a peak shaving facility on the island as a way of storing gas. It may even be possible to acquire a plant from National Grid, though the practicalities of this would need to be investigated.
4. The technology of on-ship LNG regasification has advanced rapidly recently. A limited number of these vessels are in operation and additional vessels are currently under construction. Consideration should be given to the idea of building a suitable reception terminal on the island of Ireland. A recent project at Teesside in GB went from initial discussions to full planning approval in 8 months and the first gas delivery was made into the new facility less than 6 months later.
5. A Norwegian company is developing a small scale LNG model that would permit the delivery of LNG cargoes of only around 4,500 tons to selected destinations. This concept might be capable of being adapted to supply a portion of the domestic market in an emergency.

Executive Summary: All Island Natural Gas Storage & LNG

6. The Corrib field is being developed with a production profile delivering maximum production for three years, followed by a relatively rapid decline in production. Consideration should be given to developing the field with the same nameplate facilities capacity, but producing it at less than maximum reservoir capacity in initial years so as to permit an increase in indigenous supplies should this be required in the event of a failure of supplies from GB. This would also have the advantage of prolonging the lower level of output before decline. The need for this would reduce in the event that other supplies to the island of Ireland became available.

Longer Term Security of Supply Measures – Gas Storage

The measures outlined above are intended to enhance the security of gas supplies in the shorter term, in particular to the domestic market as required by the EU Directive. It is clear that longer term measures, if required, will need to be taken if it is determined that storage inventory should be maintained on the island of Ireland.

At this time, the only gas stocks held on the island of Ireland are those in the Marathon operated Southwest Kinsale storage facility. These amount to 200 mcm (7 billion cu feet), representing about 12 days average consumption and 7 days peak consumption in 2006/2007. However the withdrawal rate is limited to 2.5 mcm/d and this, together with production from Kinsale, would not be sufficient to supply the domestic market. Thus although the island of Ireland in theory has 12 days storage at average demand, in reality storage can only deliver about 15% of this on any day whilst stocks last.

In comparison with other EU countries, GB and the island of Ireland have relatively low level of gas stocks:

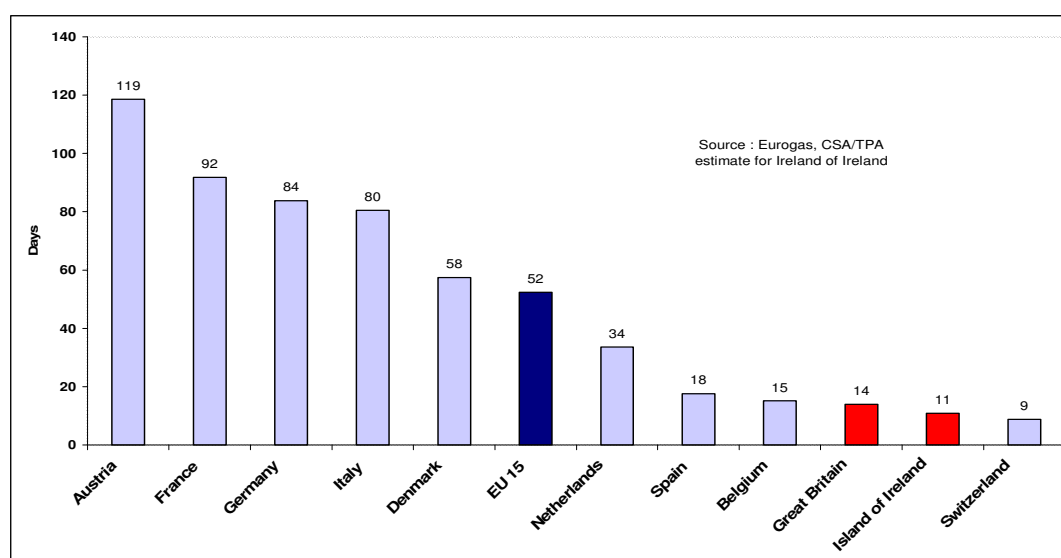


Fig.6 Average Number of Days Gas Storage – End 2005

However, with regard to GB, it should be pointed out that it has been self sufficient in gas supplies up to now, with little need for onshore stocks, given the flexibility of production from the North Sea. This contrasts with countries such as France and Germany that have historically been heavily dependent on relatively inflexible (and/or politically sensitive) imports, but have had the partial compensation of geological structures well suited to storing gas. Moreover since end 2005, one new GB storage facility has come on stream, another one is commencing operations and two more have received planning permission and are under development. These will add another 5

Executive Summary: All Island Natural Gas Storage & LNG

days to GB storage capacity in the next few years. A number of other projects are in various stages of the planning process and it can be expected that at least some of them will move forward to development, thus increasing further the number of days storage and thus the differential with the island of Ireland.

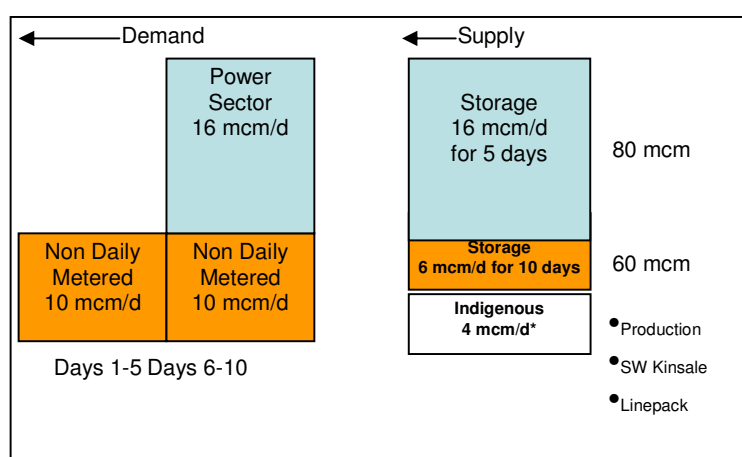
It is recommended that the island of Ireland should not have proportionally less gas storage than GB for the following reasons:

- In the event of a shortage of gas in GB, the island of Ireland would be in a better position to expect equal treatment under Treaty arrangements.
- If storage facilities on the island of Ireland did exist, they could be used to assist GB (by reducing offtake from SWSOS) in the event of a disruption of supply in the British Isles regional market. Given the very limited number of sources of gas to the island, the impact of a failure on one of them is proportionally greater than GB, given the latter's range of indigenous production facilities, import pipelines and LNG terminals.
- The island of Ireland is proportionally much more dependent on gas for power generation and a failure of gas supplies for more than a few days could have very serious social and economic consequences for the island.

The Volume of Gas Storage Required

On the basis of parity with relative GB storage levels alone, the island of Ireland would need to double the number of days storage, approximately another 200 mcm on the basis of current demand, although the actual volume would need to increase in line with demand. Of equal importance to the volume is the withdrawal rate, this being low relative to volume in depleted oil and gas fields and much higher in salt caverns and LNG. A high volume and lower delivery rate might satisfy the situation of a sustained "partial" problem caused either by loss of one of the interconnector pipelines due to a subsea rupture, or restriction of GB supplies during a severe winter and/or major sustained upstream supply shock. However, given that any serious supply shortfall to the island of Ireland is likely to be characterised by being relatively low in the number of days duration but proportionally high in the volume involved, daily delivery could become more relevant than absolute volume. Thus any measure that is determined to be appropriate for the island of Ireland needs to effectively have the ability to deliver a certain volume of gas at peak demand rates for a certain period of time.

Fig. 7 Requirement for 10 day Interruption Peak Demand



According to the analysis in the report, in order to comply with the EU Directive, supplies to the domestic market, at around 7 mcm/d, need to be maintained for 10 days. However, in practical terms, supplies to the majority of other customers connected to the distribution system will need to be maintained as there is no way of isolating them safely. This will bring the requirement up to about 10 mcm/d. Thus one measure for securing the supply to this

sector of the market would be the ability to deliver 10 mcm/d for 10 days. Assuming 4mcm/d can be delivered from production, Southwest Kinsale and linepack (assuming linepack from the two Interconnectors is available), an additional 6 mcm/d would be needed.

Executive Summary: All Island Natural Gas Storage & LNG

Given the dependence on gas fired power generation, measures are needed also to ensure continued output for 10 days in the absence of conventional gas supplies.

In Northern Ireland, Premier Power, which operates the 1,300MW Ballylumford plant, maintains 10 days oil back-up on site. The other gas fired power station – ESB Coolkerragh - holds less than this, but is currently laying a pipeline to the adjacent LSS Storage Depot which could permit additional supplies to be made available.

In the South, plants licensed by the CER are required to be able to operate on alternative fuels for a minimum period of five days. Assuming short term recommendations made above are implemented, these plants will be able to operate without gas for the first five days of an interruption of supplies, leaving a further five days to be backed up. This could be done in one of two ways:

1. Gas could be provided from one or more storage facilities. Peak supplies to the power sector amount to some 16 mcm/d and thus this volume would need to be supplied for 5 days. The advantage of supplying gas during this period is that it is inexpensive to distribute once pipelines have been built connecting storage to market; the disadvantage is it is expensive to store in depleted oil and gas fields (cost of cushion gas during period of storage and low delivery rates), in salt caverns or as LNG.
2. A further five days of distillate could be used. The advantage is that distillate storage in tanks is considerably less expensive than gas storage in depleted fields, salt caverns or as LNG. However distribution from a central location to inland plants would probably be impractical. The average 400MW CCGT consumes around 1,500 tons/day and thus five day supply for only one plant would amount to around 7,500 tons. This would be the equivalent of about 300 road tanker deliveries per CCGT.

Thus in summary, the measures recommended would require:

- 60 mcm of gas to be stored for the domestic market to be delivered at 6 mcm/d for 10 days
- Either 80 mcm of gas to be delivered at 16.0 mcm/d over five days or 7,500 tons of distillate per 400MW CCGT in locations that ensures delivery to the plants, or a combination of both.

Avoiding potential market distortion

It is proposed that a competition be held to determine which would be the most cost effective way of delivering one or more of these projects in the short term. If this were to be held, it is likely that other possible solutions would emerge. Thus it is recommended that an appointed agent periodically invites the market to provide storage space and defined deliverability for strategic gas storage. The appointed agent will then purchase the volume of gas that is needed to meet the strategic requirement for the following period – eg four years. The precise strategic gas required for any four year period can be forecast. Thus at this time current forecast would require a volume of **140 mcm** to be delivered in two stages over a ten day period. The associated release mechanism will need to be clearly defined.

Best Options for All Island Gas Storage Solution

There are a number of ways that gas storage of these magnitudes could be provided on the island of Ireland:

Executive Summary: All Island Natural Gas Storage & LNG

1. Salt deposits exist in the Larne area north of Belfast may offer the opportunity to develop salt caverns for gas storage. DETI is processing Mineral Prospecting Licences for companies interested in assessing the opportunities for gas storage. The size of any one salt cavern will be dependent on the structure, size and depth of the salt deposit, but caverns with space in the range of 5 to 40 mcm have been suggested as being possible in the area. Based on this working capacity, peak withdrawal rates of up to 2 mcm/d per cavern could be realised, with the withdrawal rate declining in response to falling cavern pressure. Caverns would be developed sequentially at about 2-3 per year.
It should be noted that the 18" diameter of the South-North pipeline would limit the amount of gas that could flow south. Preliminary analysis would suggest that under normal conditions, this would amount to between 2-4 mcm/d, but in emergency circumstances, could be a little higher.
2. If an LNG import facility were to be constructed on the island of Ireland (for example Shannon LNG), it would need cryogenic tanks to store the LNG discharged by tankers (unless a terminal to off load vessels with on ship regasification was developed – see above). Typically, these tanks vary in capacity, but for example, the LNG tanks currently under construction in the UK include South Hook (155 mcm each), Dragon (160 mcm each) and the Isle of Grain expansion (190 mcm each). Thus consideration could be given to the provision of capacity at the import terminal to store the volumes of gas noted above. Providing sufficient revapourisation capacity is available, the appropriate send out rate can be ensured.
3. Gas storage can be undertaken in depleted gas fields – eg as is done in the Rough field in the UK. Only limited opportunities for this exist on the island of Ireland at this time, with Marathon's near depleted Ballycotton field probably being the most likely candidate. The reservoir had an estimated 1,700 mcm of ultimate recoverable gas, which could in theory be restocked and operated as a storage facility. However a significant proportion of this volume would need to be purchased as cushion gas and thus not available for ongoing storage operations. Preliminary estimates indicate a withdrawal rate of 5-6 mcm/d might be possible.

These opportunities are under active consideration by the appropriate operators at this time. If it is decided that the island of Ireland needs the levels of gas indicated above, it may be that this could be provided commercially. However given the strategic importance of gas storage, regulatory arrangements will be required to preserve a level of strategic reserve. These regulatory arrangements should be designed to ensure minimum adverse impact on the commercial freedom of shippers and operators to take advantage of high gas prices. A possible solution is that an appointed agent could issue periodic invitations to tender for the provision of storage space with defined delivery rates. This would allow the private sector to propose a number of possible solutions at competitive rates (eg additional oil storage tanks at power plants, gas storage units in depleted gas fields, gas storage units in salt caverns, LNG tank storage and storage of LNG in regasification vessels). The appointed agent would also separately purchase the volume of gas required, based on the projected demand supply shortfall for the following four year period.

Appendix Petition 9

Höegh LNG and Irish Sea Offshore Gas Storage

PIPELINE APPENDIX G:

Serious New Information on Höegh LNG and Irish Sea Offshore Gas Storage for PA0002 post oral hearing into the proposed LNG terminal in County Kerry.

PETROLEUM ACT 1998

NOTICE OF APPLICATION FOR A SUBMARINE PIPELINE

WORKS AUTHORISATION

Port Meridian Energy Limited hereby gives notice, in accordance with the provisions of Part I of Schedule 2 to the Petroleum Act 1998 that it has made an application to the Secretary of State for Business, Enterprise & Regulatory Reform for the grant of an authorisation for the construction and use of an offshore gas unloading facility (consisting of two Submerged Turret Loading (STL) buoys (including pickup assemblies, anchors, anchor wires/chains, landing pads and the risers/umbilicals) and a pipeline system) in the east Irish Sea. The pipeline system runs from the two pipeline end manifolds (PLEMs) at the STL buoy locations to the landfall at Walney Island.

A map delineating the route of the proposed pipelines and providing certain further information may be inspected free of charge at the places listed in the Schedule to this notice from 10am to 4pm on each weekday from the date that this notice is published until the date mentioned in the next paragraph of this notice.

Pursuant to a direction of the Secretary of State, representations with respect to the application may be made in writing and addressed to the Secretary of State for Business, Enterprise & Regulatory Reform, EDU-LED, Atholl House, 86-88 Guild Street, Aberdeen, AB11 6AR (marked FAO Mrs C Campbell, Offshore Pipeline Authorisations) not later than 3rd October 2008 and should bear the reference "01.08.04.06/13C" and state the grounds upon which the representations are made.

5TH SEPTEMBER 2008

PORT MERIDIAN LIMITED,
c/o Hoegh LNG AS,
Drammensveien 134,
PO Box 4, Skoyen,
NO-0212 Oslo,
Norway

CHRIS EVERARD

SCHEDULE TO THE NOTICE FOR PUBLICATION PLACES WHERE A MAP OR MAPS MAY BE INSPECTED

- | | | | |
|---|---|--|--|
| ■ PORT MERIDIAN
ENERGY LIMITED
c/o Leif
Hoegh UK Ltd
Black Horse House
Bentalls
Basildon
Essex
SS14 3BY | ■ MFA FISHERIES OFFICE
Neville House
Central Riverside
Bell Street
North Shields
Tyne and Wear
NE30 1LJ | ■ MFA FISHERIES OFFICE
New Fish Market
The Quay
Brixham
Devon
TQ5 8AW | ■ MFA FISHERIES OFFICE
Suite 3 Cedar Court
Havens' Head
Business Park
Milford Haven
Pembrokeshire
SA73 3LS |
| ■ DEPARTMENT FOR
BUSINESS, ENTERPRISE
& REGULATORY REFORM
Energy Group
3rd Floor,
Atholl House
86-88 Guild Street
Aberdeen
AB11 6AR | ■ MFA FISHERIES OFFICE
The Fish Quay
Sutton Harbour
Plymouth
Devon
PL4 0LH | ■ MFA FISHERIES OFFICE
Rock-A-Nore Road
Hastings
East Sussex
TN34 3DW | ■ MFA FISHERIES OFFICE
The Quay
Poole
Dorset
BH15 1HP |
| ■ MFA FISHERIES OFFICE
Unit 2a Newchase
Court
Hopper Hill Road
Eastfield
Scarborough
North Yorkshire
YO11 3YS | ■ MFA FISHERIES OFFICE
Estuary House
Wharnccliffe Road
Grimsby
Lincolnshire
DN31 3QL | ■ MFA FISHERIES OFFICE
46 Fore Street
Newlyn
Penzance
TR18 5JR | ■ NATIONAL FEDERATION
OF FISHERMENS'
ORGANISATIONS
30 Monkgate
York
YO31 7PF |
| | ■ MFA FISHERIES OFFICE
Baltic Chambers
2 Waveney Road
Lowestoft
Suffolk
NR32 1BN | ■ MFA FISHERIES OFFICE
9 Calder Court
Shorebury Point
Amy Johnson Way
Blackpool
Lancashire
FY4 2RH | ■ SCOTTISH FISHERMEN'S
FEDERATION
24 Rubislaw Terrace
Aberdeen
AB10 1XE |

DAILY TELEGRAPH 6 SEPT 2008



Kilcolgan Residents Association
Protecting the Shannon Estuary

Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry
Ireland

Phone: 068-23730
Mob: 087-2804474
Email: safetybeforelng@hotmail.com

March 7th 2008

Re: Serious New Information on Höegh LNG and Irish Sea Offshore Gas Storage for PA0002 post oral hearing into the proposed LNG terminal in County Kerry.

Since the fast-track oral hearing into the proposed LNG terminal at Tarbert, County Kerry held from January 21st to 30th 2008, profoundly-serious new information has come to light which is so important that it will have to be taken into consideration if a fully-informed decision is to be made.

This information covers the following 8 areas:

1. The Norwegian LNG company, **Höegh LNG**, has announced its intention to develop another **Offshore LNG terminal** 35 Kilometres also off the coast of Blackpool in Morecambe Bay – in the **Irish Sea**. The project – called “Port Meridian Offshore Morecambe Bay”¹- will use SRV technology, which is an LNG vessel with onboard LNG vaporisers.

Separately, a new **offshore** gas storage facility, also in the **Irish Sea** 24 Kilometres off the coast of Britain and approximately 100 miles from Dublin is at an advanced planning stage and is expected to come on stream by 2011. This real, tangible example of an offshore gas storage facility so close to Ireland proves categorically that the offshore alternative proposed by us at the oral hearing and planned by Exxon Mobil off the coast of New York, is able to be put into practice in Irish waters and cannot now be ignored as a viable and safe alternative to the proposed LNG terminal at Tarbert.

The “Gateway Gas Storage Project”² is being project-managed by Stag Energy Development Company Ltd for Gateway Storage Co. Ltd. **Gateway** is building a natural gas storage facility to store natural gas offshore in 20 man-made underground caverns, created specially in the salt strata underlying the Irish Sea. Gateway has stated that, once commissioned, the facility will help to substantially improve the security of energy supplies for both the UK and the Irish Markets.

¹ APPENDIX 2: PORT MERIDIAN OFFSHORE LNG TERMINAL by Höegh LNG
http://www.hoegh.com/lng/business_development/focus/

² APPENDIX 1 – GATEWAY GAS STORAGE PROJECT by STAG ENERGY
(<http://www.stagenergy.com/Gateway/index.html>)

Both Gateway and Höegh LNG have highlighted the benefits of their projects as having no negative visual impact and especially of enhancing safety to the general public. Once completed, a permanent 500 metre safety zone, representing a total **12 square kilometre exclusion zone**, will be created around the whole facility. This is therefore setting an extremely serious precedent which the Health and Safety Authority should now be made aware of in its evaluation of the Hess LNG project at Tarbert and which An Bord Pleanála should take into account in its evaluation of the sterilisation of the remaining Landbank and risk to the residents and landowners of Kilcolgan. This offshore exclusion zone in the Irish Sea does not even have to consider the general public meaning that any onshore exclusion zone would obviously have to be larger than that.

An Executive meeting of Blackpool Council took place on February 13th, 2008 to consider both the Gateway Gas Storage and Höegh LNG Port Meridian Terminal projects³. The Executive meeting recommended acceptance of the project by the Council subject to receiving assurances from the Health and Safety Commission that there will be no risks of explosion from that facility to Blackpool residents or visitors. Both projects, although not connected, can operate in parallel.

Rudall Blanchard Associates, a specialist environmental and planning consultancy, completed the Environmental Impact Assessments⁴ and is acting on behalf of both Gateway and Höegh LNG.

2. Exxon Mobil has decided to press ahead with its drilling commitment on its giant Dunquin prospect in Porcupine basin off the west coast of Kerry. On February 21st 2008 it announced that it is looking for farm-in partners to allay the cost of drilling. ExxonMobil said two prospects have been identified, Dunquin North and Dunquin South. Both are anticipated to hold gas or gas/condensate with the estimated potential to hold over 18 trillion cubic feet of gas; Corrib holds only one trillion cubic feet.⁵ Throughout the oral hearing into the proposed Hess LNG terminal at Tarbert it was claimed that Ireland was running out of gas because Corrib was only expected to provide 40% of national gas needs at most when it comes fully on stream. This means that in the medium term, Ireland will be a net exporter of Gas, as Norway and the UK currently are. This issue on whether or not Ireland will become a net exporter of gas in the medium term needs to be reassessed as this would bring into question the stated need for an onshore LNG terminal – supplying gas to Ireland. It would seem now that the aim in the medium term will be to use the terminal for even more export of gas via the pipelines to the UK and Continental Europe from Ireland. Why put our lives at risk if that is the case?

³ APPENDIX 3: CONSULTATION ON THE GATEWAY GAS STORAGE PROJECT AND THE PORT MERIDIAN OFFSHORE LNG TERMINAL By BLACKPOOL COUNCIL
<http://www.blackpool.gov.uk/Services/M-R/MeetingsMinutesandAgendas/Agenda.htm?ID=51697433>
<http://www.blackpool.gov.uk/democracy/agenda/viewdecision.aspx?guid=7836eb7d-ed26-4a24-814e-5e3e47285346>

⁴ APPENDIX 4 Gateway Gas Storage Project – Offshore Environmental Impact Statement
http://www.stagenenergy.com/News/Gateway_ES_Non_Technical_Summary_Oct_07.pdf

⁵ APPENDIX 5 – Dunquin prospect off the Kerry Coast has 18 times more gas than Corrib. “Irish Independent”, February 22nd 2008 <http://www.independent.ie/business/irish/exxon-woo-new-partners-to-allay-dunquin-drilling-costs-1295318.html>

3. Shannon LNG and Hess LNG stated throughout the oral hearing that Ireland is running out of gas, yet Hess Exploration Ireland have just taken a 42% share in two exploration licences from the Norwegian group Statoil, in partnership with Shell Ireland, in the Slyne-Erris Basin⁶. This proves that even HESS itself is really of the opinion that there are huge quantities of gas in Ireland and the firms are expected to start drilling in 2008.
4. Marathon Oil announced on February 20th 2008 that it is selling its Irish operations. The depleted reservoirs could therefore be bought out by the Irish state and used as a natural gas storage facility as proposed by the Gateway Gas Storage facility in the Irish Sea. Indeed, within hours of the Marathon announcement, Bord Gáis Éireann chief executive, John Mullins, said the State-owned gas company would be taking a serious look at acquiring some, or all of Marathon's Irish assets⁷. Bord Gáis would be interested in Marathon's stake in the Corrib gas field and the strategic undersea storage facilities owned and operated by Marathon. Bord Gáis has the resources and access to funds to comfortably buy some or all of the assets on offer. This therefore brings into question the need for a dangerous onshore LNG terminal at Tarbert.
5. We believe that serious misrepresentation by Shannon Development has taken place at the Oral Hearing in Tralee from January 21st -30th 2008. Shannon Development has **NO REMIT** for attracting industrial development since this role was taken off them in 2005 following an announcement by Micheal Martin TD that "the existing enterprise support functions carried out by the Company in relation to both the indigenous and overseas enterprises will be assumed by the national agencies, Enterprise Ireland and IDA Ireland"⁸. This means that all expert opinion given by Shannon Development at the Oral Hearing had no value as they are no more than property owners and in our opinions completely misrepresented their actual areas of expertise throughout the eight days of the oral hearing. Shannon Development misrepresented their organisation as an inward investment facilitator, we believe. They should have outlined their remit clearly so anything they had to say could be taken in context. We are now of the opinion that the IDA and Enterprise Ireland should answer the questions that were originally posed to Shannon Development on how they expect a top-tier Seveso II LNG site with an exclusion zone around it to attract new industry to an area which is designated in the County Development Plan as lands "for a premier deep-water port and for major industrial development and employment creation".
6. An earthquake measuring 5.2 on the Richter Scale hit the UK on February 27th 2008 – the largest in over a quarter of a century. No account has been taken of the consequences of an earthquake on the proposed development.⁹
7. The "Planning (Location of Hazardous Sites) Bill [Number 55]" was introduced in the British House of Commons by Mr. Bob Spink MP (Castle Point) on January 15th

⁶ APPENDIX 6 – Hess take 42% share of Slyne-Erris prospect off the Donegal Coast
<http://www.rte.ie/business/2007/0614/statoil.html?rss>

⁷ APPENDIX 7 – Bord Gais to Consider Marathon Fields for strategic undersea storage
<http://www.examiner.ie/story/?jp=OJOJIDAUEY&cat=Business>

⁸ APPENDIX 8: Minister Martin announces new Mandate for Shannon Development
<http://www.entemp.ie/press/2005/20050728.htm>

⁹ <http://www.guardian.co.uk/uk/gallery/2008/feb/27/1?picture=332720554>

2008¹⁰. The Bill will require the introduction of binding guidance regarding minimum distances between developments classified as Control of Major Accident Hazard sites and other specified types of building; and for connected purposes: The Bill was ordered to be read a Second time on Friday 6 June 2008, and to be printed. We believe that in the absence of specific legislation in Ireland on exclusion zones around top-tier Seveso II sites, the HSA should await the outcome of this Bill for the precedent of best practice it will set for Ireland.

When introducing the Bill, Mr. Spink stated that “the Bill seeks to improve protection for communities across Britain from the new development of potentially dangerous industrial sites. It will ensure increased safety by giving the Health and Safety Executive a framework for COMAH plant siting decisions, thereby improving the consistency of such decisions and affording a predetermined level of protection for communities.” He argued that his Bill “would increase and formalise the protection afforded to communities” and that it would “give clarity and certainty to applicants, the HSE and planning authorities, saving time, expense and much community anguish.” He stated that the “Planning Bill fails conspicuously to give the necessary procedural rigour for the infrastructure planning commission (IPC) to deal with the location of hazardous sites.” He argued that the Planning Bill “will cause more difficulties” as “the location of a dangerous plant will be decided by an unelected quango”. We feel that the Bill deals with the same issues as we are faced with in Ireland and would like both the HSA and An Bord Pleanála to take cognisance of the issues raised therein.

8. Recent reports in the media since the oral hearing took place have raised issues that we feel ought to be considered by An Bord Pleanála and the HSA in its consideration of the LNG planning application:
 - a. Calls have been made for an inquiry into alleged profiteering by energy giants following the announcement, on January 21st 2008, by British Gas of a 500% increase in profits.¹¹
 - b. Dr. Jerry Havens and Dr. James Venart have had another peer-review article accepted for publication by “The Journal of Hazardous Materials” on 7 February 2008 entitled “Fire Performance of LNG Carriers Insulated with Polystyrene Foam”¹².

The Irish Constitution – Bunreacht na hEireann – states in Article 40 (1) that “All citizens shall, as human persons, be held equal before the law”. It states in Article 40 (3)(1) that “The State guarantees in its laws to respect, and, as far as practicable, by

¹⁰ APPENDIX 9: Planning (Location of Hazardous Sites) Bill [55] setting precedent for mandatory exclusion zones around Seveso II sites

<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080115/debtext/80115-0004.htm>
<http://www.epolitix.com/EN/Legislation/200801/4e63f2df-4a95-48c0-9962-dd5545ad463b.htm>

¹¹ APPENDIX 10: Calls for Inquiry into alleged profiteering by Energy Giants following 500% increase in profits at British Gas. <http://www.independent.co.uk/news/uk/home-news/calls-for-inquiry-into-alleged-profiteering-of-energy-giants-784918.html>

¹² APPENDIX 11 – New Safety Concerns raised on LNG Marine Incident Consequences. “Fire Performance of LNG Carriers Insulated with Polystyrene” -The Journal of Hazardous Materials” 7 February 2008
http://www.sciencedirect.com/science?_ob=ArticleListURL&_method=list&_ArticleListID=700699788&_sort=d&view=c&_acct=C000050221&_version=1&_urlVersion=0&_userid=10&md5=352f79060b0cb41cfefab5cdeedab92a

its laws to defend and vindicate the personal rights of the citizen”. And in Article 40(3)(2) it states that “The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.”

We expect that An Bord Pleanála and the HSA, as an organ of the state should uphold these aforementioned constitutional rights in our interest. As residents of a sparsely-populated area we want to be treated with the same degree of protection from danger as residents of a more densely populated area, such as Dublin would be as obliged by Article 40(1).

Our right to life is being threatened by the siting of an LNG terminal close to our homes and properties where world-renowned LNG expert Dr. Jerry Havens clearly stated in the oral hearing how people within a three-mile radius would be in danger in the case of an accident. Under Article 40(3)(1) and 40(3)(2) we now formally request that our lives and property be protected and that the consequences of an LNG accident be taken into considerations as opposed to the purely probability-based (and, in our opinion, unconstitutional) approach of the Health and Safety Authority – especially since an example of a perfectly safer alternative is now being put into practice in the Irish Sea. We equally ask, for the same constitutional reasons, that this new information be taken on board in the decision-making process because we are of the opinion that we, as a country, had best be careful about the freedoms of individuals that we take away in order to benefit a larger group or organisation.

APPENDIX 1 – GATEWAY GAS STORAGE PROJECT by STAG ENERGY

Gateway Storage

<http://www.stagenergy.com/Gateway/index.html>

Gateway Storage is the first major initiative in Northern Europe to provide an offshore underground gas storage facility.

The Gateway project is located in the East Irish Sea, approximately 24 kms offshore of the coastline of Fylde in north-west England.

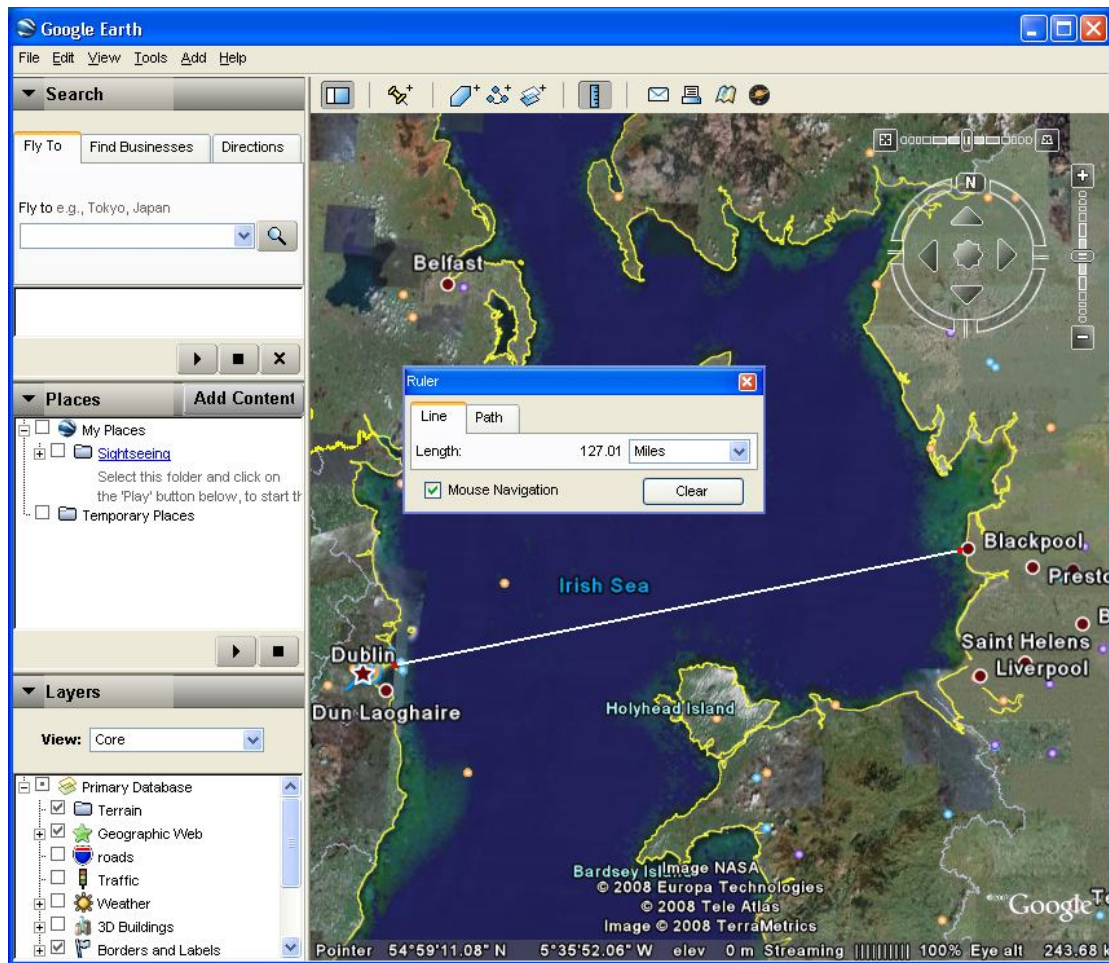
The salt cavern storage facility will improve security of energy supply through the development of a low cost, flexible, high capacity asset

The storage facility will be created by a solution mining process (leaching) in the salt strata beneath the Irish Sea, and will be connected by pipelines to an onshore gas processing plant that is linked to the National Transmission System.

The development of the offshore gas storage facility and the proposed onshore terminal in Barrow-in-Furness are both subject to planning consent.

Subject to receiving the necessary consents, the construction of the salt caverns is expected to begin in 2008 and completed in 2011. The construction of the gas reception terminal in Barrow is expected to commence in 2009.

The Gateway Storage project will have the potential to operate in tandem with an offshore LNG terminal regasification facility, though there are no immediate plans to take forward this as part of the gas storage facility.



Rationale

<http://www.stagenergy.com/Gateway/rationale.html>

The Gateway project will the security of energy supply for the GB and Irish markets through the development of a low cost, flexible, high capacity asset.

As the GB gas market moves from self-sufficiency to a rapidly increasing dependency on imports (80% by 2015), gas supply companies require competitive pricing and a high level of reliability and security.

To ensure future supply diversity and security, the British and Irish Governments are supportive of:

- **Expansion of import capacity to re-establish the GB as a net gas exporter and “Gateway to Europe”, on the basis of:**
 - **Increased pipeline gas from Norway and Russia**
 - **Greater LNG imports through a number of new LNG import terminals**
 - **A more diversified source of LNG supplies**
- **Development of additional offshore gas storage, where economies of scale enable:**
 - **Support for gas trading/arbitrage between the EU and North America**
 - **Competitive gas pricing and flexible supplies**
 - **Increased security. Northern European countries generally hold more than 20% of annual gas consumption in storage, while the UK currently has storage capacity for just 4% of annual gas demand**

Location

<http://www.stagenergy.com/Gateway/location.html>

Gateway is located in the East Irish Sea ~25km south-west of the gas terminal at Barrow-in-Furness. The location provides the best salt structure that has been identified in Britain to support the development of salt cavern gas storage facilities. Gas pipeline capacity is available at the Barrow terminal, due to the decline in production from Morecambe Bay gas fields, resulting in minimal new investment requirements to connect the proposed facility. The area also currently hosts a number of offshore oil and gas operations which are ideally situated to provide operational infrastructure, facilities and personnel.

The location is in close proximity to a number of conventional gas reservoirs which have the potential for conversion to further gas storage capacity. The water depth, and sea conditions, in the vicinity of the storage caverns are suitable to support the development of an offshore LNG terminal which would have obvious synergies with a gas storage facility.

Strategic:

- The British Government and DTI have acknowledged the importance of this type of facility to support their twin policy objectives of future security and diversity of energy supply
- The Joint Energy Security of Supply Working Group (JESS), an organisation responsible for GB energy security of supply, is encouraging new gas storage, pipeline interconnectors and LNG terminals over the next decade that can contribute to managing winter demand
- Offshore underground storage is more secure than onshore facilities, far less susceptible to accidents or terrorist acts, and likely to be much more acceptable to the general public

Commercial:

- Economies of scale ensure cost competitiveness with conventional onshore facilities
- Cost effective incremental expansion through additional salt caverns or the addition of a depleted gas reservoir
- Low cost mid-range and seasonal gas storage products in a market with substantial demand growth
- Planning & Permitting requirements for the Project governed by DTI and DEFRA with limited scope requiring Local Authority consent

Technical:

- Salt has been proven in the East Irish Sea with suitable thickness, depth, and purity for salt cavern construction
- The project will utilise conventional oil and gas technology for onshore and offshore elements of the Project
- Depleted reservoirs are located in the East Irish Sea with potential for conversion to seasonal gas storage

Planning & Consultation

<http://www.stagenergy.com/Gateway/planning%20&%20consultation.html>

The gas storage facility requires planning consent and environmental permitting. As a first step in the consenting process, detailed engineering design and environmental studies for the project are being undertaken. Part of this work includes the completion of Environmental Statements for:

- Offshore elements of the project, including the gas storage caverns and associated infrastructure as well as the offshore pipelines that will connect the facility to land
- Onshore pipelines across Walney Island to the mainland
- The proposed gas terminal at Barrow-in-Furness

The Environmental Statements will detail the potential impacts that the project could have on the environment and how Gateway intends to minimise these impacts. The Environmental Statements will consider a wide range of issues including any potential impacts on marine and bird life, the fishing industry, shipping movements, the ecology of the land, and local habitats. A specialist environmental and planning consultancy, Rudall Blanchard Associates Ltd (www.rbaltd.co.uk) has been commissioned to carry out this work.

An important first part of RBA's work is consultation with the relevant statutory authorities and other key civic and commercial organisations about the project's Environmental Impact Assessment (EIA). In April 2007, RBA issued its Environmental Impact Consultation Document to more than 20 different local and national organisations, and a further 50 have been sent a letter informing them of the project and that the Environmental Impact Consultation Document is available on request, or can be downloaded from this web site. The deadline for responses to the EIA document from these organisations is May 31st 2007.

For a copy of the Environmental Impact Consultation Document, please click [here](#) ie.

http://www.stagenergy.com/News/Gateway_Environmental_Statement_April_07.pdf

Gateway Storage is wholly committed to public consultation and as part of the planning process will hold local information seminars in order to share its plans with local people and listen to their views about the project, and for local people to meet the development team. Details of such meetings will be advertised locally closer to the event. In the meantime, any questions about any aspect of the Gateway Storage project, please contact us via email at info@stagenergy.com or by phone on 0131 718 4258

For media enquiries, please contact Paul Taylor at Taylor Keogh

Communications:

00 44 20 8487 8288 / 00 44 7966 782611; paul@taylorkeogh.com

Press Release

<http://www.stagenergy.com/news.html>

22/02/2006 - "Irish Sea Offshore LNG Import Terminal and Gas Storage Project will improve Security of Gas Supply for the UK & Ireland"

[Apr 07 - Gateway Environmental Impact Consultation Document](#)

08/10/2007 - "Public Exhibitions for Gateway Offshore Gas Storage Project"

[Dec 07 - Onshore Gateway Environmental Statement - Non Technical](#)

[Oct 07 - Offshore Gateway Environmental Statement - Non Technical](#)
[Oct 07 - Gateway Brochure](#)

19/12/2007 - "Barrow planning application press release"

29/10/2007 - "Gateway BERR & DEFRA applications release"

16/10/2007 - "Gateway post exhibition press release"

GATEWAY GAS STORAGE PROJECT BROCHURE:

http://www.stagenergy.com/News/Gateway_Brochure_Oct_07.pdf

**GATEWAY GAS STORAGE PROJECT OFFSHORE ENVIRONMENTAL
STATEMENT NON TECHNICAL SUMMARY October 2007:**

[http://www.stagenergy.com/News/Gateway_ES_Non_Technical_Summary_Oct_07.p
df](http://www.stagenergy.com/News/Gateway_ES_Non_Technical_Summary_Oct_07.pdf)

**GATEWAY GAS STORAGE PROJECT ONSHORE ENVIRONMENTAL
STATEMENT NON TECHNICAL SUMMARY December 2007:**

[http://www.stagenergy.com/News/Gateway_Onshore_Non_Technical_Summary_Rev
_FINAL.pdf](http://www.stagenergy.com/News/Gateway_Onshore_Non_Technical_Summary_Rev_FINAL.pdf)

Home

<http://www.stagenergy.com/>
<http://www.stagenergy.com/home.html>

Stag Energy is an independent UK based energy company involved in the development and management of innovative projects in the rapidly evolving electricity and gas sectors.

Our primary business focus lies with gas-fired power generation, underground gas storage, LNG import terminals and hybrid power generation technologies.

Stag Energy works with partner companies wishing to invest in the UK and European energy markets, and who wish to ensure assets are structured to manage commercial risk.

Projects

<http://www.stagenergy.com/projects.html>

Stag Energy is focused on developing projects in the UK and continental Europe, in the following areas:

- **Power Generation:** Building on extensive experience in this sector, Stag Energy is involved in new gas-fired development prospects at a number of sites
- **Gas Storage & LNG:** Facilities both onshore and offshore in recognition of the increasing role of gas in the European energy mix
- **Alternative Energy:** With knowledge and experience in power generation and underground storage, Stag Energy is progressing forward initiatives to assist in modulating energy supply from intermittent renewable resources
- **Transmission Systems:** Stag Energy brings project development expertise to ensure a secure infrastructure is available to convey produced energy to the point of use

About Us

http://www.stagenergy.com/about_us.html

Stag Energy was founded in 2002. Stag's senior management have worked together for many years, and have an established track record of project origination, development, execution and portfolio management within the mid-stream energy sector.

Stag Energy draws on a depth of experience with a team that has created and delivered over 10,000 MW of power generation and related infrastructure projects, raising over \$6 billion in commercial debt to support the investments. The company's extensive commercial experience has ensured well structured, secure investments that have created value for investors in:

- Gas-fired power generation
- Gas storage - salt cavern and depleted reservoir
- Associated transmission systems - electricity, gas, water and oil

George Grant

George has worked in the power generation and gas infrastructure sectors for over two decades. Prior to the establishment of Stag Energy, George was Regional Executive for InterGen's activities in Europe, Middle East and Africa, responsible for investments totaling nearly \$6bn. George also spent 4 years based in Hong Kong as Regional Executive for Asia-Pacific following the establishment of a UK business and was based in the US as the independent power sector began to evolve. George has established a track record of establishing and building businesses in new markets to create and deliver value to investors and shareholders

Andrew Stacey

Andrew spent 12 years running ASEC energy sector consultants following 15 years global experience with BP, Britoil and BNOC. Most recently Andrew has specialised in bringing forward developments in the electricity and gas markets, having managed gas storage and power projects from early stage development through to financial close. His foresight and innovation over the past ten years has succeeded in securing projects with a combined value in excess of \$1.5bn.

Mark Rigby

Mark has combined energy marketing and trading management roles with corporate strategic analysis work for the past 25 years. Mark joined the newly privatised Powergen in 1992 where he was head of Corporate Strategy and subsequently went on to set-up and lead their UK commodity trading activity. In 1998 he joined InterGen to set-up the company's new trading and risk management activities in support of the company's gas fired generation portfolio. Prior to entering the power sector, Mark spent 15 years with Shell International involved in trading industrial gases, and corporate strategy for the Shell Group.

Norman Campbell

Norman has worked within design, construction and operations in the energy sector for over 20 years. Before joining Stag Energy, Norman was Director of Brindisi LNG for BG Group and responsible for the execution of a €500m LNG terminal. From 1995 to 2003 Norman was Vice President Construction and Operations, where he oversaw the establishment of a 2,500MW portfolio in the UK, the negotiation of 3,500MW of projects in Turkey along with groundbreaking projects in the Netherlands and Egypt. Prior to joining InterGen, Norman worked as General Manager with John Brown Engineering following a number of years as contract manager with Babcock & Wilcox.

http://www.stagenergy.com/contact_us.html

Stag Energy

49 York Place

Edinburgh EH1 3JD

Tel: 0131 550 3380

Fax: 0131 550 3399

www.stagenergy.com

Email: info@stagenergy.com

APPENDIX 2: PORT MERIDIAN OFFSHORE LNG TERMINAL **by Höegh LNG**

Focus

http://www.hoegh.com/lng/business_development/focus/

The global market for LNG transportation is very strong, and the market is dominated by a few, large operators, either in close connection with the major energy companies or as independent shipping operators. In this competitive market, Höegh LNG must position itself such that it can find new ways to add value to its customers, and thereby remain competitive and profitable.

The best example of the success of this strategy for standard LNG shipping is the two new vessels constructed for the Snøhvit LNG project. The vessels in the Snøhvit fleet are the only LNG vessels specifically designed for trading in North Atlantic and Arctic conditions currently in operation.

As for success with our Floating Regas Solutions, we made a major breakthrough in this segment when Höegh LNG and its longtime partner MOL in April 2006 placed orders for 2 Shuttle and Regasification Vessels (SRV) at Samsung Heavy Industries in Korea, for servicing the Neptune LNG terminal project offshore Boston in the US.

Based on the experience gained from the Neptune project HLNG is now developing our own DWP terminals , PD Offshore Tampa on Florida's west coast and PM Offshore Morecambe Bay in the Irish Sea.

Demand currently outstrips supply of LNG and this shortage is expected to increase the coming years. The market situation, economics and availability of stranded gas are the main reasons why HLNG chose to enter into the production segment. HLNG are currently performing a pre-feed for an LNG FPSO . Höegh LNG's strategic focus going forward will therefore be to continue to build on recent success and explore new segments where we can offer added value to our customers by offering a complete package of Floating LNG Services by pursuing activities that are based on:

- a) Production: Floating Production Storage and Offloading (FPSO)
- b) Maritime Transport: Shuttle and Regas Vessel/standard LNG carrier
- c) Regasification: SRV/Floating Storage Regas Unit (FSRU)
- d) Market Access: Deep Water Port (DWP)/FSRU (offshore/key moored)

About Höegh LNG

http://www.hoegh.com/lng/about_hlng/

Höegh LNG is an independent, privately held provider of maritime LNG transportation and regasification services. The company structure consists of Höegh LNG Limited, which is the shipowning company based in Bermuda, and Höegh LNG AS, which is the company in charge of all management, technical and commercial activities, based in Oslo, Norway.



Höegh LNG is a pioneer in LNG transportation with over 30 years experience dating back to the delivery of Norman Lady in 1973. Currently, five LNG carriers are operated by Höegh LNG, with two Shuttle and Regasification Vessels on order at Samsung Heavy Industries in Korea. With a strong emphasis on technological development and operational excellence, Höegh LNG is one of the LNG shipping companies with the most versatile operational experience and substantial know-how, in addition to an impeccable safety record.

Höegh LNG's core product is LNG transportation services, with the in-house ship management based in Oslo. The two LNG carriers Arctic Lady and Arctic Princess, both dedicated to the Snøhvit project, are the latest contribution to our fleet, and they are on charter for Statoil and Total. The arctic environment calls for distinctive vessel characteristics, and they have both gone through extensive winterization to secure safety and operational sustainability.

Höegh LNG is actively pursuing new and enhanced ways of natural gas transportation services. The Deep Water Port project, founded on the SRV technology, will offer our customers a complete service, comprising transportation, regasification, terminal services and market access. Our team is working on sites in the Atlantic basin, currently Höegh LNG is developing the Neptune DWP together with Suez LNG North America, 10 miles off the coast of Massachusetts. Further, Höegh LNG has through its wholly owned company Port Dolphin Energy LLC proposed a deepwater port LNG receiving terminal, Port Dolphin, to import natural gas to Florida's west coast.

Höegh LNG is an active player in the development of vessel features aimed at the exacting requirements of the Arctic environment. In addition, Höegh LNG has played an important role in a joint industry project with the aim to develop the Amplitude LNG Loading System for offshore LNG transfer. Höegh LNG has also developed the Floating Storage and Regasification Unit, a semi-permanent floating offshore LNG receiving terminal. Höegh LNG is actively pursuing to develop technology for transportation of Compressed Natural Gas in the joint venture company CeTech.

Höegh LNG - Floating Regas Solutions

http://www.hoegh.com/lng/business_development/floating_regas_solutions/

Höegh LNG is actively developing new marine transportation and terminal concepts for natural gas, which could also include the conversion of an existing LNG carrier into a terminal.



Höegh LNG's concepts include the Floating Storage and Regasification Unit (FSRU) and Höegh LNG's proprietary system, the "Shuttle and Regasification Vessel" or SRV. The SRV is also a "floating terminal" and can double as an FSRU. We will also offer marine transportation of Compressed Natural Gas (CNG) in co-operation with partners.

Höegh LNG has since early 2001 focused considerable effort in developing and promoting floating LNG regasification terminals, and this was crowned with success when the Neptun vessels were ordered in 2006. It is increasingly difficult for environmental, safety and security reasons to find suitable locations and obtain permissions to build new traditional onshore LNG receiving terminals in several important gas markets around the world.

We are confident that there is a sizeable world-wide potential for such concepts, and we therefore intend to pursue this to its fullest potential.



Midstream LNG value chain

The LNG Floating Storage and Regasification Unit (FSRU)

http://www.hoegh.com/lng/business_development/floating_regas_solutions/fsru/

A Floating, Storage and Regasification Unit or FSRU is a semi-permanent floating offshore LNG receiving terminal that will allow offshore discharge from conventional LNG carriers. The main advantage of the FSRU concept is the short start-up time, reliability and flexibility.



[More Pictures...](#)

The concept

An FSRU should be designed and classified as a ship under international rules and regulations. As a ship it will require dry-docking within maximum 5 years intervals, but as ship designed FSRU is less costly and has a shorter construction time than if it was classified as an offshore installation.

The FSRU can be offshore-moored or moored to a jetty. If moored offshore regasified LNG is discharged from the FSRU via a turret and swivel through a mooring and [unloading buoy](#) connected to a riser and subsea pipeline, designed by APL and based on their North Sea proven STL technology. (same buoy as the SRV system; which will allow a combination of an FSRU and SRV systems)

LNG is pumped from the tanks and sent to regasification units mounted on the deck of the FSRU. Pressure is boosted by large cryogenic LNG pumps. Steam generated by auxillary boilers in the vessel main engine room produces the heat necessary to regasify the LNG in the regasification unit's heat exchanger. The [regasification units](#) design has been developed by Hamworthy Gas Systems Norway.

The FSRU will be capable of disconnecting from the mooring buoy without assistance to move to a dry docking yard and also in case of hurricanes or extreme weather conditions within about 2 hours. It may also be relocated for commercial reasons to a new position, permanently or seasonally.

The FSRU may be a conversion or a newbuilding. Conversion studies of our own vessels have been performed and no showstoppers have been identified.

An FSRU is also very flexible, it can be moved to new locations and it can also be used as a conventional vessel.

The benefits

The FSRU can be constructed within 36 months. With a 12 months permitting and design process and 2 months transit time from its construction site, a total of 50 months is foreseen from start to finish of such a project.

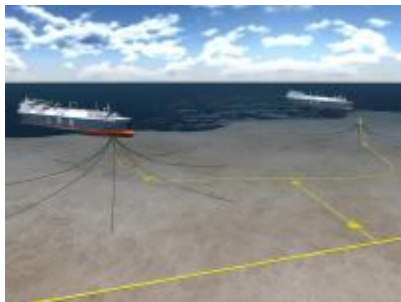
The FSRU will be very cost competitive compared with shore-based terminals and off-shore Gravity Base Structures. The LNG industry is extremely capital intensive however; solutions such as the FSRU and SRV can contribute to lower the overall costs.

In a similar fashion as the SRV, the FSRU has a major environmental advantage compared to shore based and offshore fixed gravity based terminals. The FSRU is cost competitive for medium to large regas volumes and medium to long shipping distances.

LNG Shuttle and Regas Vessel (SRVTM)

http://www.hoegh.com/lng/business_development/floating_regas_solutions/srv/

The SRV is an LNG vessel with onboard LNG vaporisers. The SRV system has been designed and developed by Höegh LNG, and normally encompasses a twin mooring and unlading buoy system and at least three SRVs to allow for continuous delivery of regasified LNG. Höegh LNG has two SRVs on order from Samsung Heavy Industries for delivery in 2009 and 2010 for the [Neptune LNG](#) deepwater port terminal project offshore Boston in the USA. The [DWP projects](#) Höegh LNG is developing - uses either SRVs.



[More Pictures...](#)

The concept

The SRV is a modified standard LNG vessel. The main additions to a standard LNG vessel will be:

- A cylindrical trunk forward of tank no 1. to accommodate the submerged turret mooring buoy and swivel system
- Skid-mounted regasification units on deck
- Bow- and stern thrusters
- Supplementary electrical power supply
- Supplementary steam production for regasification

The SRV can be a conversion or a newbuilding, and will also be capable of traditional delivery of LNG. Conversion studies of our own vessels have been performed and no showstoppers have been identified.

LNG is pumped from the tanks and sent to regasification units mounted on the vessel's deck. Pressure is boosted by large cryogenic LNG pumps. Steam generated

by auxillary boilers in the vessel main engine room produces the heat necessary to regasify the LNG in the regasification unit's heat exchanger. The regasification units design has been developed by Hamworthy Gas Systems Norway.

Regasified LNG is discharged via a turret and swivel through a mooring and unloading buoy connected to a riser and subsea pipeline, designed by Advanced Production Loading (APL) and based on their North Sea proven STL technology. Two separate buoys will ensure continuous send-out by overlap between arriving and departing SRVs.

The containment system can be either reinforced membrane type, Moss spherical tank type or SPB type. The important issue is to ensure that the containment system is designed to allow for maximum operational flexibility with regards to filling levels to ensure that sloshing does not occur during operation in exposed offshore locations with partially filled cargo tanks.

The benefits

By discharging the LNG through a SRV the need for a land based receiving and regasification terminal will be redundant. This has many obvious benefits, some of which are:

- No land or port requirements for the receiving terminal
- No physical encroachment to the local land based environment
- No visual impact from shore
- Shorter overall time to market
- Enhanced safety
- Higher delivery regularity, even in harsh weather conditions

Normally one additional SRV is required to deliver the same volume as a traditional solution due to the regasification time of each vessel on the buoy. In spite of this, the economics of the SRV system compares very favourably to traditional LNG receiving terminals for small- to medium re-gasification volumes and short- to medium shipping distances (up to 4000 nmiles). The SRV system may be used in harsh- (and benign) environment world-wide.

[SRV video](#)

The FPSO project

http://www.hoegh.com/lng/business_development/fpso/

Höegh LNG has entered into agreements with CB&I Lummus and Aker Yards with intention to design and construct the world's first LNG FPSO (Floating Production Storage and Offloading) Unit.



The project will be managed and owned by Höegh LNG, with Aker Yard performing the work for the FPSO hull, containment and utility systems and CB&I Lummus doing the design work for the gas treatment and processing plant as well as the liquifaction and LPG plant.

The proposed project will consist of a ship shaped offshore classed structure with the capacity to treat and liquefy a well stream of approximately 2.5 billion cubic meters per year. This will give an annual production of approximately 1.6 million tons of LNG and approximately 0.5 tons of LPG.

The LNG FPSO will have storage capacity of 190,000 cubic meters of LNG and 30,000 cubic meters of LPG/condensate. The first delivery is stipulated to end 2011.

The strategy is to further develop Höegh LNG's business model from pure LNG transportation into offering also solutions for LNG production and floating regasification terminals.

Regas Unit

http://www.hoegh.com/lng/business_development/technology/

The onboard regasification units are skid-mounted and placed on deck. The regas units are very compact and can easily be arranged on deck in the required number between the spherical cargo tanks. The plant is designed to comply with IMO rules and will be delivered with appropriate certificates issued by the approving classification society. Three units will provide a regasification capacity of 750 million standard cubic feet per day and empty a 145 000 cubic meter tanker in approximately 4 days. By selecting the appropriate number of units the send-out capacity can be adopted to the specific needs of a project. Additional units and an additional flexible export riser will allow a doubling of the capacity and cutting down the regasification time.

The regas units design has been developed by Hamworthy Gas Systems Norway

The Unloading Buoy

http://www.hoegh.com/lng/business_development/technology/apl_buoy/

Natural gas (CNG or regasified LNG) at 80-120 bar is discharge via a trunk in the forward part of the vessel which houses the turret buoy mating cone and swivel system adapted for high pressure natural gas. The SRV or FSRU is capable of staying moored to the transfer system at a location offshore and perform its send-out function in severe weather conditions.



Photo: Advanced Production and Loading AS



[More Pictures...](#)

Offshore LNG Transfer

http://www.hoegh.com/lng/business_development/technology/lng_transfer/

Through the participation in a Joint Industry Projects (JIP) with, among others BP, ChevronTexaco, Eni Agip division, Gaz de France & Co and Total, Høegh LNG is contributing to the development of the Amplitude LNG Loading System (ALLS) which is pushing the frontier of offshore LNG transfer.



[More Pictures...](#)

Side-by-side loading and discharge of LNG carriers from or to an offshore floating or fixed terminal is considered feasible in benign waters, but not currently undertaken. Currently Chiksan type loading arms consisting of fixed pipes and swivels with relatively limited operating envelope are available for regular loading and discharge operations. The offshore terminals under development are all proposed with a marine version of such loading arms but flexible hoses is currently being developed for

commercial use. A tandem or bow-to-stern transfer system should increase regularity and operability even further, in particular for more exposed locations.

Höegh LNG believes that finding a reliable solution to this “missing link” is of crucial importance, and a concerted industry effort should be made to develop and standardise such equipment. Developments such as the flexible hose by Technip and the hose connectors by Amplitude LNG, should advance a reliable bow-to-stern transfer system.

The ALLS JIP aims to develop a system for transfer of LNG through a flexible hose (Technip) with specially designed end-connectors. The possibility for a reliable stern-to-bow transfer system will greatly improve the operating envelope of loading and discharge of LNG in open sea conditions. The equipment will also have an important safety function, allowing emergency transfers of cargo at sea, improving the already high safety standards of the industry.

A full scale test plant at Gaz de France’s Montoir de Bretagne receiving terminal is under construction.

Höegh LNG is also participating in JIP Programme for a floating version of the Technip flexible hose. The aim of this JIP is to develop a floating flexible hose which can be used for offshore transfer of LNG where the hose is connected either to the LNG carriers midship manifold or to a specially design bow manifold.

**APPENDIX 3: CONSULTATION ON THE GATEWAY GAS
STORAGE PROJECT AND THE PORT MERIDIAN OFFSHORE
LNG TERMINAL By BLACKPOOL COUNCIL**

Blackpool Council
Customer First Centre
Municipal Building
Corporation Street
Blackpool
FY1 1NF

Tel: (01253) 477477
Mon - Fri 8am to 6pm
Sat 9am to 2pm

BlackPool Council - Agenda Information for Executive meeting

<http://www.blackpool.gov.uk/Services/M-R/MeetingsMinutesandAgendas/Agenda.htm?ID=51697433>

BLACKPOOL COUNCIL

EXECUTIVE

Members of the Executive are hereby summoned to attend a meeting as follows:-

Wednesday, 13th February 2008 at 5.00 p.m.
in Committee Room A, Town Hall, Blackpool

A G E N D A

ADMISSION OF THE PUBLIC TO MEETINGS

The Head of Legal and Democratic Services has marked with an asterisk (*) those items where he has reason to believe that consideration may need to be given as to whether or not a resolution excluding the public should be passed.

CONSULTATION ON THE GATEWAY GAS STORAGE PROJECT AND PORT MERIDIAN NATURAL GAS
TERMINAL

[Report](#)

For queries regarding this agenda, please contact:
Lennox Beattie, Democratic Services Team Leader
Tel: (01253) 47 7157 or, alternatively, E-mail: lennox.beattie@blackpool.gov.uk

Published: 5th February 2008

**BlackPool Council – Decision of Executive Members on the
Gateway as Storage Project and Port Meridian LNG
terminal**

REPORT TO:	EXECUTIVE	DECISION	EX/17/2008
EARLIEST DATE FOR DECISION:	13th February 2008	NUMBER:	

CONSULTATION ON THE GATEWAY GAS STORAGE PROJECT AND PORT MERIDIAN NATURAL GAS TERMINAL

Matter for Consideration:

To consider the Council's views on the proposed Gateway Gas Storage Project and Port Meridian Natural Gas Terminal within the eastern Irish Sea off the Fylde Coastline.

Information:

The Marine and Fisheries Agency have consulted Blackpool Council on the proposed construction of the Gateway Gas Storage Facility approximately 24 kilometres off the Fylde Coast in the Eastern Irish Sea.

The Project

Gateway Storage Company Ltd plans to develop an offshore underground salt cavern gas storage facility in the East Irish Sea, approximately 24 kilometres offshore of the Fylde coastline. The site was selected following assessment of a number of offshore areas around the U.K.

Natural gas will be stored in 20 man made underground caverns created in the salt strata underlying the Irish Sea. The caverns will each have a diameter of approximately 85 metres and a height of between 100 and 260 metres. The roofs will be at a depth of 750 metres below the sea bed. When completed, the caverns will have a working gas capacity of 1.136 billion cubic metres.

The storage facility will be connected by import and export ring main pipelines to a gas processing plant at a proposed onshore terminal on Walney Island near Barrow-in-Furness. The facility will be connected to the National Transmission system at Barrow.

Above each cavern, there will be a monopod, similar in design to a small oil and gas platform. These will be 50 metres in height to deck level and will house the wellhead equipment. These will be the only permanent visible elements of the installation from the Fylde Coast.

Once in operation, there will be an approximately 12 square kilometres exclusion area around the installation.

The Programme

Subject to consent, it is proposed to construct the salt caverns between 2009 and 2013,

with the first cavern becoming operational in 2011.

The Regulatory Framework

At present, there is no separate regulatory framework in the UK for the offshore storage of natural gas in this way. The Government is in the process of drafting new regulations as part of the Energy Bill but these are not expected to come into force until the summer of 2008. In the interim, the Department for Business, Enterprise and Regulatory Reform and the Marine Fisheries Agency have decided that the facility can be permitted through existing legislation. However, the nature of the project means that it requires a comprehensive Environmental Impact Assessment and an Environmental Statement to support consent applications. The Council is now being consulted on this Statement.

Impacts

Visual

Being 24 km (15 miles) off the Fylde Coast, the direct impacts on Blackpool during construction and operation will be negligible. A detailed assessment has been undertaken to determine the potential for significant impact on the landscape, seascape and visual environment. Construction shipping and the monopod platforms will be visible on the skyline on a clear day but the Environmental Statement concludes that visual impacts will be small or negligible and that the on going visible elements of the installation should be no more than a curiosity for sea front views.

Ecological

Potential ecological impacts result primarily from increased salination from brine discharges when the caverns are being constructed. It is primarily a matter for environmental and ecological organisations to comment on these issues. However, although there will be minor impacts on fish and shellfish and benthic (seabed) communities, the Environmental Statement does not raise any issues of significant ecological concern unless there is a single catastrophic collision incident during construction (see below).

Air Quality

At the nearest shore locations, calculated levels of exhaust gases from drilling rigs and associated vessels during construction will be consistent with good air quality standards.

We are advised that there will be no emissions from the site when the facility

becomes operational.

Health and Safety

Of greatest concern to Blackpool is the potential for any impacts on health and safety arising from the risk during construction or operation.

To mitigate against the potential for oil spills from drilling rigs and vessels involved with offshore construction, Gateway will prepare a full Oil Spill Contingency Plan and an Emergency Procedures Plan will be in place prior to any drilling operations taking place.

The Environmental Statement does not cover risks of explosion. We are advised that if permits are granted for the operation, the Gateway project will be required to operate under the Offshore Installations (Prevention of Fire and Explosion and Emergency Response) Regulations 1995. The arbiter in these matters will be the Secretary of State as advised by the Health and Safety Commission. Notwithstanding this, Gateway has assured us that there is no risk of underground explosion.

Conclusion

The direct impacts of the Gas Storage Facility on Blackpool during construction and operation, as set out within the Environmental Statement, are expected to be minimal.

Assurances have been given that the facility will not present any significant health and safety risk to Blackpool. Oil spills will be a negligible risk. However, officers are satisfied that best practice contingency measures will be put in place to guard against these.

We have also been given assurances that there are no explosive risks. However, this absolute assurance from the Health and Safety Commission would be sought.

Officers therefore recommend that the Council advises the Marine and Fisheries Agency that it has no objections to the proposed Gateway Gas Storage Facility, subject to receiving assurances from the Health and Safety Commission that there will be no risks of explosion from that facility to Blackpool residents or visitors.

The Council has also been consulted for its initial views on a proposal to develop an offshore natural gas terminal 35 kilometres off the Fylde coastline by Rudall Blanchard Associates on behalf of Hoegh LNG. This will involve gas tankers unloading natural gas into an undersea pipeline for export to shore at Walney Island where it will enter the national transmission system. This is not connected to but could operate in parallel with the Gateway proposal.

There will be no permanent visible elements and any health and safety concerns are only likely to relate to the need to mitigate against the potential for oil spills.

Officers therefore recommend that the Council advises that it has no initial issues of concern but that assessment of pollution risks be incorporated into the proposed Environmental Statement.

Does the information submitted include any exempt information?

NO

Legal Considerations:

None

Personnel Considerations:

None

Financial Considerations:

None

Performance Management Considerations:

None

Risk Management Considerations:

None to Council

Relevant Officer:

Tim Brown, Chief Planning Officer

Relevant Cabinet Member:

Councillor M. Callow

Consultation Undertaken:

None

Background Papers:

None

Is this a key decision?

NO

Is the decision urgent?

NO

Is the decision required in less than 5 days?

NO

Recommendations:

That the Council advises the Marine and Fisheries Agency that it has no objections to the proposed Gateway Gas Storage Facility, subject to receiving assurances from the

Health and Safety Commission that there will be no risks of explosion from that facility to Blackpool residents or visitors; That the Council advises that it has no initial issues of concern in regard to the proposed Port Meridian Natural Gas Terminal but that assessment of pollution risks should be incorporated into the proposed Environmental Statement.

Reasons for Recommendations:

As set out in the conclusion section of the Information

Is the recommendation contrary to a plan or strategy adopted or approved by the Council? NO

Is the recommendation in accordance with the Council's approved Budget? YES

Other alternative options to be considered:

None

Service Development Management Committee Chairman (where appropriate)

Date Informed: N/A

Date Approved: N/A

DECLARATION(S) OF INTEREST (if applicable)

None

Decision:

The Executive resolved as follows: To refer this item without recommendation to the Council for consideration and that the views of Council, be regarded as those of the Executive.

Date: 13th February
2008

Reason for Decision:

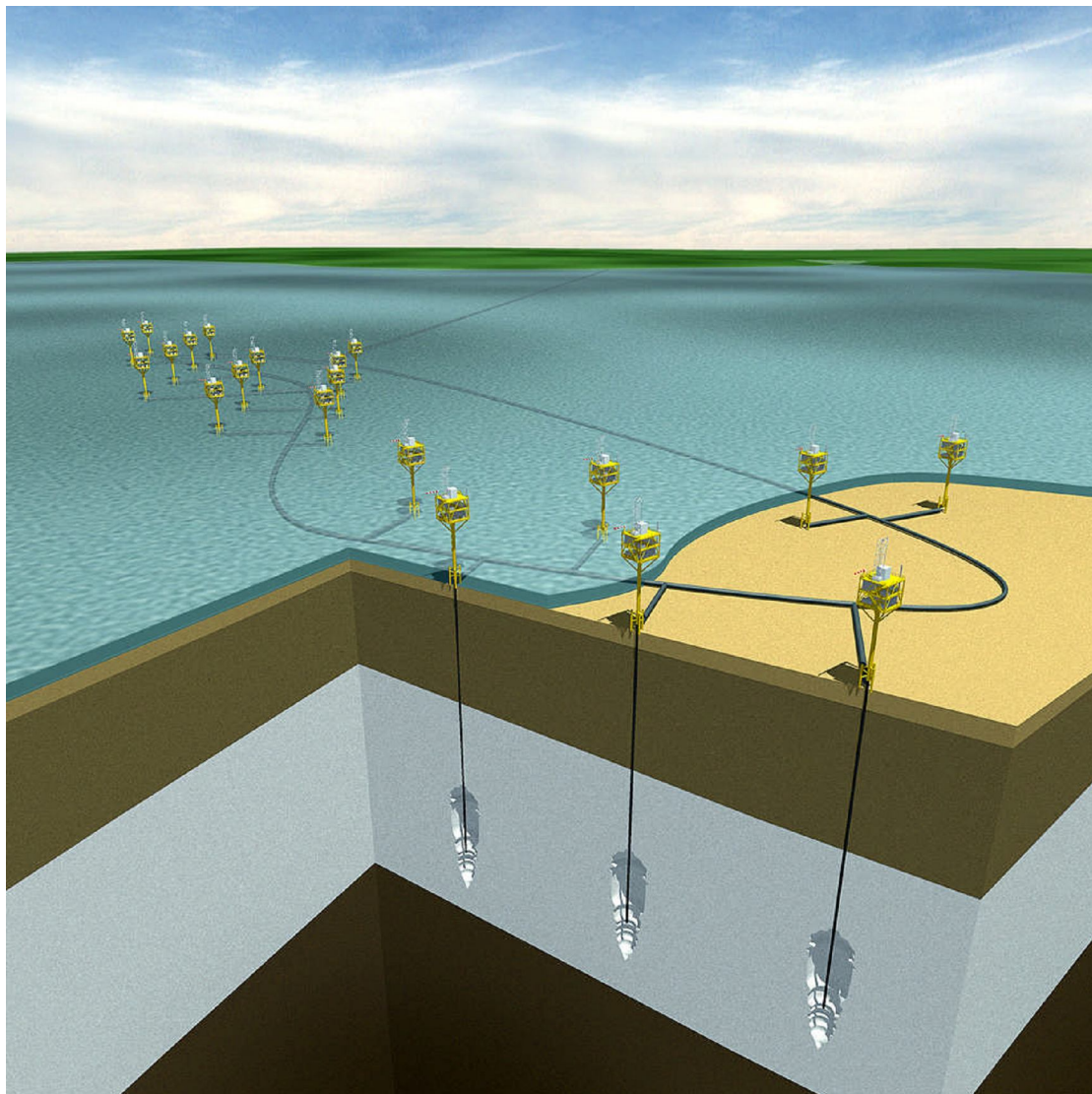
To enable full discussion and consideration of all relevant issues.

Date of Publication: 15th February
2008

APPENDIX 4: GATEWAY GAS STORAGE PROJECT – OFFSHORE ENVIRONMENTAL IMPACT STATEMENT

http://www.stagenergy.com/News/Gateway_ES_Non_Technical_Summary_Oct_07.pdf

GATEWAY GAS STORAGE PROJECT OFFSHORE ENVIRONMENTAL STATEMENT NON TECHNICAL SUMMARY



October 2007

Introduction

An Environmental Impact Assessment (EIA) has been undertaken for the proposed Gateway Gas Storage Project (GGSP). This process analyses the proposed project in relation to the existing environmental conditions, using a combination of field surveys, desktop studies and modeling techniques, to ensure that all potential impacts are identified and appropriately assessed.

It examines in detail the need for the project and its design, construction, operation and decommissioning. For those impacts that have been assessed as being unacceptable, appropriate mitigation measures have been identified. An integral part of the EIA process has been an extensive consultation process undertaken with statutory and non-statutory consultees, interest parties and the general public. This document is the Non Technical Summary of the Environmental Statement (ES), which reports the findings and conclusions of the EIA process.

The Project

The Developer

Gateway Storage Company Ltd (Gateway) is the holding entity for the proposed GGSP. The company was registered in Scotland in 2006.

Stag Energy Development Company Ltd (Stag) provides the Project Management under a Management Services Agreement with Gateway. Stag is an independent UK based company that specialises in the development and management of innovative projects in the rapidly evolving gas and electricity sectors.

Stag has a detailed working knowledge of the offshore energy sector, its working environment, regulatory background and associated contracting industry. Stag organisation includes personnel with UK and international oil industry experience in the exploration and production, and asset management sectors at both senior management and technical management level. Stag also has considerable experience in the development of onshore salt cavern gas storage projects in the UK.

Project Overview

Gateway is proposing to develop an offshore gas storage facility in the eastern Irish Sea. The objective of the development is to store natural gas offshore in underground caverns, created specially in the salt strata underlying the Irish Sea. For ease of reference throughout the remainder of this document, the various components of the Gateway development are referred to as follows:

- Gateway Gas Storage Project (GGSP): refers to all offshore and onshore parts of the development;
- Gateway Gas Storage Facility (GGSF): includes the gas storage caverns, and associated monopods, and pipelines/cables;
- Offshore GGSP: includes the GGSF plus the export/import pipelines and cable from the GGSF to the west coast of Walney Island (low water mark).
- Gateway Gas Compression Station (GGCS) refers to the onshore gas treatment and metering facility located adjacent to the Barrow Gas Terminals.

Over the past 40 years the UK has become reliant on gas for a major portion of its energy supply. This situation evolved as the UK had plentiful, low cost supplies of gas that were easy to access from the North Sea and Irish Sea. These reserves are now declining and the UK is becoming increasingly dependant on gas imports, principally from countries like Norway and Russia. This has implications for security of supply, particularly during periods of peak demand, and it is envisaged that gas storage facilities will play an important role in stabilising future energy prices for the UK.

At present, storage capacity in the UK stands at around five percent of annual demand, compared with an average of around twenty percent in other Northern European countries. The Department for Business Enterprise and Regulatory Reform (BERR – formerly the DTI), has acknowledged the need for additional gas storage in the UK, citing in its 2006 Energy White Paper, the need for additional gas storage facilities to be developed. Given this, Gateway see a clear need for the Gateway Gas Storage Facility (GGSF), which once commissioned, will help to substantially improve the security of energy supplies for the UK and Irish markets. The proposed GGSF will be located approximately 24 kilometres offshore of the Fylde coastline in the eastern Irish Sea, (Figure 1).

Figure 1: Gateway Gas Storage Project Location Map

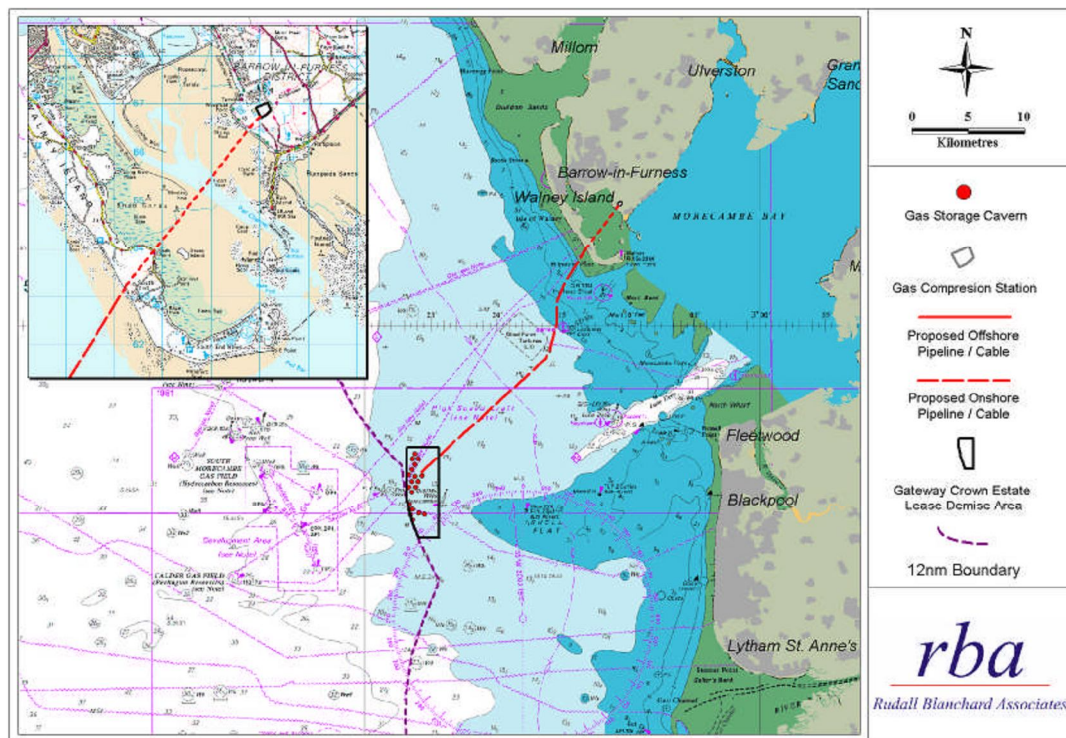
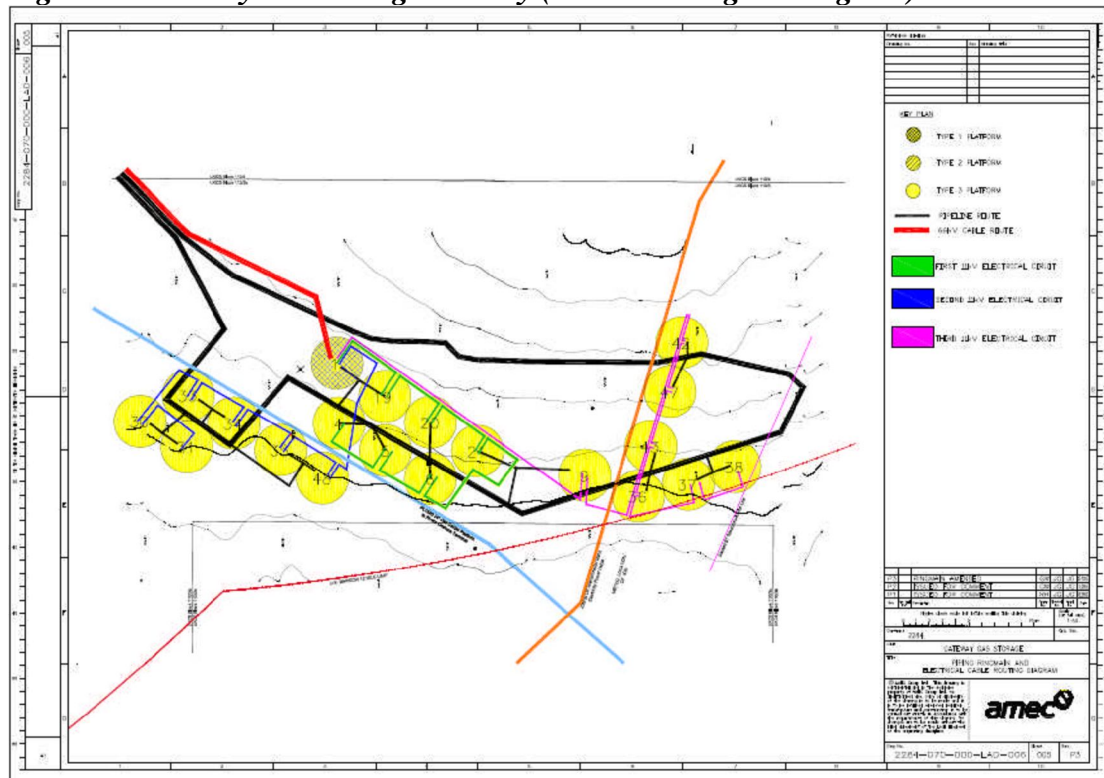


Figure 2: Gateway Gas Storage Facility (rotated through 90 degrees)



Key

Yellow: Caverns
 Black Pipeline Ring Main and Feeder Pipes
 Red: Main Power Cable
 Green, Dk Blue Feeder pipes and cables
 and Pink:

The GGSF will comprise 20 man-made underground storage caverns, which will be created by a solution mining process (leaching) in the salt strata beneath the Irish Sea. The technology is well proven and salt caverns have been used for storing gas and liquids for many years. When completed they will have a working gas capacity of 1.136 billion cubic metres (BCM). The caverns will be connected to a 'ring main' by a short pipeline and isolation valve (Figure 2). Two pipelines and a power cable will connect the offshore ring main to a new Gateway Gas Compression Station (GGCS), located onshore at Barrow-in-Furness. A pipeline and metering system will connect the GGCS to the National Grid Gas (NGG) National Transmission System (NTS) adjacent to the GGCS in Barrow-in-Furness.

The GGSF will be powered by a new power cable that will be installed at the same time as the offshore pipelines.

During operation, when demand for gas is low, e.g. during the summer months, gas will be taken from the NTS, compressed at the GGCS and injected into the caverns for storage offshore. When demand for gas is high, e.g. during winter, the gas will be withdrawn from the caverns, processed and routed into the NTS. The gas quality will comply with NGG standards.

Provided that the necessary consents are obtained, the salt caverns will be constructed between 2009 and 2013, with the first cavern becoming operational in 2011. Installation of the pipelines and power cable will take place during 2009/2010. Construction of the onshore gas reception terminal is expected to start in 2008 and be commissioned in early 2010.

Regulation

At present there is no separate regulatory framework in the UK for the offshore storage of natural gas in non-hydrocarbon features such as salt caverns. The Government is in the process of drafting new regulations as part of the Energy Bill, which will enable licensing of gas storage under the Petroleum Act. These regulations, however, are not expected to come into force until the summer of 2008.

As an interim measure, BERR and the Marine and Fisheries Agency (MFA) have jointly decided that the offshore GGSP can be permitted using a combination of existing legislation, namely the Petroleum Act, 1998, the Food and Environment Protection Act (FEPA) 1985 (Section 5) and the Coastal Protection Act (CPA), 1949 (Section 34).

The nature of the proposed GGSF means the project will require a comprehensive EIA and an ES to support consent applications.

The onshore component of the GGSP will comprise the GGCS and the export/import pipelines and power cable from the lower western shoreline at Walney Island to the Barrow Gas Terminals (location of the GGCS). These elements of the project will be consented under the Town and Country Planning Act (1990) and are the subject of a separate EIA process.

Site Selection

Selection of a suitable offshore site for the GSF was initially driven by the following criteria:

- Suitable geology,
- Access to the NTS,
- Health and Safety,
- Environment, and
- Employment.

Of these, suitable geology was the most fundamental. Gateway reviewed a number of offshore areas around the UK concluding that the best geological conditions for salt cavern gas storage lay within the Preesall Halite Formation (Triassic) in the East Irish Sea basin. Given this, two potentially suitable areas were selected: offshore the Fylde coastline and further to the North, offshore Walney Island.

The Walney area was rejected on grounds of potential geological complexity and its proximity to major shipping lanes and two large potential offshore wind farm (OWF) developments. The site adjacent to the Fylde coastline was therefore chosen as the preferred area within which to locate the project, and a lease area was agreed with The Crown Estate (Figure 1).

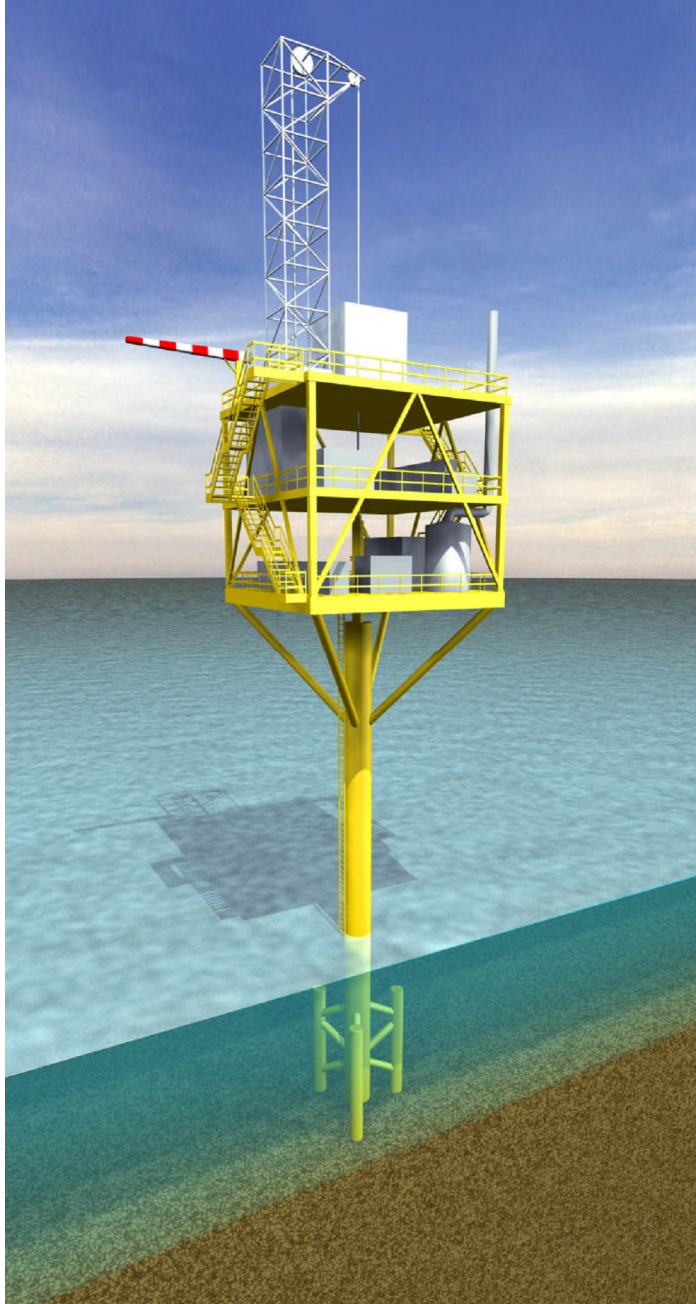
To confirm the suitability of the salt formation Gateway carried out a test borehole in the centre of the lease area. Results confirmed that the permeability of the rock formation in which caverns are to be constructed is very low, and hence there is an extremely low risk of gas leakage through the cavern walls. Data acquired for determination of cavern gas pressures is very high quality, and therefore provides a high level of confidence in the design of safe caverns.

Monopod Offshore Structures

Above each salt cavern there will be a small offshore structure called a monopod, similar in design to a small oil and gas platform. These will have a dual role; initially to house the cavern leaching equipment, and then on cavern completion, to house the cavern gas well head and associated equipment (Figure 3).

The monopod substructure will be installed first and secured to the seabed by piles. It is planned to install the piles by 'screwing' them into the seabed; impact piling methods will be avoided if at all possible due to the adverse environmental impact. The monopod topsides will be installed at a later date, after the cavern well has been drilled (see below), using a crane from a jack-up barge.

Figure 3: Illustration of a Gateway Monopod



Monopod Characteristics

Height above seabed: 50m (to top of Weather deck).

Weight: 150-200 tonnes.

Dimensions: 14m x 14m.

Substructure: Central tower (2.1m diameter).

4 smaller piles (1.0 m diameter).

Utilities: Electrical Power, Hydraulic Power and Nitrogen Generation.

A monopod located over each cavern location allows for individual brine discharge dispersion units, which will dramatically improve the dispersion efficiency of the brine discharges into the sea during cavern construction.

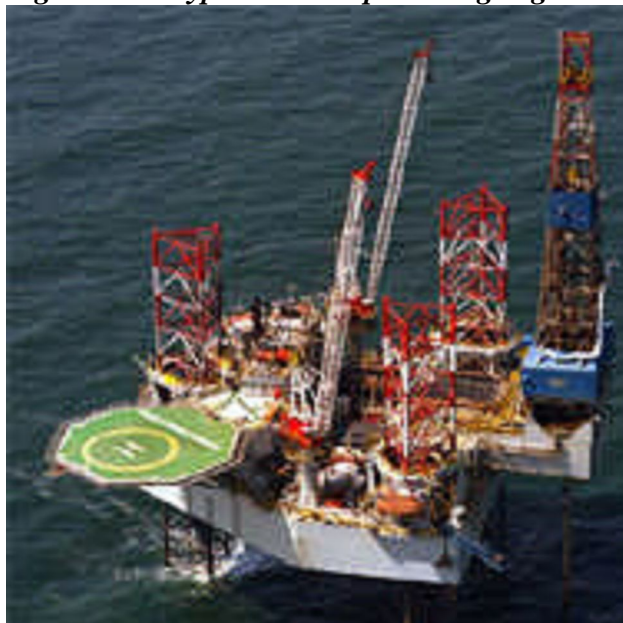
This, together with the relatively deep water at the GGSF location, will help to mitigate any potential environmental impact.

Once the cavern has been completed, wellhead equipment will be located on the monopod rather than on the seabed. This will allow for simpler and safer operational maintenance, for example cavern re-entry 'workover' operations and equipment repair become greatly simplified if direct access is possible.

Cavern Creation - Drilling Operations

For the GGSF a total of 20 wells will be drilled into the salt formation, one for each cavern site. This will form the initial phase of the cavern leaching process. The wells will be drilled from a jack-up drilling rig similar to those used to drill oil and gas wells (Figure 4), and each well will take approximately 15 days to complete. The wells will be drilled through the monopod substructures prior to the installing the monopod topsides.

Figure 4: A Typical Jack-up Drilling Rig

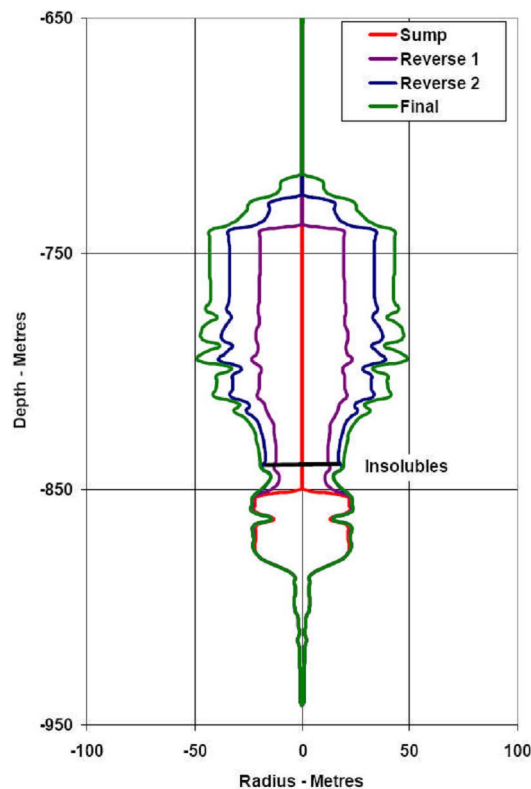


Cavern Creation – Leaching Process

Once the vertical well has been drilled into the salt layers the cavern leaching process can commence. The caverns will be formed by injecting water under pressure into the selected halite strata which will form a cavity in the undersea salt bed. This turns the water into brine containing about 30 percent salt. The brine is then discharged to the sea.

Using this process the caverns will slowly be created over a period of about 2 years. When finished, the caverns will each have a diameter of approximately 85 metres (280 feet) and a height of between 100 and 260 metres (330 to 850 feet). The cavern roofs will be at a depth of 750 metres (about 2,500 feet) below the seabed (Figure 5). The leaching equipment will be housed on the monopods and will be controlled remotely from shore.

Figure 5: Illustration of Salt Cavern Evolution



Cavern leaching is programmed to commence in the third quarter of 2009, and be completed in mid 2013. At the peak of operations all 20 caverns will be undergoing the solution mining process; this peak period will occur in late 2010 to early 2011, lasting around seven months.

Offshore Pipelines and Power Cables

The main offshore GGSP pipeline will be arranged in the form of a large loop running to and from the GGCS at the Barrow Gas Terminals. It will comprise a 'ring main' surrounding the GGSF and two 24 kilometre long offshore import/export lines running from Walney Island to the ring main. All of these pipelines will have a diameter of 36 inches. Short lengths of smaller (10 inch diameter) feeder pipes will connect each cavern to the ring main (Figure 2).

The pipelines and cables will be installed using laybarges. The export and import pipelines will be trenched and allowed to backfill naturally – a method which has been successfully used for similar pipelines installed in the area. The majority of the pipeline route will be trenched using a plough, however, when necessary, e.g. at cable crossings, sediment jetting will be employed. The ring main and associated feeder lines may be buried along all or parts of their route, if so this will be undertaken by jetting.

There will also be a small 4 inch diameter methanol line piggy-backed (strapped) to one of the 36 inch pipelines. The methanol will be injected into the pipelines at the monopods to inhibit the formation of hydrates in the gas stream.

In order to supply electricity to the monopods, to power the cavern leaching pumps and gas well controls, a 66 kilovolt (kV) cable will be laid from shore to monopod No 1 (Figure 2). Power will then be distributed via 11 kV cables using three circuits with a maximum of eight monopods per circuit. There will be fibre optic cores within these cables running between the 19 monopods to monopod No 1. These will allow for operational communication and control and remote emergency shut down. As with the pipeline, the main 66 kV cable will be trench by ploughing, and allowed to backfill naturally. If the smaller cables are required to be buried, this will be undertaken by jetting.

Installation of the offshore pipelines and cable, including the landfalls, is anticipated to take approximately 20 months. Cable and pipelay and trenching activities are programmed to take place in 2009 and 2010.

Cavern Testing and Commissioning

When a cavern has reached the correct size the leaching process will be halted and the cavern will be pressure tested using Nitrogen. If the test is successful, then the cavern is ready to receive gas. Firstly the leaching tubing and associated equipment is removed and a gas wellhead is installed on the monopod. The wellhead is hooked up to the ring main via the feeder pipeline.

Prior to injecting gas into the cavern the emergency shut down (ESD) systems on the monopod will be tested, including links to fire and gas detection systems. Once all of the systems are ready a debrining process will be undertaken to remove the residual brine from the cavern. This involves connecting gas, from the ring main, to the wellhead and using the pressure to displace the brine out of the cavern. This process is effectively the 'first fill' of gas into a cavern. When all the brine has been removed, the gas storage cavern will enter normal operation. The de-brining process for each cavern is likely to take around three months to complete.

Operation

There will be two operational modes for the GGSF:

Gas Import - when gas is transported from the NTS. The gas will enter the GGCS at Barrow, where it will be metered and then compressed before exporting to the GGSF and injecting via the well heads for storage in the caverns. When the gas storage capacity of the caverns has been met, the gas flow from the NTS will automatically be stopped.

Gas Export - when gas is transported back to the NTS. Gas will flow from the salt caverns, via the well heads back to the GGCS. It will then be treated to control the flow rate, temperature, pressure and water dew point, thereby making it of a suitable quality for export back into the NTS. Finally, the gas will be metered before entering the NTS.

Operations will be monitored and controlled from a control room in the GGCS. There will be a fibre optic link between the monopods and the control room that will run down the centre of the power cable. Each monopod will be designed with its own independent ESD system that will be automatically triggered in the event of a hazardous event (e.g. gas leak, fire etc.)

The monopods are designed for operation as normally unmanned installations (NUIs) and maintenance philosophies will be developed to minimise the number of personnel visits. The equipment associated with the GGSF will be of high reliability allowing extended durations between maintenance interventions. It is presently anticipated that there will be a requirement for four maintenance visits per monopod per year, each lasting about a day. Each visit would typically involve one vessel, therefore, assuming a worst case scenario this would equate to 80 vessel trips per year.

Decommissioning

The design life for the GGSF has been set at 50 years. When the beneficial life of the facilities comes to an end a detailed Decommissioning Plan will be developed in consultation with the Statutory Authorities that will be fully compliant with legislation in place at the time. The four discrete phases of decommissioning typically entail:

- Shut Down of all facilities over an extended period to minimise any gas being retained within the plant.
- Moth-Balling – removal of all residual chemicals, lubricants etc. and isolation of all services to render the facilities safe for dismantling and demolition.
- Dismantling – any equipment that is still serviceable will be dismantled and re-used elsewhere.
- Demolition – any equipment that is beyond

beneficial use elsewhere will be ultimately demolished and the materials re-cycled.

Based on current industry practice, on cessation of operation at the storage site, the caverns will be emptied of any remaining gas by filling with seawater and then plugged and abandoned in line with current UKOOA guidelines for well decommissioning. All surface obstructions, including the monopods will be removed.

Summary of the Results of the Gateway Offshore EIA Process

The Offshore EIA process has identified and assessed a wide range of potential impacts that the proposed Project could have on the local and surrounding physical, biological and socio-economic (human) environment. A summary of the key findings from this process is given below.

Physical Environment

Sediment and Coastal Process

The proposed offshore GGSP is likely to have a very localised impact on the waves, currents and the corresponding sediment transport regime within in the immediate vicinity of monopods but there is not anticipated to be any significant or measurable farfield impacts. Modelling of potential sediment scouring from the presence of monopod substructures indicated that scour depths of 1-2 metres could develop within a few years following installation. It is anticipated that scouring in the fine muddy sediments will likely be a gradual, but episodic process and it was concluded that scour protection is unlikely to be required around the monopods.

The impact on coastal processes in relation to the landfall of the pipelines/cable on the west coast of Walney Island will be discussed in the GGSP Onshore ES, which is being produced to support the planning application submitted to Barrow Borough Council under the Town and Country Planning Act, 1990.

Water Quality

Offshore discharges to sea will include the brine discharge from the cavern leaching process, drilling and completion chemicals and various drainage and personnel wastewater from vessels and the offshore facilities (e.g. rigs and the monopods).

Of these the brine discharge will be the most significant. The leaching process at each cavern will involve cycling large amounts of seawater through the well; thereby dissolving some of the salt in the deposit and discharging the resultant brine mixture into the sea via a disperser unit at a maximum discharged rate of 386 m³/hour. The maximum anticipated discharge salinity, which will occur during the cavern commissioning will be in the order of 7 times that of seawater (ca. 250 parts per thousand (ppt)), although it is anticipated to be much less than this during most of the leaching process. The maximum temperature of the discharge will also occur during the cavern commissioning period and is estimated to be 8.68o Celsius.

In order to assess the impact to the marine environment from the brine discharge HR Wallingford (HRW) were commissioned to undertake a modelling

study to determine the dilution and rate of dispersion of the brine plume around each of the monopods.

The initial dilution (at the point of discharge) was modelled using the CORMIX model. This indicated that the brine effluent would be best discharged through two 0.15 metre diameter horizontal ports located at right angles to the main current direction at about 10 metres above the seabed. This configuration would be expected to give at least a 33 times dilution at the point of seabed impact and a maximum salinity rise at the seabed of less than 7ppt.

Further dilution and dispersion modelling of the saline discharge by the tidal currents was then calculated using the 3D hydrodynamic model TELEMAC-3D. The model was run for spring and neap tide scenarios.

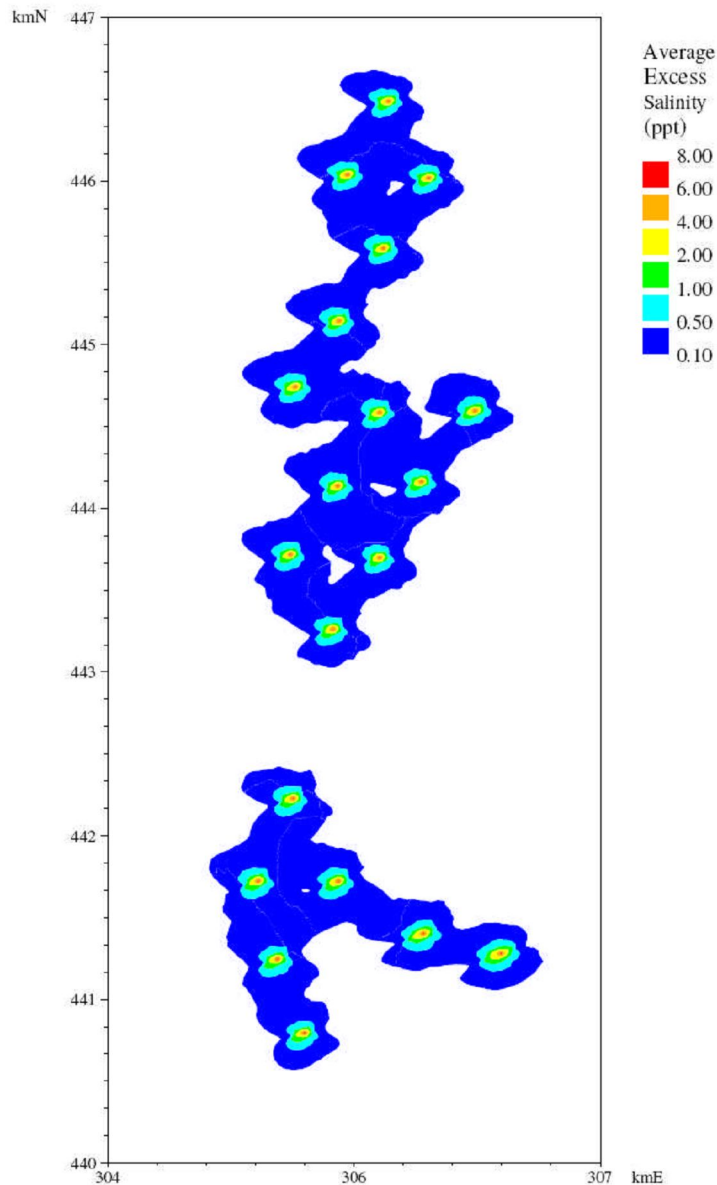
The saline discharge plume was shown to form a rotating pattern, with the plume extending southwest from the monopods at low water. These plumes narrow and rotate anti-clockwise as the current increases to peak flood and then broaden and rotate further to stream northeast at high water. They then narrow and rotate to stream toward the west at peak ebb before returning to the original shape at low water.

In conclusion, the TELEMAC-3D modelling results showed that the dilution and dispersion of the discharge by the tidal currents would result in a number of separate plumes from each monopod. It was predicted that there would be some merging of the plumes, but only at low salinities (less than about 1ppt above ambient) (Figure 6). The saline plumes are expected to be confined to the bottom 0.5 to 1.0 metres of the water column. Central concentrations are about 7ppt, consistent with the initial dilution (i.e. there is no significant build-up that would reduce the dilution efficiency). The average impact at more than 1ppt above ambient is expected to be confined to an area within some 100 metres of each monopod during spring tides and within about 300 metres of each offshore structure during neap tides.

With respect to discharge temperature, it is anticipated that the temperature will reduce to about 2o Celsius above ambient or less within 1 metre of the point of discharge. There will also be an insoluble fraction to the discharge, mainly comprising fine mudstone particles. Modelling of this fraction found that in all cases the suspended sediment concentration that results from the discharge was very low, less than 0.5ppm.

This is negligible compared with natural levels of suspended sediment and would not be expected to result in visible discolouration of the water.

Figure 6: Average Salinity on the Seabed during a Spring Tide



Air Quality

The exhaust emissions from the drilling rig, and other project associated vessels will cause a minor, temporary degradation of the air quality in the immediate vicinity of operations. Modelling of the largest output, from the drilling rig, has indicated that elevated levels of exhaust gases would decrease rapidly with distance. At the nearest shore locations calculated levels of all exhaust gases will be consistent with good air quality standards.

Marine Archaeology

Detailed geophysical and geotechnical surveys have been conducted in and around the offshore GGSP area which have not indicated the presence of any wrecks, prehistoric deposits, land-surfaces or artifacts. Based on the assumption that the site surveys already undertaken have fully assessed the area for the presence of marine artefacts, it is concluded that there will be no disturbance to marine archaeology as a result of the offshore GGSP.

Accidental Oil Spills

The drilling rig and some of the vessels involved with offshore construction operations will have on board large quantities of marine fuel, usually diesel. Although very remote, the possibility exists that an oil spill could take place that could potentially impact the local area. In mitigation, Gateway will prepare a full Oil Spill Contingency Plan (OSCP) and an Emergency Procedures Plan will be in place prior to any drilling operations taking place to provide guidance on actions to be taken in the event of a release or spill. The OSCP will be supported by personnel trained in oil spill response and emergency management.

Biological Environment

Birds

The coastal area of the eastern Irish Sea is important for over-wintering, summer breeding and migrating bird populations. Of note within the vicinity of the development is the possible designation of Liverpool Bay as a marine Special Protection Area (SPA) for both common scoter and red-throated diver. Although common scoter have not been recorded in significant numbers within the GGSF area, high concentrations are present over Shell Flat during the winter months; particularly in February and March. Red-throated diver are mainly found in coastal waters particularly to the south of the GGSF area.

Birds within the GGSF area are unlikely to be directly affected by the brine discharge, particularly as many seabirds are tolerant of variable salinity conditions and are able to excrete excess salt via nasal glands. There is a possibility, however, that their food source may be impacted.

The main food source of common scoter consists of small fish and invertebrates. The closest aggregation of common scoters is approximately 2 kilometres to the east of the nearest gas storage cavern location. Modelling has shown that, although the discharge plume travels towards Shell Flat at certain times during the tidal cycle, salinity of greater than 1ppt above ambient is confined to a maximum area of 300 metres from each monopod during neap tides. Given this, any impact on the common scoter's food source is likely to be negligible.

Scoter are very nervous birds and are easily disturbed by passing vessels. The presence of the Project, and associated vessel activity, are not anticipated to result in a significant impact as vessels will stay within existing well marked shipping channels and have no need to pass over the Shell Flat area on route to the GGSP.

There is also the potential for local seabird populations to be impacted if an oil spill were to occur in the project area. The most likely spill event would be a small spill of fuel oil (diesel). Impacts from small spills, i.e. less than one tonne, are likely to be restricted to the immediate vicinity of the source.

Larger spills, as a result of a catastrophic event, e.g. a collision, have the potential to impact wider areas.

The worst case would be a large diesel spill during the winter months (September to March) when there are very high numbers of overwintering seabirds, notably common scoter residing on the nearby Shell Flat.

These populations could become significantly impacted. It should be emphasized, however, that such an impact is remote and would only be the result of a significant catastrophic collision incident.

In mitigation, Gateway will prepare a full OSCP and an Emergency Procedures Plan will be in place prior to any drilling operations taking place.

Overall, however, the impact to the local bird populations from all aspects of the offshore GGSP is considered to be negligible.

Benthic (Seabed) Communities

No benthic species of particular conservation importance are anticipated within the GGSP area or along the proposed route of the pipelines and cable.

The most significant GGSP related impacts to benthic communities will be from:

- Discharge of waste cuttings from the drilling of the 20 cavern wells. Modelling indicates that the benthic communities up to 160 metres from the well will be impacted, mainly by burial from discharged cuttings. As the drilling mud associated with these cuttings will be water based and contain minimal contaminants, recolonisation of the area is likely to be rapid.
- Loss of some soft sediment habitat, due to installation of the monopod substructures, estimated at about 0.2 hectare;
- The brines discharged from the leaching process will sink to the seabed exposing the local benthic communities around each monopod to rapid changes in salinity. Modelling has indicated that this exposure is likely to be transient as a result of the shallow waters and tidal flow. Nevertheless, it is likely that there will be some impact on the benthic communities in the immediate area of the monopods for the duration that the discharge takes place.
- Temporary impact from the installation of the pipelines and cables. Although this will take place over a comparatively large area, any disturbance to the soft sediment faunal communities will be short lived and recolonisation is again expected to be rapid.
- Introduction of hard substrate (monopod substructures) plus any 'hard' material used for scour control will attract a new faunal community thus increasing the overall diversity of the area. The overall impact on the local benthic communities within the project area is considered to be minor.

Fish and Shellfish

Within close proximity of the GGSF area there are spawning areas for a number of fish species including cod, whiting, sole, sprat and plaice, and the area also may act as a nursery area for whiting, sole and plaice.

The construction and operation of the GGSP is likely to result in only minor impacts to fish and shellfish populations. Possible impact could occur from:

- Piling activity. Installation of the monopod substructure will not employ hydraulic hammer equipment, if possible, however, this technique may be required depending on sediments in the area. Were it to be used a 'soft-start' procedure would be implemented which would slowly increase the level

of underwater noise prior to piling starting and thus ensure that fish have the opportunity to move away from the noise source.

- Discharges of drill cuttings and leachate brines and the disturbance of sediments during pipeline and cable installation could indirectly impact fish populations by reducing their local food sources, i.e. plankton and benthos. Modelling has shown, however, that impacts to these communities will be limited to the immediate vicinity of the operation. Overall, impacts on fish food sources are therefore considered to be negligible
- Electromagnetic emissions from subsea power cables. Electro-sensitive fish (sharks and rays) are unlikely to be impacted significantly by the subsea cable as the electrical field generated by cables will be minimised by insulation and burial.
- Sediment disturbance from pipe and cable laying operations. Migrating salmon and sea-trout could potentially be affected by sediment plumes from inshore pipeline and cable laying and burial operations. These operations, however, have been timed to avoid the period when adult salmonids are migrating to their natal rivers, which is usually between November and January.

The monopod substructures may result in some form of artificial reef effect, as fish tend to aggregate around objects placed in the sea. In the longer term, this may have a minor beneficial effect leading to an improved habitat biodiversity in the area.

Marine Mammals

Numbers of marine mammals are generally low within the GGSF area and therefore any impacts as a result of the construction and operations are not considered to be significant. Noise and vibration produced by vessel movements, drilling and construction activities, will be similar to those produced by existing offshore traffic.

It is not planned to install the monopod substructure piles using a submersible hydraulic hammer, however, if this is required then mitigation in the form of 'soft start' procedures will be carried out prior to piling operations.

Socio-Economic (Human) Environment

Employment

During the construction, installation and commissioning phase of GGSP, it is unlikely that many direct job opportunities will be created as most work will be undertaken by specialist contractors. Due to the technical speciality of the onshore pre-fabrication and construction work, it is considered unlikely that much of this work will be undertaken in the Barrow-in-Furness region.

During offshore installation and construction activities, the port of Barrow will be used where possible as a supply base for project associated rigs/vessels. The project will need to draw on some support services, which will potentially assist in sustaining employment levels or increase employment opportunities locally. Once the facility is operational a small number of people will be required to operate and maintain the offshore facilities from the onshore control base located at the proposed GGCS in Barrow. With the decline in production from East Irish Sea gas fields, it is anticipated that existing personnel within the area will be used for this purpose, which will help sustain long term employment opportunities at these facilities.

Commercial Fisheries

The East Irish Sea ports have supported a commercial fishing industry since the early 1800s and although the industry has been in decline for a number of years there is still an active local fishery. The GGSF area is currently not heavily fished; however, it is still important to the local commercial fishing community in that it forms part of the wider network of fishing grounds within the eastern Irish Sea. Vessels fishing within the area are primarily demersal trawlers from Fleetwood.

During construction and installation of the monopods, pipelines and cables, and during drilling operations, a 500 metre diameter safety zone will be established around all vessels associated with these activities.

Once a monopod has been installed a permanent 500 metre safety zone will be set-up around the structure, creating a total exclusion area of approximately 12 square kilometres (1200 hectares) around all 20 structures. Fishing will therefore not be permitted within this area for the life time of the project.

Given that the GGSF area is not heavily fished, the EIA concluded that the presence of the facility on its own will probably not greatly impact the value of fishery in the area and is therefore unlikely to significantly impact the local fishing industry. It may, however, lead to some minor changes in local fishing patterns, with vessels having to travel around the exclusion zone in order to fish to the west of the development, outside of the 12 nautical mile limit.

Navigation and Shipping

A review of existing shipping traffic was undertaken for the GGSF area and showed that although there were a number of routes within the general area few would be directly impacted by the presence of the Gateway offshore facilities.

Traffic travelling between Heysham and the South Morecambe gas field will be the route most affected. These supply vessels will not be able to pass directly through the gas storage area and will need to re-route, either to the south-east or to the north-west of the development. Other vessels travelling North/South through the East Irish Sea are expected to move to the west of the GGSF area passing between the offshore structures and the South Morecambe gas field. Given the relatively low volumes of traffic affected, the overall impact on commercial shipping navigation is not considered to be significant.

In addition, it is anticipated that the project will not have a significant impact on recreational vessel activity in the area; given existing routes and the limited activity in the area.

Using modelling, a collision risk assessment has also been undertaken for the project. It was assumed that the worst case collision risk would be during the construction phase of the project when a jack-up rig, and attendant vessels, would be operating at several cavern locations. Assuming that a safety vessel equipped with standard marine radar would be on-site during the construction period the highest annual collision frequency was calculated to be 2.1×10^{-3} (corresponding to a return period of 476 years). In mitigation, all planned offshore activities will be communicated through the correct notification procedures e.g. through Notices to mariners. Navigational aids will be placed on individual monopods, with additional aids placed on those

monopods lying on the edge of the GGSF area. Trinity House is currently reviewing these navigation aid requirements, but it is envisaged that each structure will be fitted with white lights with 15 nautical mile range, and other measures e.g. additional lighting and buoys, are also being considered.

Gateway has committed in principle to contributing to the overall planned Vessel Traffic Service (VTS) for the North West area in order to enhance safety of navigation.

Tourism

Due to its distance from shore, it is considered that the presence of the GGSF will generate little interest from either the local population or visitors to the area. From shore, the monopods will only just be visible on clear days and should only be of passing interest to people walking along the seafront.

Civil and Military Aviation

There are no identified impacts from the presence of the GGSF with regard to low level operational aviation activities, as none of the proposed offshore sites lie within the takeoff or landing zones of any aerodromes within the area. It is considered that the offshore GGSP will pose no risk to either civil or military radar or high level flight paths.

Offshore Oil/Gas and Wind Farm Operations

The only significant potential impact from the offshore GGSP on the existing oil/gas and wind farm infrastructure will be during construction and installation operations. There will be a requirement for the Gateway pipelines and cables to cross existing gas pipelines and power cables. The exact positioning of these crossings will be determined during the detailed project design stage and once established; crossing arrangements will be agreed with the pipeline /cable owners and operators. The exact type of crossing that will be used has yet to be decided and will be the result of discussions, although the types of crossing method are well defined.

Visual

A detailed assessment has been undertaken to determine the potential for any significant impact on the landscape, seascape and visual environment within a 40 kilometre radius of the proposed GGSP.

The studies included a 'baseline' assessment of the proposed GGSP in relation to the current operating offshore wind farm (OWF) at Barrow and other existing offshore gas field infrastructure. Whilst acknowledging that the proposed GGSF is not an OWF development, it is nevertheless in the form of an array of offshore structures therefore, for consistency, the study methodology for this assessment used guidance previously employed for other OWF developments in the East Irish Sea.

The seascape assessments were based on five Regional Seascape Units from the Duddon Estuary in the north to the Ribble Estuary and Sefton Coast in the south. In addition, six landscape character areas were identified within the study area from the West Cumbria Coastal Plain in the north to the Lancashire and Amounderness Plain and Sefton Coast in the south.

An assessment was made for each seascape and landscape area based on its visual quality and sensitivity; and value and capacity to accommodate change. In summary, the results of the landscape and seascape assessment concluded that overall the construction and operation of the offshore elements of the GGSP development would result in either a small or negligible magnitude of change on the landscape and seascape character and consequently, throughout all areas, the significance of effects were assessed as being slight.

Following consultations with statutory consultees and the relevant Local Planning Authorities, a total of 7 viewpoints were selected to represent a range of the most sensitive viewpoint locations, i.e. those locations where any potential visual impact was greatest. The viewpoints included both coastal and inland locations at low level and elevated locations, ranging from Black Combe in the north, to St Annes Pier in the south.

In summary the results of the baseline visual impact assessment, concluded that from all seven viewpoints together with all other parts of the study area, the anticipated magnitude of change was assessed to be either very small or negligible and as a consequence the resulting significance of visual effect was either minor or negligible

Cumulative Impacts

Cumulative impacts are those that may result from the combined or incremental effects of past, present or future activities. While a single activity may not have a significant impact when treated in isolation, it may, when combined with other impacts occurring at the same time in the same geographical area, result in a cumulative impact that is significant. The most significant potential cumulative impacts are summarised below.

Figure 7 illustrates the past, present, and future developments that may result in a cumulative impact with the GGSF. This includes offshore wind farms (OWF), oil and gas exploration and production activities, other offshore infrastructure (pipelines and cables), marine aggregate extraction sites and spoil dumping sites. Also of note is the proposed Canatxx gas storage facility, which although based onshore has an outfall pipe for brine discharge located approximately 2.3 kilometres offshore of Rossall, near Fleetwood.

Shipping and Navigation

The main cumulative impact on shipping and navigation in the eastern Irish Sea will result from the presence of the OWFs, particularly if all current applications are developed. The physical presence of these developments will result in a cumulative loss of searoom and will, therefore, require a significant amount of vessel traffic to be re-routed.

Figure 8 presents the shipping survey data (one month) overlaid with the proposed location of the GGSF as well as existing and proposed locations of the OWFs. It can be seen that any traffic which is re-routed as a result of the different OWF developments should not be impacted by the GGSF as the majority of the OWF sites lie to the north or east of the GGSF.

Exceptions to this could occur during the construction phases of the various projects where traffic may be visiting from ports further afield.

Figure 7: Existing Offshore Infrastructure and Proposed Projects in the Eastern Irish Sea

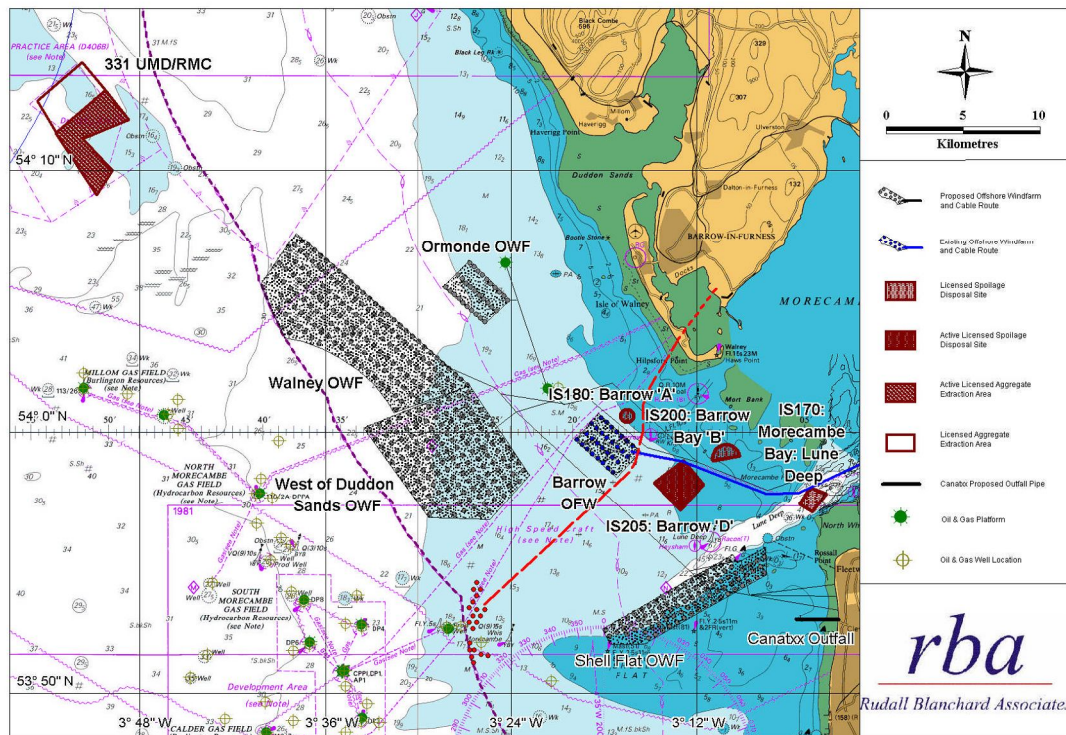
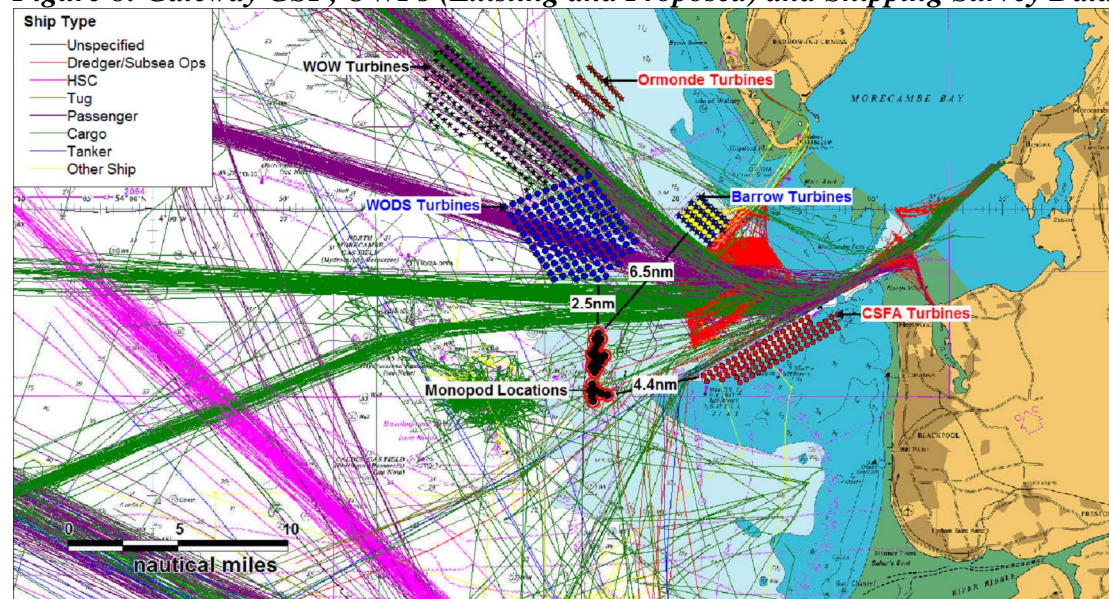


Figure 8: Gateway GSF, OWFs (Existing and Proposed) and Shipping Survey Data



The majority of construction traffic associated with the GGSP will be on-site during 2009 and 2010. As such, given current anticipated construction dates, the only overlap will be with the Ormonde OWF, which is due to begin foundation piling, drilling and cable lay activities in 2009.

With respect to commercial shipping, cumulative impacts will mainly result from the proposed West of Duddon Sands OWF and the associated re-routing which will be required to take place for ferries travelling between the Isle of Man and Heysham. This will increase the density of the traffic immediately to the north of the GGSF. However, these vessels will follow similar routes to the vessels already routeing to the north of the GGSF.

It can be seen that whilst the impact of GGSP on shipping in isolation is not considered to be significant, should all the proposed developments in the eastern Irish Sea area proceed, there will be cumulative impacts based on overall reduced sea room and re-routeing of shipping

Commercial Fishing

The main cumulative impact to commercial fishing will be the loss of available fishing grounds as a result of the GGSF combined with the OWFs and the 500 metre safety exclusion zones set-up around oil and gas installations (including the Millom, North and South Morecambe, Hamilton and Douglas gas fields). The extent of any cumulative impact will be dependent on where individual fishermen operate. There will, for example, be little or no impact on the summer prawn fishery as none of the proposed OWFs extend into the Prawn Ground.

With regard to a cumulative impact during construction of the GGSP (the majority of activity for which is planned for 2009 and 2010) only one OWF, Ormonde, is currently scheduled to be constructed during this period. Drilling activities associated with the Ormonde South gas field are also likely to occur during this period.

Any potential cumulative impacts between the two projects are reduced given that the Ormonde project is located approximately 19 kilometres to the north-east of the GGSF and that the two projects lie within or close-to separate fishing grounds.

In mitigation, Gateway will participate in the ongoing consultation process between the East Irish Sea Developers Group (EISDG) and with local and national fisheries bodies to help minimise any potential cumulative effects of wind farms and other eastern Irish Sea developments on fisheries.

Birds

The physical presence of the GGSF is unlikely to add to the cumulative impact of the OWFs on birds, particularly as it will not represent a collision risk.

With regard to displacement, it is also anticipated that the cumulative impact of the GGSF will not be significant either alone or in combination with the OWF developments. The combined area of these developments is approximately 192 square kilometres, which is considered to be a relatively small area in relation to the availability of habitat for most species that may be vulnerable to displacements effects (e.g. gannet, auks, manx shearwater etc.).

The other key potential cumulative impact on birds is from Liverpool Bay pSPA, specifically common scoter and red-throated diver. It is unlikely that the GGSF will result in additional disturbance to these species over and above that caused by the Cirrus Shell Flat Area OWF, particularly as all vessel traffic associated with the GGSP will be routed around the Shell Flat area.

Visual

A detailed assessment was undertaken of the potential cumulative visual effects that may arise following the construction and operation of the GGSP in conjunction with other operational and proposed developments in the East Irish Sea. These included offshore and onshore wind farm developments and existing offshore gas field infrastructure.

In summary, the results concluded that the relative significance of the GGSF monopods, given their height and location, was negligible when compared to the number and height of turbines at the various operating and planned OWFs,

From a seascape perspective the visual effect resulting directly from the GGSP construction would be negligible when compared to those potential effects resulting from the closer Round 1, and the more extensive Round 2, OWFs. Indeed, from certain seascape viewpoints, the

view will become dominated by the wind farms and in effect would become 'wind farm seascapes'. For example, four OWFs will be concentrated in the area to the west and southwest of Walney Island, (Barrow, Ormonde, Walney and West of Duddon Sands). These will dominate the seascape to such an extent that the construction of the GGSP will not detract from their relative 'dominance'.

In summary therefore, any magnitude of change and significance of visual effects in this area are primarily attributable to the OWF developments proposed in the Eastern Irish Sea and not to the GGSP.

Marine Discharges

The main potential for cumulative impacts arises from the brine discharge if solution-mining at the Canatxx onshore gas storage project occurs at the same time as the GGSP.

Modelling of the Gateway brine plume however has shown that salinity of greater than 1ppt above ambient will be confined to a maximum area of 300 metres from each offshore structure during neap tides. Similarly, modelling of the brine plume from the Canatxx outfall shows that the discharge reaches 10 percent of ambient concentration within 250 metres from the discharge point. Given the distance between the GGSP and the Canatxx outfall pipe, approximately 22 kilometres, it is not anticipated that two plumes will overlap, therefore, there will be no significant cumulative impacts.

It is recognised that other offshore developments are likely to reduce water quality from activities such as marine aggregate extraction, waste disposal and discharges from oil and gas activities. Given the distance between projects, however, no significant cumulative impacts are anticipated.

Quantifying the predicted emissions from drilling the Gateway cavern wells, combined with knowledge of previous similar activities within the general area, allows a simple assessment of the additional or cumulative 'loading' of discharged material into the marine environment caused by the proposed activity.

Drilling at the 20 cavern locations will take place within an area covering about 6 kilometres by 2 kilometres, with each cavern typically separated by a distance no less than 500 metres. Drilling will be a

sequential and continuous operation from Q2 2009 to Q1 2010, with each well taking about 15 days to complete.

Modelling indicated that the majority of the drill cuttings will fall within 165 metres of each discharge point. Given that the closest distance between any two drilling locations is approximately 500 metres, any potential cumulative local impact on the surrounding sediments is unlikely.

Regarding the wider cumulative effect within the Irish Sea, 58 wells were drilled in and around the area between 2000 and the end of 2006, around three percent of the total wells drilled on the UK Continental Shelf. In the case of Gateway, an estimated 335 tonnes of cuttings are expected to be discharged to the seabed at each location. Based on the past seven years drilling history in the Irish Sea, this is likely to form a significant contribution to the total drill cuttings that will be discharged to the seabed during the proposed drilling period. Overall, however, the consequences of the cumulative impact are anticipated to be negligible, particularly as previous evidence has shown that any cuttings will soon become mixed with the natural sediments and will eventually be dispersed.

Noise

Development of the offshore GGSP will generate noise, both above and below the sea surface. Significant sources of noise will be generated from construction and installation activities, although all such noise will be restricted to a relatively localised area.

The main potential for cumulative noise impacts arises if construction activities of nearby developments occur at the same time as those for the GGSP. The closest OWFs to the GGSP are West of Duddon Sands, approximately 4 kilometres to the north and CSFA, approximately 8 kilometres to the east. Construction of West of Duddon Sands OWF is anticipated to commence in 2011, although the project has yet to be officially consented. The CSFA OWF has been subject to a planning re-application and, therefore is unlikely to be built prior to West of Duddon Sands.

Given the above, it is unlikely that there would be significant overlap with the GGSP as the majority of construction and installation work is programmed for 2009/2010. In addition, an assessment undertaken for the CSFA wind farm (Cirrus Energy, 2007) indicated that

anticipated airborne noise from construction and installation activities, principally hammer piling operations, were likely to be rapidly attenuated and that it was unlikely that noise levels exceeding 60dB would be experienced more than 2 kilometres from the noise source.

During construction of the GGSF, the greatest impact to fish species and marine mammals will be from percussion piling should that installation method be used. However, as discussed above it is unlikely that concurrent piling operations will take place. In addition, if Gateway is required to employ percussive piling methods utilise a submersible hydraulic hammer method to install the monopods this generate significantly less noise than that associated with the piling of the larger offshore wind turbine foundations.. Given the above it is anticipated that there will be no significant cumulative noise impacts during construction of the GGSF.

Pipeline/cable installation activities are likely to cause a minimal amount of disturbance to the background noise level of the area. This is not likely to cause significant cumulative impacts, however, if Gateway activities are carried out at the same time as cable lay activities for the Ormonde OWF increased noise levels may occur over an extended duration.

No cumulative noise impacts are anticipated from the operation of the Gateway GSF in relation to other offshore activities.

Accidental Hydrocarbon Releases

Accidental hydrocarbon releases arising from spills, collisions etc, will be statistically more likely to occur if all the proposed offshore developments are constructed. Each individual development will have their own emergency response procedures, which will detail the contingency measures put in place to deal with any incidents. There are, therefore, not expected to be any specific cumulative impacts due to accidental releases.

Environmental Management

Gateway operates under an integrated Business Management System that includes a comprehensive Environmental Health and Safety (EH&S) management system. This system will help to ensure

that the project is undertaken on a sound environmental basis.

Environmental mitigation and monitoring programmes together with any conditions attached to the Project Consents will be compiled into an Environmental Management Plan and incorporated into the Project planning process. A system of internal and third party audits will provide the necessary feedback to ensure that the process operates correctly.

Overall Conclusions of the Gateway Project EIA

In conclusion, it is considered that, providing the proposed mitigation and monitoring requirements are put in place, the offshore GGSP will not have a significant adverse impact on the local and far-field physical, biological or social-economic environment, and from a cumulative perspective, is unlikely to comprise a significant component. Overall, any adverse impacts should be balanced against the beneficial effects of the project to the East Irish Sea area including the potential effects of the local economy, strengthening the region's reputation as an energy hub.

Gateway will continue to consult with all interested parties throughout the development and operational phases of the Project, keeping local residents and business informed of progress and addressing any comments and concerns that may be forthcoming.

APPENDIX 5: DUNQUIN PROSPECT OFF THE KERRY COAST HAS 18 TIMES MORE GAS THAN CORRIB

Exxon woo new partners to allay Dunquin drilling costs

By Pat Boyle

Irish Independent Friday February 22 2008

<http://www.independent.ie/business/irish/exxon-woo-new-partners-to-allay-dunquin-drilling-costs-1295318.html>

US oil giant ExxonMobil said yesterday that it is looking for farm-in partners to allay the cost of drilling on its giant Dunquin prospect in Porcupine basin off the west coast.

The news is a major boost for its Irish exploration partner Providence Resources, the company responsible for bringing Dunquin to the attention of the US oil giant in the first place.

Providence secured the Dunquin licence in November 2004. The Irish explorer held an 80pc stake in the license with its partner Sosina holding the balance.

Then in 2006 it announced a farm-out to ExxonMobil who in return for an 80pc share undertook to cover the cost of an extensive exploration programme. Apart from a detailed seismic survey, the US giant was committed to drill up to two wells on the acreage -- provided the results of the seismic warranted further exploration.

In turn Providence saw its share fall to 16pc and Sosina to 4pc.

The decision on whether or not to drill has to be taken by August this year but the decision to look for a partner indicates that Exxon has already decided to press ahead with the drilling commitment.

In a statement issued yesterday ExxonMobil said it is offering half of its 80pc share and will accept bids for stakes of 15pc or more. It also expressed interest in accepting an asset swap in return for the 40pc share -- stating it would accept an equity position in a similar exploration play or an undeveloped discovery.

By taking in a partner ExxonMobil is following a long standing industry tradition of spreading the risk on what is essentially a new exploration province.

ExxonMobil said two prospects have been identified, Dunquin North and Dunquin South. Both are anticipated to hold gas or gas/condensate with the estimated potential to hold over 18 trillion cubic feet of gas -- Corrib holds one trillion cubic feet.

This estimate is referred in the industry as a 'P10' figure, meaning that there is roughly a 10pc chance that it will be proven up by drilling.

It also said that both are ready for drilling, meaning all the preparation work barring the choice of a location for the rig has been completed.

The decision to offer part of its stake will not affect the share held by Providence or Sosina.

Providence is the operator of the acreage but under the first farm-out deal in 2006, ExxonMobil is to assume this role once it gets to the drilling stage.

- *Pat Boyle*

Ireland's upstream boom will produce significant opportunities

Energy Business Review

25th May 2007

By EBR Staff Writer

http://www.energy-business-review.com/article_feature.asp?guid=531E2EB9-5F93-4030-96C5-DE9184E5659B

Recently revised estimates of Ireland's oil and gas resource endowments paint an upbeat picture of future production levels. If these latest estimates translate into the production levels forecasted, Ireland has the potential to not only meet its indigenous oil and gas needs but also to become a net exporter.

'Content Recent estimates published by the Irish Petroleum Affairs Division of the Department of Marine and Natural Resources indicate significant potential for future oil and gas production levels offshore Ireland.

The majority of these reserves are understood to be located in the Atlantic Ridge, a geological structure running parallel with the west coast of Ireland and part of the same geological formation as the North Sea reserves.

The fact that the Irish reserves are on this geological formation bodes well for their future development. The success of the Norwegian, Danish, Dutch and British fields at the other end of the structure is well documented. Closer to home, fields on the same structure such as Dunquin, which is estimated to contain 25 trillion cubic meters of gas and over 4,100 million barrels of oil, all increase the likelihood that the undeveloped reserves will be both technically and economically recoverable.

A recently published government report shows potential reserves of 130 billion barrels of oil and 50 trillion cubic feet of gas. Given Ireland's geographic location, there is significant scope for these reserves to be exported. Subject to the construction of suitable loading facilities, the oil can be relatively easily exported by tanker to anywhere in the world. The existing gas interconnection capacity with the UK could easily be reversed through the construction of new compression facilities, creating scope to export gas to the UK or even Continental Europe. Construction of LNG export facilities is also a possibility.

If developed, the Atlantic Ridge reserves would give a significant fillip to current indigenous production levels in Ireland. Currently,

Ireland produces only a fraction of the gas and oil it needs, creating a significant level of import dependence.

Ireland's first indigenous gas reserves were discovered off the southwest coast in 1971 as a by-product of a search for oil. Currently, the majority of Ireland's indigenous gas production activity takes place off of the Kinsale Head area. Smaller levels of production are sourced from the Seven Heads area, although this development has been significantly impacted by technical problems leading to a rapid decline in output.

Industry players developing the Atlantic Ridge reserves will no doubt be hoping to avoid the problems encountered by the developers of the Corrib field, located 70km offshore the northwest coast. Corrib was first discovered in 1996 by Enterprise Oil and was the first significant new gas discovery in Irish waters since Kinsale Head. In 2002, Enterprise Oil was acquired by Shell and the operating license of Corrib transferred to Shell, with the project owned by Shell E&P Ireland Limited (45%), Statoil (36.5%) and Marathon (18.5%). A long series of legal and planning related delays relating both to the project itself and associated infrastructure development have resulted in the project remaining years behind schedule.

If the new Atlantic Ridge reserves can be developed in a timely, cost-effective and streamlined manner, significant scope exists to transform the Irish energy sector and create a massive injection to the Irish economy

APPENDIX 6: HESS TAKE 42% SHARE OF SLYNE-ERRIS PROSPECT OFF THE DONEGAL COAST

Statoil agrees deal on north west licences

Thursday 14 June 2007, RTE news

<http://www.rte.ie/business/2007/0614/statoil.html?rss>

.

The Norwegian group Statoil, in partnership with Shell Ireland, has signed a farm-out agreement on its two licences off Donegal.

The agreement will see Hess Exploration Ireland take a 42% share in the two licences in the Slyne-Erris Basin.

Statoil Exploration (Ireland), will remain as operator of both licences and retain a stake of 39.3%, and Shell will keep its 18.5% stake. The firms said drilling will start in 2008.

John Conroy, General Manager of Statoil Exploration Ireland said: 'We now face into an active work programme which includes acquiring state-of-the-art seismic data later this year and the drilling of an exploration well in early 2008'.

In 2003 Statoil Exploration Ireland capped and abandoned the well on the Cong Prospect, 32 miles northwest of Co Mayo, after no oil or gas was found.

It is understood that the company has spent around £20m on the project.

APPENDIX 7: BORD GAIS TO CONSIDER BUYING MARATHON FIELDS FOR STRATEGIC UNDERSEA STORAGE

Bord Gáis to consider Marathon fields

By Conor Keane, Business Editor

Irish Examiner 21 February 2008

<http://www.examiner.ie/story/?jp=OJOJIDAUEY&cat=Business>

THE Marathon Oil Corporation has put the "for sale" sign up on its Irish operations, which include gas fields off the Cork coast that supply 8% of Ireland's natural gas needs.

Within hours of the Marathon announcement, Bord Gáis Éireann chief executive, John Mullins, said the State-owned gas company would be taking a serious look at acquiring some, or all of Marathon's Irish assets.

The proposed sell-off includes an 18.5% interest in the controversial Corrib gas development and it is expected to attract a lot of interest as energy prices reach all-time highs worldwide.

Marathon yesterday confirmed it is planning to evaluate its Irish assets as part of its previously announced global asset portfolio review.

"Marathon's Irish assets to be evaluated include the wholly owned Kinsale Head and Ballycotton fields, as well as Marathon's 86.5% interest in the Seven Heads field and the company's 18.5% interest in the Corrib development," the company said.

Marathon also owns the pipeline which connects the Kinsale gas field to Bord Gáis Éireann's national gas distribution grid. In 2007, 44 million cubic feet of gas was brought on shore through the pipeline which is also connected to a large certified undersea gas storage facility in the Kinsale complex.

Bord Gáis's Mr Mullins said being the State gas company it "behoves" them to look at the assets that have come on the market.

It is understood Bord Gáis would be interested in Marathon's stake in the Corrib gas field and the strategic undersea storage facilities owned and operated by Marathon. Bord Gáis has the resources and access to funds to comfortably buy some or all of the assets on offer.

Marathon would not say how much extractable gas is left in the south coast assets, explaining this was difficult to access, as it depends gas price, the rate on extraction and the associated production costs.

Marathon, which employs 61 people in Ireland, said the proposed sale was consistent with their philosophy of maintaining financial discipline and flexibility.

"We have commenced a review of our global portfolio of assets with the intent of divesting those assets which are either mature or otherwise non-strategic, thus allowing us to redeploy our capital into the projects included in our capital, investment and exploration budget. We are in the early stage of this review process, so we expect the majority of proceeds from any such asset sales would be received in the second half of 2008," the company said.

It said the review of its Irish assets could lead to a sale in the event of an acceptable offer.

"If an acceptable offer is not received, we will continue to operate our interests in Ireland in the same professional manner in which we have done for the past 40 years," Marathon said.

Marathon said it plans to conclude the review of its assets in Ireland during the first half of this year.

The Irish Times – Thursday, February 21, 2008 - Barry O'Halloran - Marathon to sell Irish Operations

Natural gas supplier Marathon signalled yesterday that it could sell its Irish operations. Texas-based Marathon has been supplying natural gas to the Irish network from wells off the south coast since 1978. Last year it produced 8 per cent of the country's needs.

The multinational issued a statement yesterday saying that it intended evaluating its Irish assets as part of a global review of its operations. Marathon stated that the review could ultimately lead to a sale of the Irish business if it receives an acceptable offer.

"If an acceptable offer is not received, we will continue to operate our interests in Ireland in the same professional manner in which we have done so for the past 40 years," the company said.

Marathon added that the global review was aimed at identifying businesses that are mature or "non-strategic" with a view to selling them and reinvesting the proceeds in developing its operations. Before issuing the statement at lunchtime yesterday, the company informed workers at its Irish base in Cork. Marathon employs 61 people in Ireland.

The company owns and operates the Kinsale Head and Ballycotton gas fields off the Cork coast. It holds 86.5 per cent of the Seven Head field, which it bought from Scottish explorer, Ramco, in 2006. It also has an 18.5 per cent interest in the Corrib field off the west coast, whose other owners are Shell and Norwegian state company Statoil. Marathon's involvement in Corrib is financial only. It will not be operating the field. A high-profile local campaign has delayed the development of the gas field.

Marathon was the first company to begin producing natural gas from wells in Irish territorial waters. It has had a presence here for 40 years and, at one stage, was the main supplier to Bord Gáis, which owns the Irish network and supplies the fuel to more than 500,000 households in the Republic.

In 2007, it produced 44 million cubic feet - the unit in which the fuel is measured - of natural gas, which amounted to 8 per cent of the State's requirements.

Gas is the dominant fuel in electricity generation and is used in modern power plants such as Tynagh Energy and Viridian's two facilities in the Republic. The ESB is planning to build a modern gas-fired plant next to an existing power station that uses the same fuel at Aghada in Cork harbour.

The announcement comes at a time when oil and gas prices have been rising. Over the last month, natural gas rose from \$7.60 to \$9.12 for a million thermal units in New York. However, prices dipped one US cent yesterday as government data showed that stocks in the US are holding up ahead of the end of winter.

© 2008 The Irish Times

APPENDIX 8: Minister Martin announces new Mandate for Shannon Development



Department of
Enterprise, Trade and Employment

Minister Martin announces new Mandate for Shannon Development

<http://www.entemp.ie/press/2005/20050728.htm>

Mr Michéal Martin, T.D., Minister for Enterprise Trade and Employment today (Thursday 28th July 2005) announced details of a new mandate for Shannon Development

Under the new arrangements Shannon Development will be given an enhanced regional economic development role with a specific emphasis on addressing the needs of the less developed parts of the Shannon region. It will also retain responsibility for all industrial property in the Shannon region and for developing and managing the Shannon Free Zone industrial estate. The existing enterprise support functions carried out by the Company in relation to both indigenous and overseas enterprises will be assumed by the national agencies, Enterprise Ireland and IDA Ireland.

Outlining the background to his decision, the Minister said:

"Since its inception in 1959, with a specific mandate to support the development of Shannon Airport, Shannon Development's role has evolved and adapted to meet changing circumstances and the needs of the region. There can be no doubt that the Company has served the region well and has made a valuable and lasting contribution to its economic development. It developed the world's first industrial duty free zone at Shannon; Ireland's first Science and Technology Park in Limerick; and has taken imaginative initiatives in relation to tourism product development that have served as a model for other regions."

Referring in particular to the decision to decentralise the Headquarters of Enterprise Ireland to Shannon and the establishment of the new independent Shannon Airport, the Minister said:

"A number of recent developments have dictated that the Company's role going forward should be reviewed. Discussions have been ongoing with the Company since early last year on this issue and in March the Chairman submitted proposals for a revised strategy for the Company. These proposals provided that the

Company would exit certain tourism and enterprise support activities that could be carried out by other development agencies and that they would focus on strategic value added activities that would contribute to the economic development of the region."

The Minister said that he accepted the logic of this approach but he has directed that the Company's efforts in this regard should focus on the geographical areas within its existing remit most in need of development. "In this context, I have asked the Company to submit specific proposals to me as to how they propose to address the needs of these areas", he added.

In considering a future role for Shannon Development, the Minister said that he had also taken on board the Enterprise Strategy Group recommendation that Shannon Development should disengage from industrial development activities, which should be carried out by the national agencies, Enterprise Ireland and IDA Ireland. Enterprise Ireland will be responsible for the development of indigenous industry which will involve the transfer of Shannon Development staff to that body.

The Minister added "Shannon Development supports this recommendation and it will be implemented as soon as practicable. I have also agreed that Shannon Development will retain its existing property function in all of the Shannon region, including the Shannon Free Zone."

The Minister said the Company will be required to work closely with the national industrial development agencies in providing property solutions. "In this regard its work will complement, rather than overlap with the agencies", he added.

"Promotion of the Shannon Free Zone, will also be assumed by IDA Ireland, who, with its extensive network of overseas offices, is, in my view, clearly better positioned to carry out this function," he said. The IDA already has responsibility for promoting inward investment to the rest of the Shannon region.

The Minister explained that the decision in regard to the new mandate was taken following widespread consultation. "I have met with the Board of Shannon Development, and over the last few months I have also had the opportunity to hear the views of a range of interested stakeholders in the region, including the Mid-West Regional Authority, SIPTU and IBEC, as to how Shannon Development might best serve the interests of the Mid-West region going forward."

The Minister noted that "All of the interested parties in the region that I have spoken to agree that Shannon Airport is vital to the economic well being of the region. Shannon Development is ideally placed to support the new Airport Authority, and to complement its activities, particularly in its formative years and the Company and I are in agreement that they should do so.

The Minister said "The revised arrangements will, I believe, provide for a more logical delineation of responsibilities between the enterprise development agencies in the Mid-West region and for greater clarity in relation to the economic development aspects of Shannon Development's remit."

The Minister has asked the Company to prepare a new Corporate Plan that will reflect the specific actions that will be undertaken under the terms of the new mandate. The Minister said "I want to see included in this Plan, challenging and measurable targets for each area of activity that the Company will be engaged in. The Plan will be reviewed annually and I have also asked for regular reports on the progress being made in meeting these targets."

The Minister concluded "The Chairman, Board and Executive of Shannon Development have demonstrated a tremendous commitment in working to develop a new mandate for the Company and I look forward to working with them in discharging the new mandate."

Note for Editors

Future of Shannon Development

A number of developments over the last eighteen months have necessitated a review of the future role of Shannon Development. These include:

- the proposed relocation of the headquarters of Enterprise Ireland to Shannon as part of the decentralisation programme announced in December 2003;
- the Enterprise Strategy Group recommendation in July 2004 that Shannon Development should disengage from industrial development functions;
- the transfer in September 2004 of responsibility for Shannon town to Clare County Council;
- the repeal of the statutory requirement for companies in the Shannon Free Zone to hold operating licences; and
- the establishment of an independent Shannon Airport Authority as provided for in the Airports Act, 2004.

Discussions in relation to a future role for the Company, initiated in 2004, led to the submission in March 2005, by the Chairman of Shannon Development Company of proposals to the Minister for a new strategy for the Company. These proposals essentially provided that the Company will exit core enterprise support and tourism functions and assume a more enhanced regional economic development role in a broader geographical area that would include Galway.

Following an examination of these proposals and after consultation with the Company and other stakeholders, the Minister decided on the revised mandate for the Company, announced today. The main features of the new mandate are:

- The Company will place an increased focus on the regional development aspects of its mandate within its existing geographical area of operation. In this regard special emphasis will be placed on addressing the needs of the less-developed parts of the region.
- The Company will retain ownership of industrial property in the Shannon region and responsibility for managing the Shannon Free Zone Industrial estate and will have responsibility for providing appropriate property solutions for both indigeneous and overseas enterprises.
- The support functions in relation to indigeneous enterprises in the Shannon region that are carried out by Shannon Development on behalf of EI will revert to EI. This will involve the transfer of staff to EI. EI will be recouped by Shannon Development with the costs associated with the transferred functions and staff.
- The IDA will assume responsibility for promoting investment in and supporting FDI companies in the Shannon Free Zone.
- The roles and relationships between EI, IDA and Shannon Development in carrying out their respective functions in the Shannon region will be specified in a Memorandum of Understanding to which each of the three agencies and the Department will be party. ENDS

Last modified: 28/07/2005

IRISH EXAMINER

Tuesday, January 10, 2006 :

<http://archives.tcm.ie/irishexaminer/2006/01/10/story265852048.asp>

[FRONT](#) | [IRELAND](#) | [SPORT](#) | [WORLD](#) | [BUSINESS](#)

Development firm defends role

By Jimmy Woulfe

SHANNON Development yesterday put a brave face on the loss of it's main role as a job creation agency when posting figures showing the company helped bring 1,795 new jobs to local industry last year. Of these 450 were created in the Shannon Free Zone and 1,345 in indigenou enterprises elsewhere in the mid-west. However, that figure was offset by a loss of 1,745 jobs giving a net gain of 50.

Speaking at the publication of the company's annual report, Kevin Thompstone said several hundred additional jobs are already in the pipeline for 2006.

There are now almost 20,000 Shannon Development-assisted jobs in the mid-west with a wages take of almost 700 million.

Shannon Development is in the process of handing over its job creation role to Enterprise Ireland and the IDA and this process will be finalised in coming months.

The company will retain its role as the regional tourism body in the mid-west.

The stripping of its jobs remit has caused deep anger among Shannon Development employees who have accused the board of failing the company.

Shannon Development will take on responsibility for developing marginalised areas in the region and is currently working out a strategy to tackle this brief.

Some of the 150 Shannon Development staff will transfer to other state agencies and others are expected to opt for redundancy under the new set up.

The company has been allowed hold on to its property portfolio in Shannon Free Zone and industrial parks in the region. These buildings yield annual rental of €18m, about 50% coming from the Shannnon Free Zone.

When the new Shannon Airport Authority takes over the full and independent running of Shannon Airport, Shannon Development will give marketing and financial support to generate more Irish passengers.

Shannon Development chairman Liam McElligott said the company now had a written mandate from the Government to plan the way ahead.

"We have to get on with it. The company has gone through a traumatic situation where the future of the company was in doubt, the shape of the company was in doubt, the asset base was in doubt," he commented.

But he said they now had been given a Government mandate to construct a sea change in regional development and this was a fabulous challenge. Mr Thompstone said the board of the company, management and staff were up for the challenge ahead.

He said there would be a reduction in staff, but as this was at a sensitive stage with negotiations ongoing, he would not speculate on numbers.

Staff numbers, he said had fallen from around 200 three years ago to the current figure of 150.

Shannon Heritage, the company's tourism subsidiary attracted 620,000 people to its range of day visitor attractions and castle banquets last year.

"The Shannon Heritage operation is vitally important to tourism in the region as it continues to annually contribute more than €20m to the local economy in spin-off revenue," Mr Thompstone said.

He said a growing range of initiatives have been drawn up to tap into the domestic market.

Shannon agency to seek property portfolio advice

Irish Independent February 15th 2008

<http://www.independent.ie/business/irish/shannon-agency-to-seek-property-portfolio-advice-1290081.html>

By John Mulligan

Friday February 15 2008

Shannon Development wants to enter into a "technical dialogue" with consultants to advise it on how to manage its extensive property portfolio.

The body, responsible for promoting economic investment and development in Limerick, Clare, north Tipperary, north Kerry and south Offaly, has an extensive undeveloped landbank of almost 2,000 acres.

It also manages commercial and industrial space in 50 estates that generates €16m in annual rental income.

That money is used to fund Shannon Development's promotional activities.

The agency wants to explore plans for outsourcing its property management function and investigate "the various options which may be available". The initial consultation is expected to take up to two months.

A spokesman for Shannon Development could not comment on the proposed consultation process yesterday.

In 2005, the Department for Enterprise, Trade and Employment reviewed Shannon Development's remit, and said that the agency would no longer be involved in industrial development activities, but would retain its existing property function in the Shannon region, including the Shannon Free Zone.

In 2007, Shannon Development invested €8m providing property solutions, while it completed 17 land transactions and seven building sales, generating over €13m. The agency is also responsible for promoting tourism in the region.

- *John Mulligan*

APPENDIX 9: Planning (Location of Hazardous Sites) Bill [55] setting precedent for mandatory exclusion zones around Seveso II sites

<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080115/debtext/80115-0004.htm>



The UNITED KINGDOM PARLIAMENT



www.parliament.uk [HOME](#) [ABOUT](#) [MEMBERS & STAFF](#)

[BUSINESS](#) [PUBLICATIONS](#) [A-Z INDEX](#) [GLOSSARY](#)

PUBLICATIONS & RECORDS

[Advanced search](#)

[Hansard](#) [Archives](#) [Research](#) [HOC Publications](#) [HOL Publications](#) [Committees](#)

You are here: [Publications and Records](#) > [Commons Publications](#) > [Commons Hansard](#) > Daily Hansard - Debate

[Previous Section](#)

[Index](#)

[Home Page](#)

15 Jan 2008 : Column 793

Planning (Location of Hazardous Sites)

3.32 pm

Bob Spink (Castle Point) (Con): I beg to move,

That leave be given to bring in a Bill to require the introduction of binding guidance regarding minimum distances between developments classified as Control of Major Accident Hazard sites and other specified types of building; and for connected purposes.

This Bill seeks to improve protection for communities across Britain from the new development of potentially dangerous industrial sites. It will ensure increased safety by giving the Health and Safety Executive a framework for COMAH plant siting decisions, thereby improving the consistency of such decisions and affording a predetermined level of protection for communities.

As if we in Castle Point had not had enough, Oikos registered on 21 December a new application for biodiesel and glycerine plants. The plants, which are expected to produce 163,500 tonnes a year, are sited very close to houses. Feed stocks would be imported from ships in the Thames and there would be massive on-site storage of oils, fats, reacting agents and end products. The local council and the HSE will be working closely with me and with the organisation People Against Methane to protect our community, and residents will be fully consulted about the Oikos proposals.

I have fought to defend my constituents from the massive risk posed by Calor's proposals for a liquefied natural gas facility next door to the Oikos site. Calor wants to import around 5 per cent. of the UK's total LNG needs and to store about 100,000 tonnes on site. The LNG would be offloaded from ships by means of a boom arm on a jetty on a waterway where activity is increasing massively, thanks to the new Thames Gateway port development just downstream and the Oikos proposal.

Calor's plans were withdrawn as a result of a strong campaign in this House, inputs from the HSE and the Environment Agency, and local efforts by People Against Methane. The Canvey Island Independent party's huge petition, which I presented in this House, was also most helpful. We have put politics aside in Castle Point and worked together to defeat the Calor proposals, and we shall do so again, but Calor says that it will reapply this year. I shall continue my fight to protect my constituents.

We were told that the Buncefield depot was totally safe, but it turned into the biggest fire in western Europe since world war two, as my right hon. Friend the Member for Hitchin and Harpenden (Mr. Lilley) explained to the House last week. A similar fire, but involving LNG rather than petrol, would make Buncefield look like a village bonfire night party. I congratulate my hon. Friend the Member for Hemel Hempstead (Mike Penning) on his excellent debate last week—he is doing a superb job of fighting for his constituents. He described one of his constituents' homes after the explosion as:

“blown to smithereens. It looked like someone had dropped a 1,000 lb bomb next to his house. I have visited the site. The house is gone—it does not exist”.

He went on to say:

15 Jan 2008 : Column 794

“May I also praise him”—

that is, me—

“for his quick response before Christmas when the hydrocracker at the Coryton refinery exploded?...I know the fears that exist, and I am conscious that my hon. Friend did not go in the opposite direction; he went straight down to see the firefighters to ensure that they, too, were looked after.

To answer my hon. Friend's question, when the first explosion took place at Buncefield, the damage occurred several kilometres away...he will find that because there was nothing structurally to prevent the explosion spreading outwards, or the subsequent suction inwards after the oxygen had been used up, properties...several kilometres away, were subject to serious structural damage. One school in St. Albans had its central heating boiler sucked up through the flue, which blew up boilers throughout the school...That is the sort of damage that occurs in such explosions.”—[*Official Report, Westminster Hall*, 9 January 2008; Vol. 470, c. 75WH.]

Thus, we see graphically the destruction caused even several kilometres away from such an incident.

George Whatley of PAM, who originally suggested my Bill, used a satellite navigation system to measure the distance separating the Calor site and homes on Canvey. It is precisely 200 yd. That is totally unacceptable, but there are no official separation limits for COMAH plants; hence the Bill that I am introducing today. An escape of LNG would vaporise and form an unstable, unconfined, highly combustible cloud which, on ignition, would explode and burn at extremely high temperatures, destroying everything in its path. According to the fire service, whereas the Buncefield petrol fire was easily contained, there is no way to contain or control an LNG fire; the fire service would just clear up the carnage afterwards.

International evidence on LNG explosions is legion. Tim Riley's documentary film, "The Risks and Dangers of LNG", and the 2003 Californian study predicting up to 70,000 casualties from an LNG accident or terrorist attack, graphically set out the implications. The Buncefield inquiry led to an HSE investigation, which concludes:

"Clearly we have a poor scientific understanding of the mechanisms which led to the vapour cloud explosion at Buncefield, and we accept that installations storing other substances could present this type of hazard, for example bulk LPG storage, and other flammable liquid storage."

The investigation also reveals a fifteenfold increase in unconfined vapour cloud explosions over the past decade, and it challenges the current orthodoxy on the scale of risk to local communities that are adjacent to large petrol, liquid petroleum gas and LNG sites. The HSE is therefore reviewing its safety and planning advice on the siting of such plants.

United States federal regulations for LNG facilities—CFR 193—federal safety standards and the US National Fire Protection Association lay down that vapour gas dispersion distances must be calculated to determine how far downwind natural gas vapours could travel from an onshore LNG facility and still remain flammable. They show that a fire would burn with intense heat, so LNG plants must have thermal exclusion zones.

The Canvey island site involves additional risk, with LNG transfer from tankers on the Thames—on the water. Distinguished professor Jerry Havens and others have serious concerns about the vulnerability of massive LNG tankers, which could be engulfed in a fire

15 Jan 2008 : Column 795

and would be unable to fight that fire. The risks of spills on to water are spelled out in the US publication, "Business Briefing: LNG review 2005":

"there would be little or no control over the extent of liquid spreading and the consequent rapid burning or vaporisation of the gas."

A 2004 report by Sandia National Laboratories in the United States concluded that

“cascading failure of LNG vessel containments by this mechanism cannot be ruled out”,

which would result in “total loss” of the tankers.

A US fact sheet “Liquified Natural Gas (LNG) Energy Justice.net/natural gas” states that an accident or terrorist attack on an LNG tanker could cause

“major injuries and significant damage to structures a third of a mile away and could cause second-degree burns on people a mile away.”

A congressional panel expressed similar concerns in 2004; Rear-Admiral Gilmour was reported in Factiva as saying that the minimum distance for an offshore LNG terminal ought to be about 10 miles. Castle Point does not have the luxury of 10 miles, several kilometres or even one mile. The distance separating our homes, schools and workplaces from the Calor site is precisely 200 yd. Canvey faces significant additional risks from terrorism—it suffered a terrorist bomb attack in the 1980s. The site is also well below sea level, creating major flood risks and increasing existing ones.

My Bill would increase and formalise the protection afforded to communities and give clarity and certainty to applicants, the HSE and planning authorities, saving time, expense and much community anguish. If the Government listen, they will amend the Planning Bill to accommodate the sensible and necessary provisions in my Bill. As it stands, the Planning Bill will cause more difficulties; under it, the location of a dangerous plant will be decided by an unelected quango, the infrastructure planning commission. The IPC will operate behind closed doors, removing democratic legitimacy as well as involvement by local councils or even the Secretary of State.

The Planning Bill fails conspicuously to give the necessary procedural rigour for the IPC to deal with the location of hazardous sites. That causes great concern to the Campaign to Protect Rural England and other excellent environmental organisations seeking, like me, to defend the public interest. I commend my Bill to the House.

Question put and agreed to.

Bill ordered to be brought in by Bob Spink, Mr. Peter Lilley, Dan Rogerson, Patrick Mercer, Mr. Christopher Chope, Mr. Dai Davies, Dr. Evan Harris, Mr. Andrew Love, Mr. David Gauke, James Duddridge and Mr. James Clappison.

Planning (Location of Hazardous Sites)

Bob Spink accordingly presented a Bill to require the introduction of binding guidance regarding minimum distances between developments classified as Control of Major Accident Hazard sites and other specified types of building; and for connected purposes: And the same was read the First time; and ordered to be read a Second time on Friday 6 June, and to be printed [Bill 55].

Planning (Location of Hazardous Sites) Bill

<http://www.epolitix.com/EN/Legislation/200801/4e63f2df-4a95-48c0-9962-dd5545ad463b.htm>

Bob Spink (Con, Castle Point) introduced the Planning (Location of Hazardous Sites) Bill on January 15.

He stated that “the Bill seeks to improve protection for communities across Britain from the new development of potentially dangerous industrial sites. It will ensure increased safety by giving the Health and Safety Executive a framework for COMAH plant siting decisions, thereby improving the consistency of such decisions and affording a predetermined level of protection for communities.”

When introducing the Bill he argued that his constituents have suffered from the application for “biodiesel and glycerine plants” to be built very close to houses. He detailed the safety issues of having these plants so close by referring to the effect the Buncefield explosion had even though that was further away. He argued that the new plants could cause health and safety issues to the residents.

He argued that his Bill “would increase and formalise the protection afforded to communities” and that it would “give clarity and certainty to applicants, the HSE and planning authorities, saving time, expense and much community anguish.”

He urged the government to listen and amend the Planning Bill to accommodate the sensible and necessary provisions in his Bill. He stated that the “Planning Bill fails conspicuously to give the necessary procedural rigour for the infrastructure planning commission (IPC) to deal with the location of hazardous sites.” He argued that the Planning Bill “will cause more difficulties” as “the location of a dangerous plant will be decided by an unelected quango”

Progress

House of Commons

First reading: January 15 2008 [HC Bill 55]

Second reading: June 6 2008

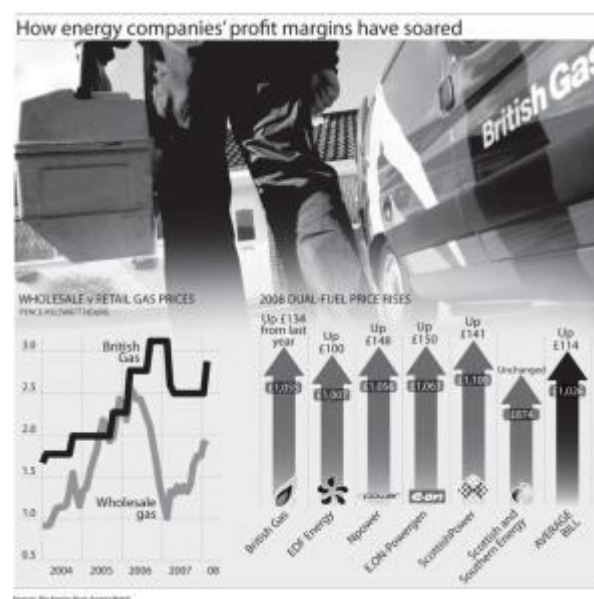
APPENDIX 10: Calls for Inquiry into profiteering by Energy Giants following 500% increase in profits at British Gas.

Boiling Point: Calls for inquiry into alleged 'profiteering' of energy giants

By Martin Hickman, Consumer Affairs Correspondent

“The Independent” Thursday, 21 February 2008

<http://www.independent.co.uk/news/uk/home-news/calls-for-inquiry-into-alleged-profiteering-of-energy-giants-784918.html>



British Gas, the country's biggest energy supplier, announced a 500 per cent rise in profits today, outraging campaigners who claim householders are being ripped off.

The company made £571m in 2007 compared with £95m the previous year.

Most of the money was made between January and March, when the wholesale price of gas went into freefall as a result of unusually mild weather and a new gas pipeline from Norway.

During those three months, BG's bosses kept prices high, earning what one analyst has described as "absolutely extraordinary" profits.

Consumer groups demanded an official inquiry into whether the "Big Six" energy companies have been profiteering and plunging low earners into choosing whether they eat or heat their homes.

"It's quite sickening when companies make these huge profits while, at the same time, we are expecting 25,000 excess winter deaths as a result of people not being able to keep warm," said Lesley Davies, the chairman of the National Right to Fuel Campaign. "The Government must do more for these consumers."

"They prattle on about the winter fuel payments for pensioners but there are just as many single-parent families and others who cannot get the payment."

Energywatch, the independent gas and electricity watchdog, called for the Competition Commission to investigate whether the £24bn-a-year domestic power business was working properly.

Its campaigns manager Adam Scorer said: "Consumers will feel justified in claiming that they are being taken for a very rough ride by the energy companies."

Five of the Big Six – British Gas, E.ON, npower, EDF, and Scottish Power – have put up their prices by about 15 per cent to within £100 of each other in the first two months of this year.

Only Scottish & Southern is cheaper but it is expected to announce an increase after its price promise ends on 30 March.

Political pressure on the companies is mounting, with an investigation into the competitive structure of the market by the Select Committee for Business, Enterprise and Regulatory Reform, and 12 separate Commons' Early Day Motions.

Questions are being asked because costs have increased at a much lower rate than customer bills, leading to claims that the companies are profiteering. According to a report by the independent analyst Cornwall Energy Associates for the Right to Fuel Campaign, about £2.3bn of the £8bn increase in prices cannot be accounted for and is likely to be profit.

The companies say they have to invest heavily to improve their environmental performance and develop renewable power.

British Gas, which last month increased prices by 15 per cent, said it had to wait to find out whether wholesale prices fell before lowering prices in March and April. But its annual report will indicate it has been able to make bumper profits despite claiming the industry is extremely competitive. Since the energy market was liberalised, the former state monopoly gas supplier, which has 46 per cent of gas customers and 21 per cent of electricity customers, has been rated worst for customer service.

It receives 45 complaints per 100,000 customers, compared with 10 for Scottish and Southern and about 20 for EDF and E.on.

In its interim results for the first six months of 2007, British Gas made £533m. Profitability then slipped during the second half but the scale of the profits made while wholesale prices dropped means the annual result will be about 500 per cent higher than the £95m made in 2006.

Joe Malinowski, a former energy trader who now runs the price comparison site theenergyshop.com, said: "The first half-year profit was absolutely extraordinary. You don't normally expect a company to make that type of money. The margin was 15 per cent on what is essentially a trading business, buying and selling energy.

"The energy price kept falling. The difference between retail and wholesale got bigger and bigger. Before they cut prices the margin was massive – the money was just flowing through the door."

About four million people are officially in fuel poverty, meaning they have to spend at least 10 per cent of their income on fuel bills. For many others, the reality of rising fuel bills is deeply unwelcome amid strong rises in mortgage payments, council tax and water bills and a background of a weakening economy.

Peter Lehmann, of the group Fuel Poverty Advisory Group, urged the regulator Ofgem to investigate the market and to close the gap between the price paid by predominantly poorer pre-payment customers and those paying by direct debit.

The GMB union complained that as well as "fleecing its customers and making record profits" British Gas was scrapping its final-salary pension scheme. "It is about time that a full inquiry was conducted into the operation of the energy market," said Gary Smith, GMB's national secretary.

British Gas argued that it could not have predicted the steep falls in wholesale prices at the beginning of 2007. "Sharp falls in the price of gas in winter 2006 led to unexpected profits in British Gas early in 2007, but rising costs later in the year also mean that analysts expect margins in the second half to be very thin," a spokesman for the company said.

APPENDIX 11: New Safety Concerns raised on LNG Marine Incident Consequences.

http://www.sciencedirect.com/science?_ob=ArticleListURL&_method=list&_ArticleListID=700699788&_sort=d&_view=c&_acct=C000050221&_version=1&_urlVersion=0&_userid=10&md5=352f79060b0cb41cfefab5cdeedab92a

Fire Performance of LNG Carriers Insulated with Polystyrene Foam

Jerry Havens

University of Arkansas, USA

James Venart

University of New Brunswick, CANADA

Abstract

Analysis of the response of a liquid-full Moss Sphere LNG tank insulated with polystyrene foam to an engulfing LNG fire indicates that current regulatory requirements for pressure relief capacity sufficient to prevent tank rupture are inadequate. The inadequacy of the current requirements stems primarily from two factors. Firstly, the area of a Moss Sphere protruding above what would be the nominal deck on a conventional carrier, which is protected only by a steel weather cover from exposure to heat from a tank-engulfing fire, is being underestimated. Secondly, aluminum foil-covered polystyrene foam insulation applied to the exterior of the LNG tank is protected above deck only by the steel weather cover under which the insulation could begin to melt in as little as one to three minutes, and could completely liquefy in as few as ten minutes. U.S. and International Regulations require that the insulation on the above deck portion of tanks have approved fire proofing and stability under fire exposure. Polystyrene foam, as currently installed on LNG carriers, does not appear to meet these criteria. As a result of these findings, but giving no consideration to the significant potential for further damage if the polystyrene should burn, the boil-off rate is predicted to be an order-of-magnitude higher than provided for by current PRV sizing requirements.

Introduction

A recent report by the Government Accounting Office¹³ states that both the cold temperature of spilled LNG and the hot temperature of an LNG fire have the potential to significantly damage LNG ship tanks, possibly causing multiple tanks on the ship to fail in sequence. A recent report by Sandia¹⁴ proclaims the credibility of a spill and fire on the sea following a terrorist attack that would have the potential to engulf one or more adjacent tanks on an LNG ship, potentially leading to cascading (successive) failures. As such failures could increase the severity of a catastrophic incident, the report cites as the leading unaddressed research need determination of the potential for cascading failures of cargo tanks on LNG carriers. This paper first considers the

¹³ Public Safety Consequences of a Terrorist Attack on a Tanker Carrying Liquefied Natural Gas Need Clarification. GAO-07-316. February 2007.

¹⁴ Sandia National Laboratories. *Guidance on Risk Analysis and Safety Implications of a Large Liquefied Natural Gas (LNG) Spill Over Water*, 2004.

adequacy of present regulatory requirements for pressure relieving systems to prevent overpressure failure of a current-design, polystyrene foam insulated, liquid-full Moss Sphere exposed to an enveloping LNG fire. Then, as the philosophy of fire protection for such hazardous cargo containment systems is based on provision of protection from fire adequate to prevent failure for a prescribed period of time, the paper describes a one-dimensional transient analysis of the expected response to heat absorption from an enveloping LNG fire contacting a single liquid-full, ~36 m diameter (25,000 m³ volume) Moss Sphere on an LNG carrier.

Adequacy of Regulatory Requirements for Pressure Relief Systems on LNG Ships

The International Maritime Organization¹⁵ and the U.S. Coast Guard¹⁶ specify similar requirements for pressure relief valve sizing on liquefied gas carriers. The following, quoted from the Coast Guard Regulation, is in all practical respects identical to the requirements of the IGC Code.

“The relief valve discharge for heat input of fire must meet the following formula:

$$Q = F G A^{0.82} \quad (1)$$

where

Q = minimum required rate of discharge in cubic meters per minute of air at standard conditions 0 °C and 1.03 kPa/cm²,

F = fire exposure factor for the following tank types -

F = 1.0 for tanks without insulation located on the open deck,

F = 0.5 for tanks on the open deck having insulation that has approved fire proofing, thermal conductance, and stability under fire exposure,

F = 0.5 for uninsulated independent tanks installed in holds,

F = 0.2 for insulated independent tanks installed in holds,

F = 0.1 for insulated independent tanks in inerted holds or for uninsulated independent tanks in inerted, insulated holds,

F = 0.1 for membrane and semi-membrane tanks,

and G = Gas Factor = $177/(LC)*(ZT/M)^{1/2}$

where

L = latent heat of the material being vaporized at relieving conditions, Kcal/kg,

C = constant based on relation of specific heats (k), Table 54.15-25(c),

Z = compressibility factor of the gas at relieving conditions (if not known Z =

1)

T = temperature in °K at the relieving conditions, (120% of the pressure at

which

the pressure relief valve is set),

M = molecular weight of the product,

and A = external surface area in m² (for a tank with a body of revolution shape).”

¹⁵ International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk, International Maritime Organization, London, Second Edition 1993

¹⁶ United States Federal Regulation 46 CFR 54.15-25(c)

According to the IMO-IGC' for a Moss Sphere (insulated independent) tank installed in a hold, the fire exposure factor is designated to be 0.2. In contrast, Paragraph c-1 of 46 CFR 54.15-25 further states that "For an independent tank that has a portion of the tank protruding above the open deck, the fire exposure factor must be calculated for the surface area above the deck and the surface area below the deck, and this calculation must be specially approved by the Commandant (GMSE)". This added provision of the USCG regulation is important because it indicates the need for careful consideration of the surface area of the tank that could be most severely exposed to heat from a fire, as will be shown below. However, as this provision only affects the value of the fire exposure factor F, and noting that the Gas factor G in Equation (1) can be represented by the product of a heat flux to the cargo multiplied by an appropriate constant K representing the thermodynamic properties of the cargo, Equation (1) becomes:

$$Q = F K q A^{0.82} \quad (2)$$

The development of Equation (2) is described in considerable detail by Heller¹⁷. This empirical equation is based on fire tests conducted more than fifty years ago; long before the practice of carrying LNG in shipping containers of the size and type considered here. Importantly, the equation precedes current widespread concerns for terrorist attacks on ships that could result in very large LNG fires engulfing the tank. The largest tests for which data were available for the development of Equation (2) involved tank surface areas of 568 ft² (53 m²), nearly 80 times smaller in area and over 600 times smaller in volume than the single LNG Moss Sphere under consideration. Furthermore, Equation (2) is based on tests in which the liquid wetted area, the total surface area, and the area exposed to fire were all varied, the latter in particular resulting in the A^{0.82} term. It appears that Heller considered, as we do, that the use of the area (A^{0.82}) term in Equation (2) is inappropriate for application to a catastrophic engulfing pool fire.

In consideration of the much larger fire sizes as well as containment (tank) sizes in use today, it is appropriate to briefly review the current state of knowledge of LNG fire-on-water sizes and durations that might result from an intentional attack on an LNG carrier. The Sandia Report cited earlier² analyzed the fire scenario that could follow spillage onto the water of the contents of a single ½ tank (12,500 m³) of LNG, providing analyses for hole size (areas) ranging from 1 m² to 10 m². The pool size diameter for the nominal hole size of 5 m² was 330 meters with a burn time of 8.1 minutes. Since the fire diameter would be similar to the pool size, the Sandia report suggests that with the nominal hole size, the size of the fire (diameter) could be larger than the length of the ship. And while the predicted burn time for the 5 m² hole is only 8.1 minutes, the 2 m² hole size spill is predicted to result in a pool size of 209 m diameter with a burn time of 20 minutes, and the 1 m² hole size spill is predicted to give a fire with 148 m diameter lasting for 40 minutes. Thus the smallest hole size spill could have a diameter of almost 500 feet, or more than half the length of the ship, and might burn for 40 minutes. Finally, assuming the smallest hole size spill and a conservative flame height to flame diameter ratio of ½, the flame height could, even for the smallest hole

¹⁷Heller, Frank J., "Safety Relief Valve Sizing: API Versus CGA Requirements Plus a New Concept for Tank Cars", Proceedings of the American Petroleum Institute, Vol 6, pp. 123-135, 1983.

size, considerably exceed the maximum height of the ship above the water line. Given the uncertainties that would attend the actual spreading that would occur as the LNG reaches the water, including wind effects, momentum of the ship, and the presence of objects (including the ship) that could channel the LNG flow, the possibility of complete engulfment of the entire above-deck portion of at least one tank adjacent to the tank ruptured in the attack must be anticipated.

With this background, and to consider the propriety of the current regulatory requirement (based on Equation (2)) for determination of PRV sizing on LNG carriers in service currently, we reviewed an analysis of PRV system design methods performed for the U.S. Coast Guard by the National Academy of Sciences in 1973¹⁸.

The National Academy of Sciences Report

The analysis provided in this paper was presented almost four decades ago to the U.S. Coast Guard, at its request, by the U.S. National Academy of Sciences. However, as far as we can tell, there has been no follow-up to the conclusions of the NAS report, despite its suggestion of an urgent need to update the regulatory requirements for pressure relief systems design to accommodate changing practices in the LNG industry. Such a recommendation was particularly apt for the LNG industry in the Seventies, as today, as the report was prepared when the LNG industry was just beginning the expansion which has been so much increased recently.

We support the NAS report's statement (applied here to LNG carriers) that the determination of the heat absorbed by an LNG-full Moss Sphere exposed to an engulfing fire can be expressed properly as:

$$Q_H = F_I q E A \quad (3)$$

where

Q_H = total heat absorbed by the cargo,

F_I = environmental factor, including insulation and radiation shielding,

q = heat flux to the outside of the container,

E = exposure factor, the fraction of the total tank area (A) exposed to fire,

and A = tank surface area (for full tanks, equal to the wetted area).

The heat absorbed by the cargo, Q_H , multiplied by the part of the gas constant G that accounts for the thermodynamic properties of the cargo (K in Equation (2)), gives the relieving capacity:

$$Q = K q F_I E A \quad (4)$$

where the product (EA) represents the area of the outside of the container exposed to fire.

Comparison of Equations (2) and (4)

¹⁸“ Pressure Relieving Systems for Marine Cargo Bulk Liquid Containers”, Committee on Hazardous Materials, Division of Chemistry and Chemical Technology, National Research Council, NAS, 1973

We assumed that 40 % of a Moss Sphere protrudes above what would be the nominal deck on a conventional carrier. This area is unprotected from heat from an engulfing fire except by the steel weather shield (see illustrations following). With $E = 0.4$, and a tank-engulfing fire, Table 1 shows the ratio of Equation (4) to Equation (2) determined for values of the tank surface area ranging from 1 m^2 to 4072 m^2 (the area of a 36 m diameter Moss Sphere), along with the largest value (53 m^2) from the data base from which the $A^{0.82}$ term in Equation (2) was developed, using the requirements for designating the insulation factor F from the IGC Code and 46 CFR 54 respectively.

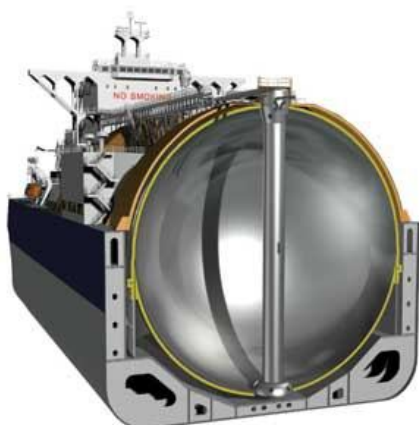


Table 1. Comparison of PRV Requirements Using Equation (2) and Equation (4)

Area (m^2)	1	10	53	100	1000	4072
Ratio (Equation 4 / Equation 2) – IGC Code	$2 F_1$	$3 F_1$	$4.1 F_1$	$4.6 F_1$	$6.9 F_1$	$8.9 F_1$
Ratio (Equation 4 / Equation 2) – 45 CFR 54	$1.3 F_1$	$1.9 F_1$	$2.6 F_1$	$2.9 F_1$	$4.3 F_1$	$5.6 F_1$

Following paragraph (c-1) of the Coast Guard Regulation, the value of F was determined for the surface area above the deck and the surface area below the deck, assuming the fraction of the tank area above deck as 0.4, as $(0.4)(0.5) + (0.6)(0.2) = 0.32$. We note that this method of determination of the value of the fire exposure factor F increases the required PRV size by 60%, illustrating the importance of careful handling of the determination of the area of the tank effectively exposed to a fire.

In either case, the extrapolation over tank surface area of the correlation assumed in Equation (2) (the $A^{0.82}$ term) by two orders of magnitude is clearly not applicable to

the Moss Sphere tank configurations in use today, particularly in view of the severity of fire exposure that could result from terrorist attack. The highest value of this ratio (using the IGC Code) for a typical Moss Sphere (8.9 F_I) means that the value of the factor F_I accounting for insulation (or other shielding from heat transfer) in Equation (4) must not be greater than 0.11 in order that the required relief capacity be as small as indicated by Equation (1). Conversely, total loss of insulation and weather cover (radiation) shielding on the part of the tank exposed to fire, i.e., above deck, would result in under-prediction of the required relieving capacity by a factor of 9.

Furthermore, we believe that the heat flux implicit in the current regulation may not be appropriate for describing engulfing LNG fire exposure. We note that increasing the heat flux from the currently used value of 71 kW/m² to 108 kW/m², which we believe would be the more appropriate value for a tank engulfing fire based upon test data for gasoline or kerosene fires (see Heller⁴), increases the required vapor relieving capacity by an additional factor of 1.52. And, perhaps importantly, the data upon which Equation (1) is based includes none for LNG fires. Whereas local surface emissive heat fluxes have been measured in test LNG fires as high as ~300 kW/m², there is considerable debate regarding the appropriate value for the heat flux applicable to a large impinging LNG fire. This question is currently being investigated, with large scale LNG fire tests planned in the United States for completion in 2008. While it appears clear that with the presently prescribed heat fluxes the relief systems on LNG carriers could be undersized by more than an order of magnitude; it follows that exposure to an engulfing LNG fire with greater heat fluxes could worsen the under-estimation of the relieving capacity.

As it appears clear then that a Moss Sphere with a pressure relief system designed according to Equation (1), and for which the PRV system fitted to a specific tank exposed to the fire is required to provide the only pressure relief¹⁹, could be subject to bursting overpressure if the insulation should fail, it is necessary to determine whether the insulation could withstand such a fire for its duration or until remedial action could be taken.

One-Dimensional Transient Heat Transfer Analysis of a Moss-Sphere Tank Section

We utilized COMSOL Multiphysics® (formerly MATLAB) to perform a one-dimensional analysis of the thermal response of a unit area section of a Moss Sphere (assumed flat) in which fire (R1) is contacting the steel weather cover (R2), followed by serial resistances representing the air gap (R3) between the cover and the aluminum foil covering the insulation, the aluminum foil (R4) covering the insulation, the insulation (R5), and the inner aluminum tank wall (R6) - which is in contact with LNG (R7).

¹⁹ We are informed that all current LNG carriers utilize piping interconnecting all of the LNG tanks on the vessel in order to collect LNG boil off gas for propulsion and that all valves in said interconnected piping connecting the cargo tanks to additional relief valves are required to be locked open when the ship is in service. As a result, actual relieving capacity may exceed that prescribed by Equation (1). While this may be true, we believe that the current regulatory practice deserves careful review, since it is not clear whether relief valve capacity placed on external piping (as opposed to the tank itself) is authorized, or whether any such additional piping is designed to allow the boil-off gas flow rates that could occur if the vessel were exposed to severe, even multiple-tank, fire engulfment.

Table 1 specifies the properties of the resistances R2-R6 assumed for the analysis.

Table 1. Specifications and Thermodynamic Properties of System Components

Zone	Thickness (m)	Density (kg/m ³)	Heat Capacity (J/kg °K)	Thermal Conductivity (W/m°K)	Emissivity	Failure Temperature (°K)
R2	0.015	7850	475	44.5	0.85	810*
R3	1.0	COMSOL	COMSOL	COMSOL	NA	NA
R4	0.0003	2700	900	70	0.1,0.5	873**
R5	0.30	26.5	1045	0.038	NA	510***
R6	0.02	2700	904	70	NA	873**

*Limit temperature for fire exposure, mild carbon steel²⁰, **Solidus temperature²¹, *** Melting temperature²²

The following sections describe the initial conditions assumed for the analysis and the boundary conditions interconnecting the resistances specified in Table 1 as well as the boundary conditions connecting the fire (R1) to the steel cover (R2) and the aluminum tank wall (R6) to the LNG (R7).

Initial Conditions

The initial-condition temperature profile for the one-dimensional system was calculated with a steady-state COMSOL analysis assuming an ambient air temperature of 305 °K. Figure 1 shows the temperature profile through the system with aluminum emissivity specified as a parameter, illustrating the sensitivity of the heat transfer calculations to the emissivity of the aluminum foil covering the insulation. Figure 2 shows the heat flux into the cargo with the foil emissivity as a parameter. For an emissivity of 0.1 (assumed appropriate for a new, clean system) the heat flux into the cargo is approximately 20 W/m². For a 36 m diameter Moss Sphere, this heat flux to the cargo at ambient conditions (305 °K) would result in a boil-off rate of ~ 0.12 % of the cargo per day. This result, which is in good agreement with typical specifications for operating Moss-design carriers, provides a useful check on the propriety of the heat transfer calculation methods utilized in the analysis.

²⁰ At 538 °C the maximum permissible design strength (60% of yield) would equal its strength at temperature, SFPE Handbook of Fire Protection Engineering, 1988.

²¹ The range of solidus temperatures, or commencement of melting, for Aluminum alloys is ~510 to 640 °C.

²² Polystyrene foam melts over a temperature range: we assumed for the purposes of this analysis 510 °K as a representative value.

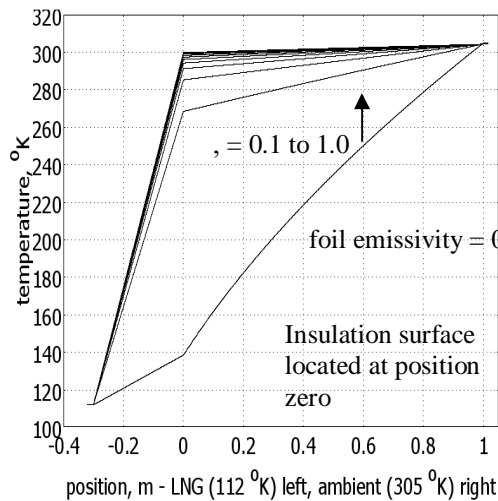


Figure 1. Initial Temperature Profile
Cargo

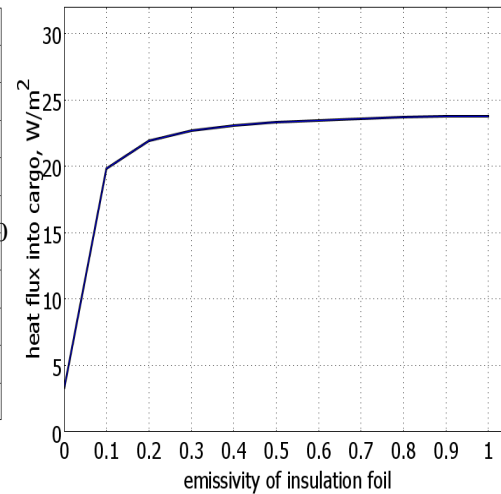


Figure 2. Operating Heat Flux into

Boundary Conditions

We accounted for radiative heat transfer (assuming grey body properties) and convective heat transfer ($h = 28 \text{ W/m}^2 \text{ } ^\circ\text{K}^{23}$) from the flame to the weather cover. Radiative heat transfer and conductive heat transfer were accounted for in the air space under the weather cover; convective heat transfer in that space was neglected. The temperature profiles at the interfaces R4/R5, R5/R6, and R6/R7 assumed continuity (infinite heat transfer coefficient assumed from the tank wall to the LNG). Calculations were made for flame temperatures of 1300, 1400, and 1500 °K -- corresponding to calculated initial (maximum) total (black-body radiative and convection) heat fluxes from flame to the steel weather cover (with emissivity = 1.0) of 188, 245, and 315 kW/m² respectively.

Results and Conclusions

We calculated the time-varying temperatures and heat fluxes throughout the system with properties as specified in Table 1, with flame temperatures of 1300, 1400, and 1500 °K, and aluminum foil emissivities of 0.1 and 0.5, the latter representing the range of emissivities that might be expected for new, clean, aluminum foil and dirty, aged aluminum foil respectively. All of our calculations assume that all of the materials (including the insulation) remained in place and functioning with the properties specified above. The purpose of these calculations was to estimate the times at which the components of the tank system would reach temperatures sufficient to cause failure, and further therefrom (using the heat flux at the time of incipient failure) to estimate the time period expected for complete failure of the insulation – the calculation results are not considered applicable for greater times.

We assumed for purposes of this analysis that failure of the steel and aluminum components of the system would begin upon reaching the designated failure temperature, and we assumed that the minimum rate at which the polystyrene

²³ Welker, J.R., and C.M. Sliepcevich, Heat Transfer by Direct Flame Contact Fire Tests – Phase I. Prepared for the National Academy of Sciences by University Engineers, Inc., Norman, Oklahoma, 1971.

insulation would fail would be determined by its melting rate, which would in turn be determined by the heat flux into the foam at the time at which the foam reached its melting temperature.

Figures 3-5 show, as a function of time for 600 seconds of fire exposure, temperatures of the steel weather cover (wc) surface (contacting flame with $\epsilon = 0.85$) and the (hot-side) insulation (ins) surface, as well as the heat flux into the insulation surface, for aluminum foil emissivities of 0.1 and 0.5, for flame temperatures of 1300, 1400, and 1500 °K.

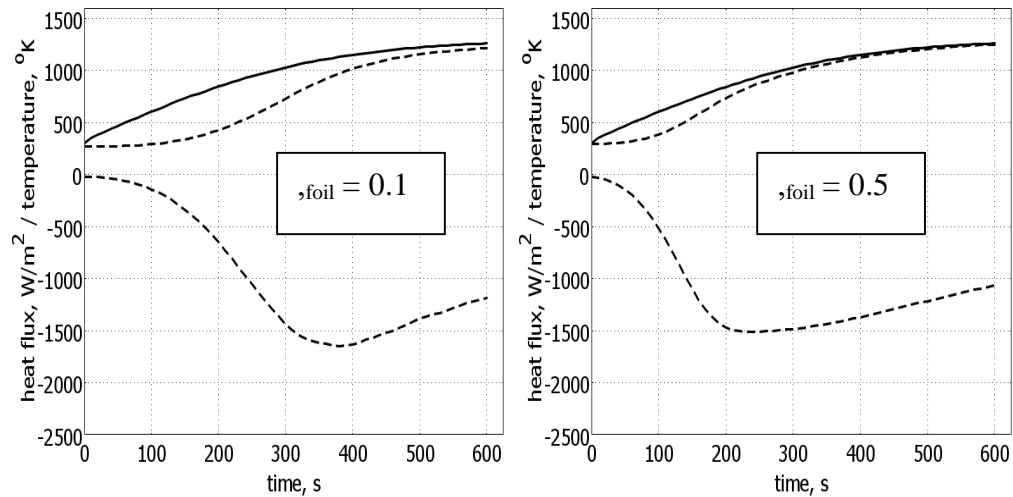


Figure 3. Temperature and Heat Flux – wc solid, ins dashed – $T_{\text{fire}} = 1300$ °K

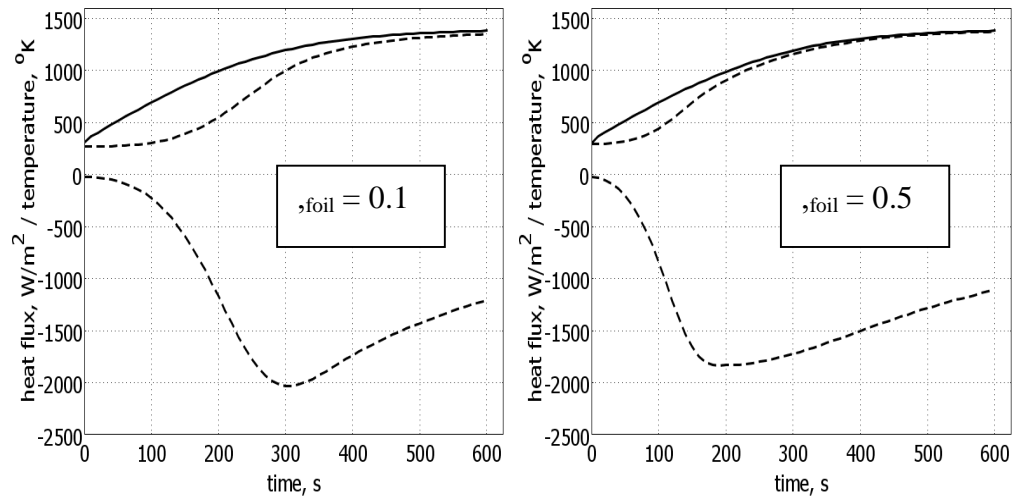


Figure 4. Temperature and Heat Flux – wc solid, ins dashed – $T_{\text{fire}} = 1400$ °K

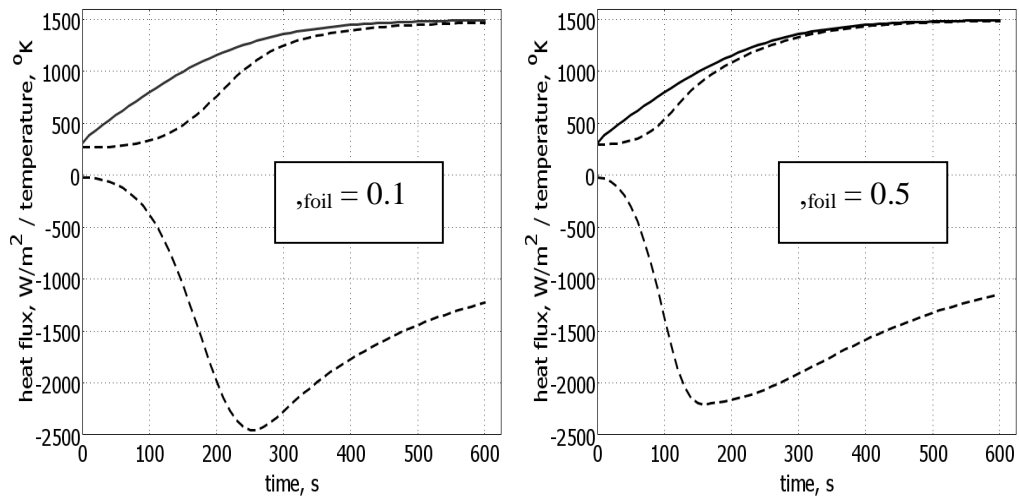


Figure 5. Temperature and Heat Flux – wc solid, ins dashed – $T_{\text{fire}} = 1500^{\circ}\text{K}$

Predicted Component Failure Commencement Times

Table 2 shows the estimated times from the plots in Figures 3-5 for the (outer) steel weather cover surface, the aluminum foil, and the polystyrene foam insulation (hot-side) surface to reach the failure temperatures designated in Table 1. Because of the small thickness of the aluminum foil (0.3 mm), the temperatures of the foil and the insulation (hot-side) surface were assumed identical for this analysis.

Table 2. Predicted Component Failure Times (seconds)

Component	$T_{\text{fire}} = 1300^{\circ}\text{K}$		$T_{\text{fire}} = 1400^{\circ}\text{K}$		$T_{\text{fire}} = 1500^{\circ}\text{K}$	
	$\delta_{\text{foil}} = 0.1$	$\delta_{\text{foil}} = 0.5$	$\delta_{\text{foil}} = 0.1$	$\delta_{\text{foil}} = 0.5$	$\delta_{\text{foil}} = 0.1$	$\delta_{\text{foil}} = 0.5$
Weather Cover	170	180	125	125	100	100
Aluminum Foil	330	260	265	180	215	150
Foam Insulation	225	140	190	120	160	95

Metal Failure: The temperature of the steel outer surface reaches 810°K , indicating approach to failure, in the range 100 seconds to 180 seconds. The time when the aluminum foil reaches its melting temperature (873°K) ranges from 150 seconds to 330 seconds. To calculate more accurately the actual response of the system is difficult, requiring assumptions as to the specific behavior of the system components as they fail (and beyond). Nevertheless, inclusion of such information for specific failure modes can do nothing, it appears, but increase the rapidity with which the system components would fail.

Insulation Failure: The polystyrene surface temperature reaches its melting point of 510°K in the range 95 seconds to 225 seconds. Following the time at which the polystyrene foam reaches its melting temperature, the heat flux into the foam insulation maintains an average value ranging from about 1 to about 1.5 kW/m^2 for the balance of the 10 minute period shown. With a continuous heat flux of 1.5 kW/m^2 into the foam surface, the foam would melt at a rate (approximately) given by 1.5 kW/m^2 divided by the product of the foam density and its latent heat of fusion. The latent heat of fusion for styrene monomer is 105 kJ/kg and the density of polystyrene foam is 26.5 kg/m^3 , indicating a melting rate of about 3 centimeters per minute. However, this appears to be a lower limit on the melting rate because the latent heat

of polystyrene (mass basis) could be (much) smaller, depending on the molecular weight of the polymerized styrene. Nonetheless, this analysis indicates that total melting of a polystyrene insulation layer 0.3 m thick could occur in less than 10 minutes after it reaches its melting temperature if the foam were subjected to the heat exposure considered here.

Insulation Combustion: This analysis has not considered the potential for combustion of (poly)styrene vapors mixed with air in the space between the weather cover and the insulation surface. Both the IGC and 46 CFR 54 require, in order to take credit for the insulation in PRV sizing, that the insulation on the above deck portion of tanks have approved fire proofing and stability under fire exposure. Polystyrene foam, as currently installed on LNG carriers, does not appear to meet these criteria. Even if the exterior fire were isolated from the foam (by an intact weather cover), ignition of these flammable vapors appears highly likely, given the relatively low autoignition temperature of styrene ($\sim 760^\circ\text{K}$), and the fact that only about 1 mm thickness of the insulation would have to vaporize to raise the average vapor concentration in the air space under the weather shield above the lower flammable limit. Given the flue-like configuration formed by the space between the cover and the insulation, the volume of air in that space, and the potential for failure of the steel weather cover that would admit additional air, there is a potential for rapid burning of the insulation material²⁴, even if the ignition of the vapors prior to the steel weather cover failing did not result in an overpressure that failed the cover instantly.

We estimated, assuming that all of the foam melts and either burns or runs off, thereby exposing the tank wall to radiation heat transfer from an intact weather cover, that the steady-state heat flux into the cargo (all surface emissivities assigned a value of 1.0 except the steel weather cover, assigned $\epsilon = 0.85$) would range from 80 kW/m^2 to 135 kW/m^2 for a flame temperature range of 1300°K to 1500°K . An accurate determination of the potential for failure, and the probable mode, whether overheating of the tank wall in the vapor space or general failure due to overpressure, is beyond the scope of this paper. Nevertheless, even if potential for failure of the metal components of the system is neglected and no consideration is given to the potential for combustion of the insulation, it appears that a Moss Sphere insulated with non-fire resistant polystyrene foam, protected only from the heat of an engulfing fire by the steel weather shield, could rupture as a result of overpressure if the weather cover were subjected to an engulfing LNG flame for a time period of order 10 minutes.

Acknowledgements

We gratefully acknowledge the assistance of Dr. Alan Schneider, who participated in the preparation of the National Academy of Sciences Report on which we have relied extensively, for his continuing interest in this subject and his willingness to review our thoughts. We are also grateful for assistance in producing the one-dimensional heat transfer analyses to Professor Greg Thoma and his 2007 graduate class in Advanced Chemical Engineering Calculations at the University of Arkansas.

²⁴ Zicherman, J., Fire Performance of Foam-Plastic Building Insulation, Journal of Architectural Engineering, September 2003

Appendix Petition 10

Review of: “Milford Haven Port Authority: Approach to and use of Risk Assessments” by Eur.Ing. Raymond Anthony Cox 07 September 2008.

R.A. Cox Risk Management

**Review of:
“Milford Haven Port Authority: Approach to and
use of Risk Assessments”**

by

Eur.Ing. Raymond Anthony Cox MBE MA PhD FIMechE

07 September 2008

This report has been prepared at the request of *Safe Haven* (an association of residents concerned about LNG operations in Milford Haven) with particular reference to their Petition to the European Parliament, No.354/2006.

The report represents the independent opinion of its author and the author declares that he has no financial nor other conflict of interest regarding the subject matter.

R.A. Cox Risk Management

20 Pollard Road
Morden
Surrey SM4 6EG
United Kingdom

Tel: 020 8648 5012
Fax: 020 8648 4652
email: riskman@safetycraft.com

Review of: “Milford Haven Port Authority: Approach to and use of Risk Assessments”

Contents

1.	Introduction	1
2.	The Nature and Scale of the Risk due to LNG Operations in Port Areas	2
3.	The approach by which these risks should be controlled	5
4.	The Normal Format of a Risk Assessment of LNG Marine Operations	6
5.	Evaluation of the MPHA’s “Risk Assessment”	7
6.	Conclusions	10
ANNEX 1:	References	12
ANNEX 2:	Annotated Copy of Statement by the Milford Haven Port Authority	13

1. Introduction

- 1.1 This review has been prepared by Eur. Ing. Dr. Raymond Anthony Cox, an expert in risk assessment of technological systems, who served as President of the European Section of the Society for Risk Analysis in 1992. He was also an independent member (for one year, Acting Chairman) of the UK Health & Safety Executive’s (“HSE”) Advisory Committee on Dangerous Substances from 1993 to 2005, which provided HSE with technical advice on the UK implementation of the Seveso-2 Directive.
- 1.2 He was, during the 1970’s and 1980’s, the developer of one of the first mathematical models of the atmospheric dispersion of LNG vapour clouds from accidental spills, on behalf of British Gas, and he later served as the leader of the technical teams undertaking risk assessments of:
 - (i) LNG production and export terminal in Western Australia,
 - (ii) LNG production and export at Sakhalin Island (Russia)
 - (iii) LNG import terminal at Zeebrugge, Belgium, and

(iv) LNG peak-shaving plant in Europoort, Rotterdam.

1.3 Further details of the author's qualifications are available on request.

1.4 The objectives of this report are:

- (i) To summarise the nature and scale of the risk posed to on-shore populations by the potential spillage onto the sea of LNG from gas carriers in transit, manoeuvring or at berth in ports.
- (ii) To summarise the approach by which these risks should be controlled through: site selection, port/terminal conceptual design, risk assessment and operational safety measures.
- (iii) To summarise the usual scope, format and results of risk assessments of LNG operations.
- (iv) To evaluate the published statements by the Milford Haven Port Authority ("MHPA") concerning their discharge of their duties to the neighbouring public in respect of their assessment of the risk to them from LNG ships in connection with the project for two LNG terminals at Milford Haven.

1.5 I address the last of these partly in the form of an annotated copy of the statement made by MHPA by publication on their web site [Ref.1], and I draw summary conclusions from that review in the main report below.

2. The Nature and Scale of the Risk due to LNG Operations in Port Areas

2.1 Natural gas, such as we burn in our homes, is typically a mixture of two flammable gases—about 90% methane and 10% ethane. LNG is simply natural gas that has been cooled so much that it condenses into a liquid, which happens at about 162 degrees below zero Celsius (i.e., -162°C), which is extremely cold by any ordinary standards.

2.2 In the event of an accidental spillage of LNG, whether onto the ground or onto water, this cold liquid will pick up heat from its surroundings and will start to boil and vaporise, just as water does when heated to its boiling point. When the LNG vaporises, it does so at the very low temperature of the liquid, so that the gas emerging into the air is natural gas at -162°C (sometimes referred to as "LNG vapour"). Such cold LNG vapour is about 50% more dense than air, and therefore tends to hug the ground or water surface.

- 2.3 When the spill is onto land, the rate of vaporisation of the LNG reduces rapidly, because the ground acts as a thermal insulator. On land, it is possible to engineer channels and catchments so that the LNG spill can be contained and the generation of flammable vapour controlled. However, for spills on water, such containment is impossible. Moreover, the fluidity of the water means that it does not act as a thermal insulator and therefore the rate of vaporisation of the LNG is sustained at a higher rate than is the case on land. Overall, this means that, for the same size of spill, the cold, dense, LNG vapour is generated much faster on water than it is on land.
- 2.4 In the event of immediate ignition of the escaping LNG, the result would be an intense fire, located around the release point. The thermal radiation from natural gas fires is the most intense of all common hydrocarbon fuels because the flame is not very smoky. Such a fire would be highly dangerous to any nearby people, whether on board a ship or in a storage terminal; in the case of very large ignited spills, dangerous heat effects might be found in the order of 1 kilometre distant. For marine spills, these effects are very unlikely to harm the shore population, although they can affect passing vessels such as commercial ships and leisure craft.
- 2.5 However, there is a very significant risk if the LNG does not ignite immediately (which could happen, to give just one example, when it is released under water). In this case, the hazard is caused by the drifting LNG vapour, which may reach populated areas and then ignite at some later time.
- 2.6 The drifting of a vapour cloud in the air is influenced strongly by its density, which determines whether it lifts off the ground, or stays in contact. As cold LNG vapour mixes with the warm atmosphere, the LNG vapour warms up— but the admixed air cools down. The net effect for the mixture as a whole is that the mixed vapour-air cloud is always colder and denser than the surrounding atmosphere. For this reason, cold LNG vapour clouds remain denser than air as they disperse, and therefore stay in contact with the surface.
- 2.7 The preceding description has been confirmed in large scale spill tests with LNG, such as the marine discharges of LNG during the commissioning trials of the SS “Gadila” in 1973 and later experimental spill trials (e.g., Maplin Sands, UK, 1980, and at China Lake and Frenchman Flat by Lawrence Livermore National Laboratory, USA 1978 - 82).
- 2.8 The “Gadila” discharges included the largest ever deliberate spill of LNG, at 193m³, and the resulting cloud had a depth of only 10-12m, while its visible length was over 2000m and it was over 500m wide. It is obvious from this that the cloud was denser than the surrounding air, and that its general shape was long, broad and shallow.

- 2.9 Potential spills from an LNG carrier due to a breach of a cargo hold following a ship collision or grounding, or a striking by a passing vessel while at berth, could easily be in the order of several thousand tonnes, up to, say, the capacity of a single tank, i.e. of the order of 10,000 tonnes. The hazard of an unignited vapour cloud from such a spill could easily extend for many kilometres in the downwind direction.
- 2.10 The likelihood of such a spill can be reduced by sound engineering and operational practices. The nature of this risk will therefore be “low probability/high consequence” and therefore there is a duty upon the proponents to show that their proposals include sufficient safeguards to ensure that the probability of such an event is sufficiently low in relation to the potential consequences of an accident. That demonstration can only be provided by a risk assessment.
- 2.11 Throughout Europe, assessments of this kind are carried out under the EU “Seveso-2” Directive [Ref.2] (implemented in the UK by the “COMAH” Regulations 1999 [Ref.3]) for all shore-based industrial establishments holding more than certain threshold quantities of hazardous substances. All LNG terminals are subject to this Directive. The Competent Authority for the UK COMAH Regulations is a joint authority comprising the Health and Safety Executive (HSE), the Environment Agency (EA) and the Scottish Environment Protection Agency (SEPA), and in respect of fire and explosion hazards, HSE has the required expertise and would usually assume the primary regulatory responsibility.
- 2.12 For the onshore side of the Milford Haven LNG projects, such risk assessments were carried out under the supervision of HSE for the shore-based facilities of the Milford Haven LNG terminals. However, nothing comparable was done for the marine side because, as stated by an official of HSE: *“My staff did not complete an assessment of the tanker risks because we sought and obtained advice from the Office of the Deputy Prime Minister (ODPM) about whether this was ‘in scope’ for our role as a statutory consultee in Planning (Hazardous Substance) Consent. They advised us that, contrary to our previous understanding, it was not.”*
- 2.13 In effect, this meant that the technical expertise relating to the risks due to hazardous cargoes, that resided within HSE and was used in their assessment of the shore-based installations, was not made available to the Planning Authority, in respect of such risks that arose from ships’ cargo tanks.
- 2.14 The risks to shore-based populations due to the marine side of such projects will usually exceed those from the shore side facilities for three reasons:
- (i) The size of credible spills is generally larger,

- (ii) The spills of liquid cannot be contained or controlled on water,
- (iii) The rate of LNG vaporisation from water is higher,
- (iv) The probability of a marine accident, such as a serious collision or grounding, or a striking by a passing vessel, is much higher than broadly comparable scenarios on land facilities.
- (v) Land-based LNG storage tanks can be designed with very robust structures, and secondary spill containment systems, that are not feasible on ships.

3. The approach by which these risks should be controlled

- 3.1 There is no logical reason why the risks to local populations, arising from the marine side of an LNG port operation, should not be managed in the same way as the risks from the onshore elements of the same port operation. In practice, most LNG industry operators look upon them in the same way, because they recognise that a major disaster, involving fatalities to the public, would have equally serious consequences, whether it arose from the ship or from the shore terminal.
- 3.2 For these reasons, in the absence of a regulatory framework comparable to that on-shore, the sector has produced guidance through its association, the Society of International Gas Tanker and Terminal Operators ("SIGTTO") [Refs.4 & 5].
- 3.3 In the present case, HSE carried out a comprehensive risk analysis of the land based facilities and all LNG operations on the terminals up to the unloading arms on the berths. Those assessments included consideration of a suitably comprehensive and representative selection of accidental releases for the purpose of assessing the risk to neighbours. Their assessment results are expressed in terms of "chances per million years" ("cpm") of a potentially fatal effect on people, at various onshore locations. These estimates summarise both the likelihood and the consequences of all potential accident scenarios, in a way that can be used as a basis for advice to the planning authorities and for other safety regulatory purposes.
- 3.4 It is essential to assess these risks thoroughly and in a manner that is open to scrutiny, in order to provide the required assurance that the risks involved are reasonable in relation to the benefits that the projects will bring and in relation to any safer alternatives that may be available. Such an assessment would also provide a firm basis for any control measures that may be deemed necessary.

4. The Normal Format of a Risk Assessment of LNG Marine Operations

4.1 In my own experience, the usual contents of a risk assessment for an LNG project are as follows:

- (i) **Project definition** (input data to the assessment - description, assumptions, etc.)
- (ii) Identification of accident **scenarios** - in the case of LNG the important ones are all LNG spill scenarios - from different parts of the system, at different locations, and under different operating conditions.
- (iii) Estimation of the **frequencies** of each scenario.
- (iv) Mathematical modelling of the **consequences** of each scenario (liquid spill spreading, vaporisation, vapour cloud dispersion, ignition, combustion, and effects on the population).
- (v) Calculation of the **risk profile** - for example risk levels (in units such as HSE's "cpm") at specific locations, or "risk contours" which show the risk levels around the facility on a map.

4.2 All risk assessments of major hazard facilities and operations must be site-specific. In the case of LNG terminals, where the potential fire and explosion effects can extend over large distances, local factors such as the positioning of storage tanks and ship berths, the navigational hazards and the proximity of shore populations, all have a significant effect on the level of risk. The SIGTTO recommendations on site selection and design of LNG ports and jetties [Ref.4] recognise these factors and state how risks should be assessed for port operations with LNG. The elements of this include:

- port and jetty layout,
- traffic frequencies,
- vessel collision resistance,
- collision and grounding probabilities,
- population locations and densities,
- gas dispersion,
- fire and explosion modelling,
- personnel exposure estimates and
- fatality risk calculations. [Ref.4, Section 2.3 on page 8]

4.3 This a framework analogous to that used for the onshore facilities, under the Seveso-2 Directive.

- 4.4 A similar framework appears in a US government sponsored set of guidelines on risk assessment for LNG spills on water [Ref.9] in the following terms:
- (i) Evaluating the potential for an event that could cause a breach or loss of LNG from a ship;
 - (ii) Establishing the potential damage to a cargo tank or other system from these events and the potential spills that could occur;
 - (iii) Estimating the volume and rate of a potential LNG spill based on the dimensions and location of the breach, properties and characteristics of the LNG, ship construction and design, and environmental conditions (e.g., wind, waves, currents, etc.);
 - (iv) Estimating the dispersion, volatilization, and potential hazards of a spill based on physical and environmental conditions; and
 - (v) When necessary, identifying prevention and mitigation approaches and strategies to meet risk management goals.”
- 4.5 These guidelines are authoritative and reflect the view among risk analysts concerning the logical structure of a risk assessment for dangerous goods and cargoes, which has become settled after some 30 years of such work in the oil, gas and chemical industries. In my evaluation of the work done by the Milford Haven Port Authority, I have used the above catalogue of assessment tasks as the standard.

5. Evaluation of the MPHA’s “Risk Assessment”

- 5.1 Annex 2 contains my commentary on the MHPA statement on “Approach to and use of Risk Assessments”. This commentary shows that the Authority has carried out many studies relating to ship navigation issues in the port, but they have exaggerated the scope and findings of the various studies they have commissioned, to make it appear that a proper risk assessment of LNG cargo spills, to the onshore population, has been carried out on their behalf.
- 5.2 Most of the studies referred to by MHPA (listed in Annex 2 at p.19, under the title “What actual information have we made available”) have not, in fact, been released by them and for this reason I have had to infer their scope from their titles, and their findings from the published statements of MHPA. The following table lists these studies, and more detailed comments are found in Annex 2 from page 19 onwards.

Studies listed by MHPA (Annex 2 p.19 etc.)	Comment
(a) Marico Marine - marine traffic analysis	Not released. Does not deal with cargo hazards.
(b) South Hook LNG - concept risk assessment, 9-10 December 2002	Severely redacted extracts have been released by MHPA, which show that this study was superficial and qualitative, and did not include estimates of risks to the shore population from LNG marine spills.
(c) Maritime Research Institute Netherlands: navigation simulations, 14 February 2003	Not released. Does not deal with cargo hazards.
(d) Marico Marine: navigational risk assessment of Dragon LNG's proposals, March 2003	Not released. Does not deal with cargo hazards.
(e) Maritime Research Institute Netherlands: fast time simulations for large LNG ships, 19 May 2003.	Not released. Does not deal with cargo hazards.
(f) Det Norske Veritas (USA) Inc.: report on marine risk associated with vessel manoeuvres in respect of South Hook LNG's proposal 13 October 2003	Not released. Not clear whether cargo risks were considered. In any case, no results released.
(g) ABS Consulting Inc., report on potential damage to LNG tankers due to ship collisions, 20 February 2004 for South Hook LNG.	Not released. This is relevant to the size of holes that might be caused in ships' cargo tanks. Results not released or referred to elsewhere.
(h) Burgoyne Consultants: potential consequences of fires and explosions involving ships carrying petroleum products (including LNG) March 2005.	Not released. These calculations, which could be highly relevant to the local population, have not been released, nor are they referred to in the Lloyds Register reports (j).
(i) HR Wallingford: report on mooring safety and the possibility of disturbance caused to moored vessels for South Hook LNG, November 2003	Not released. Does not deal with cargo hazards.
(j) Gordon Milne, Senior Risk Analyst at Lloyd's Register of Shipping, assessment of the risk of explosion and gas release from LNG carriers.	Released. This is a generic paper on LNG risks and is not specific to Milford Haven.

(j) Lloyd's Register: "Milford Haven Event Statistics" report, 13 April 2005	Released. This is based on world statistics and all fuel cargoes. It contains no analysis specific to LNG, only some assertions, and the only Milford Haven specific data are the traffic volumes.
--	--

- 5.3 In some of their other public statements, MHPA have also referred to QRA studies by Royal Haskoning, carried out on behalf of Petroplus, one of the LNG terminal operators. I have seen reports from Royal Haskoning as follows:
- (i) Quantitative Risk Assessment - Petroplus Tankstorage Milford Haven LNG Terminal dated September 2002
 - (ii) Quantitative Risk Assessment - Petroplus Tankstorage International - LNG Terminal Milford Haven, Wales - Draft Report, dated 28 January 2003
 - (iii) Dragon LNG Terminal - Environmental Statement for Revised Layout and Use of Alternative Jetty - Final Report January 2004
This contains a QRA report in Appendix 6.1.
 - (iv) Quantitative Risk Assessment - Petroplus Tankstorage International Dragon LNG Terminal Milford Haven, Wales - Draft Report, dated 9 January 2004
- 5.4 In all of these reports, the consultants have treated the LNG marine risks solely by two cargo spill cases -
- (i) External impact, large spill: Continuous release of 126 m³ in 1,800s;
 - (ii) External impact, small spill: Continuous release of 32 m³ in 1,800s.
- 5.5 These spill cases are completely inadequate to describe the hazard presented by LNG carriers with individual cargo tanks of 25,000 m³ volume. There is very little explanation in the Royal Haskoning reports as to the actual form of the release. It could be a breach of a cargo tank (in which case, it would have to be an extremely small breach) or it could be a failure of the unloading arm, due to movement of the LNG ship along the berth. These two cases also fail to treat ship collisions, sinkings or groundings while in transit or manoeuvring. Moreover, if the spill were from a cargo tank breach, it could not be stopped in 1800s, which is 30 minutes. More realistic spill scenarios from a cargo tank breach due to external impact would be in the order of thousands of m³ in volume.

- 5.6 In short, these studies by Royal Haskoning fall far below what should be expected of a proper risk assessment of marine cargo spills (and, in fairness to the authors, were probably not intended to fulfil that function). If MHPA relied upon them, they were wrong to do so, not only because the studies were not independent of the operator, but also because the results did not address the greater part of the marine cargo risk.
- 5.7 Whilst I would have preferred to have seen the whole of all the original documents on which MHPA are relying, I am confident, from their titles and the statements made by MHPA upon them, that no proper risk assessment, for example one meeting the recommendations of SIGTTO, nor one broadly equivalent to that undertaken by HSE for the landward side, has been undertaken by or for the MHPA for the risks of marine spills of LNG.
- 5.8 The MHPA therefore gave its advice to the local planning authorities concerning the planning applications for construction of the terminals without having found out what risks were entailed for the onshore population, still less determining that these were so low as to be acceptable.

6. Conclusions

- 6.1 For most LNG projects, the risks due to spills on the sea are the highest risks involved in such projects, due to the particular difficulties in controlling a spill of LNG on water, the size of ships' cargo tanks, and the relatively high likelihood of a marine accident compared to a similarly large spill onshore.
- 6.2 The regulatory framework for project approval for marine operations involving large quantities of hazardous cargo, is seriously deficient. There is an obvious disparity between the regulatory control of dangerous cargoes in the shore-based facilities and that for the marine side.
- 6.3 In particular, the risks to the onshore population, due to marine LNG operations at Milford Haven, have fallen through a regulatory gap. The EU Seveso-2 Directive does not extend to port areas, and the authorities did not elect to use their other powers to evaluate this risk to an equivalent standard. For example, the planning authorities (which, in granting approvals for the terminals, relied in this respect on the Port Authority) could have required the relevant information under the EU environmental impact assessment (EIA) process. Alternatively, either the planning authorities or the Port Authority could have requested the information in any event, before deciding their respective positions in relation to the applications.

- 6.4 As to EIA, I refer in this report to Royal Haskoning's QRA work which formed part of the EIA for the Dragon terminal. That work was not sufficient by a long way, yet there was nothing equivalent, even to that, in the EIA in relation to the South Hook terminal.
- 6.5 The LNG import projects involve several government approvals: the land-use planning for the shore terminals and jetties; the consents for the onshore cross-country gas pipeline; and the acceptance of the proposed marine shipments by the port authority. These are, in reality, inseparable parts of a single infrastructure project. The necessary scientific expertise and sector-specific knowledge exists within different branches of government to assess the public risks to a consistent standard. However, there has been no proper analysis of the risks to the shore-based population due to marine LNG spills that was made available to the decision making authorities. Approvals were therefore granted to the terminals without this critical information.

ANNEX 1: References

1. Milford Haven Port Authority: "Approach to and use of Risk Assessments", undated, published on Internet at:
http://files.mhpa.co.uk/lng/risk_assessment_use.pdf
2. EEC Council Directive 96/82/EEC of 9 December 1996 "Seveso-2 Directive" on the control of major-accident hazards involving dangerous substances, Official Journal No. L 10/13, 14.1.97
3. Statutory Instrument 1999 No. 743 "The Control of Major Accident Hazards Regulations 1999", UK HSE, SEPA and the Environment Agency, 1999
4. SIGTTO - Society of International Gas Tanker and Terminal Operators: "Site Selection and Design for LNG Ports and Jetties", Information Paper No. 14, ISBN: 1 85609 129 5, January 1997
5. SIGTTO - Society of International Gas Tanker and Terminal Operators: "LNG Operations in Port Areas", First Edition, ISBN 1 85609 256 9, 2003
6. Lloyd's Register EMEA, Consultancy Services Group: "Event Statistics", Ref: CSG 05-252-1-1, 13 April 2005
7. Gordon Milne, Senior Risk Analyst, Lloyd's Register of Shipping: "Explosion & Gas Release from LNG Carriers", a conference paper or a scientific journal paper, unknown where published.
8. Royal Haskoning (Netherlands): Quantitative Risk Assessment - Petroplus Tankstorage International Dragon LNG Terminal Milford Haven, Wales - Draft Report, dated 9 January 2004
9. Sandia National Laboratories: "Guidance on Risk Analysis and Safety Implications of a Large Liquefied Natural Gas (LNG) Spill Over Water", commissioned by the U.S. Department of Energy, SAND2004-6258, December 2004

ANNEX 2: Annotated Copy of Statement by the Milford Haven Port Authority

MILFORD HAVEN PORT AUTHORITY

Approach to and use of Risk Assessments

[Note: The original text of this paper is presented in Arial Font while the annotations are in italic bold Times Roman font between square brackets. All annotations have been made by the author of the report to which this is an Annex.]

In 1982, the Authority (then the Milford Haven Conservancy Board) commissioned Burgoyne Consultants Limited to produce a report into the potential consequences of fires and explosions involving the significant amount of hazardous cargo being handled by the port including LPG (Liquefied Petroleum Gas).

The outcome was used to assist in the development of both the Port Emergency Plan and provision of moving exclusion zones around certain vessels.

In 1997, a Quantified Risk Assessment (QRA) was undertaken by Bomel Consulting Engineers. The study, the first of its kind in the UK, included the specific traffic pattern experienced by the port including LPG tankers. This study formed the basis on which MHPA devised and introduced its Safety Management System (SMS) which in compliance with the Port Marine Safety Code is the basis on which all the Authority's operations and planning are approached. *[Comment: this work uses judged consequence categories of which the highest is ">5 fatalities", rather than a consequence analysis based on LNG spill sizes and vapour travel distances, shore population numbers at risk, etc. It covers all vessel types, but makes no distinction between them, relevant to LNG. "Gas carriers" are included, often with other types of vessel, and it is unspecific whether "gas" means LPG or LNG, which have very different cargo tank sizes and physical characteristics. Moreover, this work was done before there was any intention to import LNG at Milford Haven. The "hazards" listed are mostly aimed at marine navigation concerns; cargo spills are not included in the list. Accordingly, there is no consequence analysis of any cargo spill. Therefore, this assessment cannot be considered to be a QRA in the sense in contention here, i.e. a risk assessment of the risks due to LNG spills for the neighbouring population.]*

In 2004 and due to the impending arrival of LNG (Liquefied Natural Gas) from the end of 2007 onwards, the Authority required Burgoyne's to update their report to include such LNG vessels.

It is important to note that the report commissioned and provided considers the consequences of events without giving any consideration to the adequacy of the precautions in place to prevent or minimise the consequences of each incident type.

In short, the report is a “HAZID” (hazard identification). *[Comment: MHPA do not reveal what the results of this consequence analysis were, in respect of LNG or the other cargoes considered. This report has not been published nor disclosed, nor has the earlier Burgoyne report of 1982. The consequence results have not been combined with frequency estimates to generate estimates of risks to the local population.]*

To take this further it was decided to commission Lloyds Register to consider the Burgoyne report's findings and produce a QRA for the port, set against worldwide statistics and convert those findings into readily understandable, layman's terms - e.g. “Any explosion (including fire) large enough to potentially injure people nearby is only slightly more likely per year as being struck by lightning.”

[The Lloyds' study](#) further concluded “The likelihood of an LNG incident is extremely low. There has never been a recorded incident of a major release of LNG from a ship to external atmosphere.” Similarly, “No member of the public has ever been injured by LNG from a ship.”

[Comment: There are two pieces of work by Lloyd's Register, to which MHPA make reference in different places:

LR(i) “Event Statistics”, Ref: CSG 05-252-1-1, prepared by: Lloyd's Register EMEA, Consultancy Services Group, Date: 13th April 2005

LR(ii) “Explosion & Gas Release from LNG Carriers”, by Gordon Milne, Senior Risk Analyst, Lloyd's Register of Shipping, which from its style and content appears to be a reprint of a conference paper or a scientific journal paper, but the copy I have does not indicate where it was published.

The hyperlink in the MHPA text points to LR(i). The quotation “Any explosion (including fire) large enough to potentially injure people nearby is only slightly more likely per year as being struck by lightning” is a paraphrase from this report, however, examination of the report shows that this is not a finding of an assessment for LNG or even LPG gas carriers, but relates to general ship fires, which by their nature are unlikely to affect shore-based neighbours.

The quotations: “The likelihood of an LNG incident is extremely low. There has never been a recorded incident of a major release of LNG from a ship to external atmosphere.” and “No member of the public has ever been injured by LNG from a ship.” also come from LR(i) but are not supported by any assessment. They are simply assertions.

LR(i), in fact, is merely the application of worldwide port accident statistics to the traffic volumes at Milford Haven, and is neither specific to that Port (except for the traffic volumes), nor is it specific to LNG, still less the particular LNG terminals being built here.

LR(i) in any case is not a QRA, and furthermore it is highly misleading to say that it “takes further” the Burgoyne report, since it makes no reference to the latter, nor uses any of its results concerning the consequences of LNG spills.

LR(ii) is not a study that is specific to Milford Haven, nor was it commissioned by MHPA. I refer to this document again below.]

For more than twenty years Milford Haven has been the largest Gas handling port in the UK with approximately 1,000,000 tonnes of LPG handled annually. Although there have been a number of minor incidents with LPG vessels, no uncontrolled loss of containment has been recorded.

The arrival of LNG will dovetail well with the existing procedures for handling hazardous vessels including exclusion zones within the main channels enforced by Port Control and patrol boat. However, additional resource in the form of a shadow tug will be made available to further ensure that vessels are correctly separated from each other.

In addition, and in compliance with SIGTTO (Society of International Gas Tanker & Terminal Operators Ltd) guidance the Authority has further widened the channel in the vicinity of the South Hook terminal and opposite the Dragon terminal to provide a larger separation distance for certain vessels (e.g. ferries) whilst passing LNG ships which are alongside at either facility.

[Comment: MHPA may have complied with SIGTTO guidance on channel widths, but has not complied with SIGTTO guidance on site selection and design for LNG ports and jetties - Ref.4]

June 2005

Milford Haven Port Authority's Approach to Planning for the Management of LNG Shipping

In common with all other UK ports, we have a duty to accept all those who wish to enter the port. We do not have the ability to deny entry to any vessel except in very specific circumstances. Thus, our whole approach is to determine the way in which we manage ships and other uses of the Waterway so as to identify risks and in the way in which we regulate water movements, mitigate or remove such risks entirely.

[Comment: The Port Authority has more than one role. In their role as a statutory consultee to the planning process, they had a duty to advise the Council about the marine cargo risks to the shore based public. They also have a duty as the safety regulator to address that risk properly in their management of the port. They did not do this - in contrast to HSE who did undertake the equivalent job for the shore side of the same project.]

Thus, given the fact that LNG ships will be using the Waterway from the third quarter of 2007 our whole approach has been to work alongside the technical teams of both developers so that we get an understanding of what their shipping requirements are, and also feed into them our own comments and approach so that they can be incorporated into their planning. We have identified a wide range of

scenarios which we have then tested within the framework of our Safety Management System, the basis of which is that all activities are underpinned by a comprehensive risk assessment. Such scenarios and risks have been tested in a variety of ways through both internal and external discussions and analyses ; the use of simulators at MARIN in Holland and also Fleetwood ; visits that members of our Marine team have made to various LNG facilities and ships ; the commissioning of various reports from specialists and a detailed and continuing dialogue with all those involved.

In particular we have researched, assessed and identified such factors as the capacity of the Haven to accommodate traffic increases, the stages of tide at which LNG ships will be allowed to move; the circumstances relating to the number and size of tugs, the number of Pilots, and weather conditions that will allow or prevent movements; the need for any modifications or changes to the navigation marks or facilities that we have in the Haven; any changes required to the navigation channels with deepening or widening ; and a similar approach to turning areas. We have also taken into account the appropriateness of current security provisions under the Security Plans that we have for controlling our facilities which are approved by the security arm of the Department for Transport (TRANSEC), and will be making modifications to these where necessary to meet TRANSEC's own assessment. We have also identified the need to revise and update our emergency response plans, and have entered into dialogue with the Fire Service, the terminal operators and the emergency response division of Pembrokeshire County Council among others.

We would wish to emphasise that this is very much an iterative process which is constantly being refined to ensure the optimum procedures are in place to facilitate the safe and efficient handling of LNG vessels, indeed all vessels utilising the Haven.

September 2005

Summary of some of the Risk Assessments and Analyses undertaken to assist in planning for the continuing safe and efficient management of shipping with the advent of LNG Ships from 2007

Introduction

MHPA have been on a continual path to assess the risks and prepare for arrival of these vessels which will bring the port traffic up to the levels previously handled safely in the Haven. This path of assessment uses our Safety Management System (SMS) approach which was developed through a quantified risk assessment and provides for detailed assessment of risks and the identification of the most appropriate management strategies. This complies with the requirements of the

Port Marine Safety Code which applies to all UK ports and for which the policy is laid down by the Department for Transport in consultation with the industry and monitored by the Maritime and Coastguard Agency.

This process has included navigation and engineering studies, ship simulations and risk assessments using the Authority's pilots and technical staff, information and studies from the LNG project teams and the commissioning of a number of studies and risk assessments (both quantitative and qualitative) from independent, professional experts. In co-ordination with the developers we continue to evaluate and assess all potential threats as part of the planning and preparation process for LNG operations.

[Comment: none of these assessments included an assessment of the consequences and probabilities of spills of LNG from ships affecting the local populations, and in particular the level of risk borne by the neighbours. As such, they do not constitute a risk assessment, neither as separate studies, nor as a collection of studies.]

As part of this continuing preparation several studies have been conducted to determine ways to reduce the risk of LNG marine traffic. As a consequence of these studies, a number of measures will be implemented. For example, the channel is to be widened to provide greater separation of ships in the Haven ; while LNG carriers are unloading the traffic speed of passing ships in the Haven is to be reduced ; a minimum of two pilots are to be aboard LNG vessels entering the Haven ; the existing fleet of tugs is to be augmented with new state-of-the-art tugs equipped with the latest technology.

[Comment: these are being presented as special measures, derived from the studies of risk, but in fact they are nothing more than standard practice for LNG operations. They are presented as “reducing the risk” but there is no demonstration what that risk level was before and after these measures were adopted, not whether the residual risk is acceptable.]

Making detailed Information Publicly Available

The broad scope of these studies mean that certain scenarios are assessed which, if generally publicised, might be sensitive from a national or local security perspective. These considerations combined with ongoing legal challenges prompt an understandable reluctance on the part of the Port Authority and the developers to release these documents into the public domain.

We are also concerned that our experience is that when detailed rather than summary and conclusive information is made available then it is misused by those opposing the projects by information taken out of context and used for scaremongering, unjustified allegations and superficial challenging of the conclusions. Examples of this include the decrying of Royal Haskoning QRA by

misquoting the HSE, misuse of SIGTTO guidelines, and taking out of context a piece of information in the comprehensive assessment undertaken and published by Dragon LNG.

[Comment: The Royal Haskoning QRA, [Ref.8], was undertaken under contract to one of the two LNG terminal proponents, Petroplus (later, Dragon LNG). It contains all the elements of a proper QRA, however its scope does not include LNG ships in transit or manoeuvring. Its treatment of releases from ships' cargo tanks while at berth is extremely superficial and grossly understates the quantities that could be spilled. In general, there are several serious technical objections that can be raised against this QRA, in that its calculations of both the sizes of the spills and the consequence distances are underestimated.]

Thus our policy, agreed as a common approach with all those involved in these developments, is to outline and describe what has been undertaken and why, together with the results and how they have been used, but not to make publicly available the large amount of detail of the work done.

[Comment: the cited documents, purporting to be the MPHA's "risk assessment" do not at all reflect a "large amount of detail of the work done"; they show that no work relevant to the risk to shore populations was done. In particular, the Lloyds Register work, which MHPA portray as a "QRA", is, in fact, nothing of the kind, and its conclusions regarding LNG risks are totally unsupported by any analysis specific to this site or the specific LNG traffic and terminal locations.]

However we do accept that we have both a duty and a business need to be as open as possible and explain our position as widely as we can. Thus we have made many presentations, had many discussions and offered to meet many individuals so as to fully explain the approach we are taking and will continue to develop as the introduction of LNG shipping draws near. We have also carried summaries of what we have done and will be doing in our Annual Reports, press releases, interviews to the media and many other ways, including keeping our politicians fully informed and placing a priority on responding to any questions that they have of us.

What actual information have we made available.

One of the accusations is that we have not made any information available especially about our approach to managing LNG shipping. This is far from the truth as a considerable amount of such information has been, and will continue to be put into the public domain. Some examples of the information and mechanism of its public promotion are given below. *[Comment: Despite the title of this section, and the one immediately following, the information items listed at subparas. a to j below have, for the greater part, NOT been made publicly available. Of the 10 listed items, only (j) and a severely redacted extract from (b) have been released publicly. To the casual reader, this*

section gives a totally misleading impression that the port authority has been very open with information, when, in fact, the opposite has been the case. A summary is given in my table on page 8 above.]

Formal Public Information

The following summary of our approach was included in the bundles available to Safe Haven and their legal team in MHPA's Summary Grounds as part of the judicial Review :-

The Authority has undertaken and/or participated in and/or considered many risk assessment reports as part of its continuing work with each developer. The range of risk assessment analysis undertaken includes the following (as an illustration for the purpose of these summary grounds of the extent of the Authority's active participation in what has been and continues to be a thorough process of evaluation and risk assessment) :-

- a. Marico Marine, a well established and reputable Marine and Risk Consultant, was commissioned to conduct a marine traffic analysis of vessel movements through the port during a 25 day period in November 2002.
- b. South Hook LNG submitted a concept risk assessment dated 9-10 December 2002 to identify hazards, consequences and possible mitigation measures relating to the potential use of the port of Milford Haven for the importing of LNG. The Authority participated in the assessment process.

[Comment: An extract from this document has been released by the MHPA. This indicates that the assessment used the judgmental "Risk Matrix" approach which is often used for comparative assessment at the concept definition stage, but is not capable of providing an estimate of the degree of risk to neighbouring populations, and does not reflect the final design. There is no indication in the extracted results that any estimate of the geographical extent of the consequences of LNG spills was included in the work. This does not constitute a risk assessment suitable for regulatory purposes.]

- c. Marin, the Maritime Research Institute Netherlands, produced a report, dated 14 February 2003, on simulations to check the nautical consequences of future 200,000 m3 LNG carriers (in respect of the South Hook LNG's proposal).
- d. In March 2003 Marico Marine produced a navigational risk assessment in respect of the Dragon LNG's proposal. The report concluded that the risks inherent in the movement of LNG tankers in the Haven are manageable and tolerable. It identified a number of additional risk management measures to further reduce residual risk. An addendum to this report was produced in March 2004 and assessed the use of Berth 1 for LNG vessels. The report reflects the continuing dialogue

between the Authority and Dragon LNG in respect of marine risk assessment.

- e. Marin reported on fast time simulations for large LNG ships in a report issued on 19 May 2003.
- f. Det Norske Veritas (USA) Inc. ("DNV"), a major classification society, produced a technical report dated 13 October 2003 in respect of South Hook LNG's proposal assessing the marine risk associated with vessel manoeuvres in the channel and around the South Hook terminal for discharging cargo from LNG carriers. The report recommended mitigation measures which have been accepted by the authority and developer.

[Comment: MHPA do not indicate whether this study considered the risks associated with the cargo, or only "marine" risks - which often means ship navigation risks only. If they did consider cargo-related risks, what were the levels of risk to the shore populations? No indication is given.]

- g. ABS Consulting Inc., an international consulting operation experienced in the analysis of shipping collisions, produced a report dated 20 February 2004 for South Hook LNG dealing with potential damage to LNG tankers due to ship collisions.

[Comment: The conclusions of this study are not mentioned. They should have included estimates of the likelihood of holes being created in LNG cargo tanks, and the sizes of those holes. Note that the US DOE Guidelines, Ref.9, indicate holes sizes in the order of 1 to 5 m² in area, depending on the severity of the collision. Such breaches would lead to very large spills of LNG, in the order of thousands of cubic metres.]

- h. The Authority commissioned a report from Burgoyne Consultants, International Consulting Engineers and Risk Consultants, dealing with the potential consequences of fires and explosions involving ships carrying petroleum products (including LNG), which updated a similar report obtained in the early 1980's. The Authority used the findings in the earlier report to develop procedures for regulating and managing shipping movements, and, in the light of the proposal to handle LNG, commissioned the latest report dated March 2005. It confirmed the continuing relevance of the current systems and procedures that applied to ships carrying petroleum products to those that would convey LNG.

[Comment: This report has not been released, either to the public or even to the local planning authority. It is the only report, commissioned by MHPA, that may have included the potential consequences to the public from large LNG spills, but these consequences have not been published, nor (apparently) communicated to the local planning authority (March 2005 was after the permissions had been granted), nor used in any of the other studies that MHPA claim constitute their assessment of risks.]

- i. South Hook LNG commissioned a report in November 2003 from HR Wallingford, the former research establishment for the Ministry of Defence, dealing with mooring safety and the possibility of disturbance caused to moored vessels and made this available to MHPA.
- J. A report by Gordon Milne, Senior Risk Analyst at Lloyd's Register of Shipping, was commissioned by the Authority to assess the risk of explosion and gas release from LNG carriers. It concludes that : "LNG has specific parameters which make the likelihood of a major explosion remote. These features combined with the high standards of design and operation throughout the industry mean that compared to other chemicals LNG poses one of the lowest threats to the general public and property".

[Comment: this is the paper referred to in my page 14 as LR(ii). It must be noted here that the occurrence of "explosion" in an LNG vapour cloud is not the only hazard. A fire in such a cloud would be very nearly as devastating as an explosion, and most analysts consider that it would cause a similar numbers of casualties. It is strange that the Lloyds Register report LR(i) is not included on this list and I suspect that in drafting this table, MHPA were confusing them.]

[General comment: of these studies, items (a), (c), (d), (e), (f), (g) and (i) are useful but narrow studies of specific operational matters, in particular ship navigation, which could provide input to a comprehensive risk assessment but do not include cargo spill risks and thus do not constitute a risk assessment of the sort that is in contention here.]

Other Public Information

The above is a description of the actual assessments and studies. We have also explained our approach in more general terms to a wide range of enquirers over the past six months including Safe Haven, local residents, politicians, Lord Crickhowell, and in press releases etc.

We have explained that we have researched, assessed and identified such factors as:

- the capacity of the Haven to accommodate traffic increases
- the way in which LNG ships will be allowed to move according to the state of tide;
- the number and size of tugs they will need;
- whether those tugs should provide active escorting (coming in with the tanker with a line attached);
- the number of pilots per movement, the number of pilots to be employed in total;

- identifying the training programme required for our pilots and others;
- weather and tidal conditions that will allow or prevent movements;
- where ships will swing to get onto a berth;
- the need for any modifications or changes to our navigation aids such as buoys or other facilities;
- any changes required to the navigation channels or turning areas themselves.
- we have fully taken into account any implication from LNG shipping with the security plans that we now have in place in compliance with the ISPS code (International Ship and Port Facility Security code)
- we have assessed the need to update our various response plans and capabilities, and the need for and process of consultation and working with other authorities and agencies.

Summary

From the above it is quite clear that the Authority has undertaken and facilitated a detailed assessment of marine risks involved in the LNG proposals. It gave informed advice to the LNG developers, to the Planning Authorities and to the HSE in respect of the decisions which they took. Pursuant to its continuing duties to operate a safe port, the Authority is continuing work in respect of risk assessment and mitigation measures to ensure that the port continues to operate safely and efficiently.

[Comment: None of that work addresses the magnitude of the risk to the shore population, due to the marine side of these LNG projects. By using the phrase “marine risks” the MHPA appears to claim that it has considered cargo spill risks, whereas the truth is that it has only assessed the marine navigation risks. Its consideration of cargo spills has been restricted to one confidential report (Burgoyne) and the results of that work have not been taken up in the other studies that MHPA claim constitute “risk assessments”.]

October 2005

PLANNING FOR LNG SHIPPING (Article for Coastal Forum Public Newsletter)

When the first ship carrying LNG (Liquified Natural Gas) arrives in Milford Haven in 2007 it will not be the first time that the pilots, bridge team and tugs involved will have brought the ship into the port - they will have done so on many occasions before, under a variety of testing conditions on the simulators in the Marine Research Institute in Holland and the Nautical College in Fleetwood. The use of

these simulators is just one of the ways in which Milford Haven Port Authority is preparing for this new development.

There have been calls for the Authority to publish the risk assessment that has been undertaken that confirms that LNG ships will be allowed into the port. There is no single such document however but rather a series of processes, assessments and scenario testing, such as the use of the simulator, that define the way in which the Authority will continue to safely and effectively manage the port with LNG ships added to the variety of other users that currently make Milford Haven the fourth largest cargo port in the UK and one of the largest oil and gas ports in Northern Europe.

[Comment: The concept that a risk assessment may be constructed from several separate studies is not entirely wrong, but usually there is a single over-arching document that pulls together the results of sub-studies. For example, it is impossible to assess the risks being borne by the onshore population without bringing together the estimates of frequency of spills with the estimates of the consequences of LNG dispersion and combustion. Such an over-arching report is simply missing here (and, in any case, the sub-studies are not sufficient to support it).]

This misunderstanding that unlike say a Planning Authority we do not come to a yes or no decision as to whether LNG ships will be allowed into the port arises from the fact that in common with all other UK ports, we have a duty to accept any ships who wish to enter the port. We do not have the ability to deny entry to any vessel except in very specific circumstances. Thus, our whole approach is to determine the way in which we manage ships and other users of the Waterway so as to identify risks and in the way in which we regulate water movements, mitigate or remove such risks entirely.

So, starting from the fact that LNG ships will be using the Waterway from the third quarter of 2007 our whole approach has been to work alongside the technical teams of both developers so that we get an understanding of what their shipping requirements are, and also feed into them our own comments and approach so that they can be incorporated into their planning. We have identified a wide range of scenarios which we have then tested within the framework of our Safety Management System which itself is underpinned by a comprehensive quantified risk assessment. Such scenarios and risks have been tested in a variety of ways through both internal and external discussions and analyses ; the use of simulators as mentioned above ; visits that members of our Marine team have made to various LNG facilities and ships ; the commissioning of various reports from specialists and a detailed and continuing dialogue with all those involved.

In particular we have researched, assessed and identified such factors as the capacity of the Haven to accommodate traffic increases, the stages of tide at which LNG ships will be allowed to move ; the circumstances relating to the number and size of tugs, the number of Pilots, and weather conditions that will allow or prevent movements; the need for any modifications or changes to the navigation marks or facilities that we have in the Haven ; any changes required to the navigation channels with deepening or widening ; and a similar approach to turning areas. We have also taken into account the appropriateness of current security provisions

under the Security Plans that we have for controlling our facilities which are approved by the security arm of the Department for Transport (TRANSEC), and will be making modifications to these where necessary to meet TRANSEC's own assessment. We will revise and update our emergency response plans, and have entered into dialogue with the Fire Service, the terminal operators and the emergency response division of Pembrokeshire County Council among others.

One of the risk assessments that we initiated was from the Risk Analysis team at Lloyd's Register of Shipping. They were commissioned by the Authority earlier this year to assess the risk of explosion and gas release from LNG carriers in Milford Haven. [Their report](#) concludes that:

“LNG has specific parameters which make the likelihood of a major explosion remote.These features combined with the high standards of design and operation throughout the industry mean that compared to other chemicals LNG poses one of the lowest threats to the general public and property.”

[Comment: the statement by MHPA does not appear to be true. The commissioned report was LR(i), which is the report found through the hyperlink. However, it was LR(ii), the paper by Gordon Milne, which addressed the risk of explosion and gas release from LNG carriers (but not specifically in Milford Haven) and contained the cited text. LR(ii) does not appear to have been commissioned by MHPA. Moreover, as I have discussed elsewhere in this report, neither of the two LR papers came anywhere near to being a risk assessment of the sort that should have been done.

Moreover, the conclusion by Gordon Milne concerning “explosion” is liable to be misunderstood and appears to have been misunderstood by MHPA. As mentioned above, the risk that is of importance is the risk of a drifting unignited vapour cloud, which may reach population and then ignite - the consequences of the resulting fire would be devastating—regardless of whether or not an explosion (i.e. blast effects) occurred. Finally, there is no scientific basis for his claim that LNG is among the least hazardous of chemicals. It is very volatile, its vapour is denser than air (and remains so during atmospheric dispersion), its energy content per tonne is similar to LPG and other fuels.]

It is important to emphasise that this is very much an iterative process which is constantly being refined to ensure the optimum procedures are in place to facilitate the safe and efficient handling of LNG vessels, indeed all vessels utilising the Haven.

September 2006

Brief to Staff and the Public

LNG and Leisure Craft on the Haven

No significant extra restrictions will be enforced on leisure craft as a result of the LNG ships expected to call regularly at the Haven's two terminals from the end of 2007.

Around 300 will be arriving each year, a relatively small increase on the 3,500 ship calls already handled in the port. Milford Haven is the fifth busiest port in the UK, and the Port Authority is skilled at handling the movements of all shapes and sizes of vessels, some of which are as large, or larger, than those that will be carrying LNG.

Only minor modifications will be needed to accommodate the handling of LNG ships within the current mix of oil and gas tankers, ferries, fishing and general cargo vessels and the increasing number of recreational craft.

Thus there will continue to be restriction zones in the shipping channels within 100 metres of the jetties, as well as a moving restriction zone of one mile in front and behind a loaded LNG vessel, as is currently the case for loaded gas tankers. Leisure users navigating outside the main channel are unlikely to be affected at all. The small boat passages through the existing jetties will remain open, unless their temporary closure is required because the port is operating at higher than normal security levels. The existing Codes of Conduct outlined in the Recreation Plan and the annually published Leisure Guide will continue to apply.

As a Port Authority, we are fully committed to securing and developing the recreational role the Haven plays, including accommodating certain racing events and regattas. Whilst a new energy era is being embraced, so too is the continued use of the Haven as a safe and enjoyable leisure environment.

Any queries or comments on this should be sought from any MHPA manager or from

Ted Sangster
Chief Executive
Milford Haven Port Authority
Gorsewood Drive, Milford Haven, SA73 3ER
Tel : 01 646 6961 00 e-mail : tedsangster@mhpa.co.uk

Milford Haven Town & Marina Guide 2006/7

Liquefied Natural Gas...

The Haven's new energy era

With two LNG receiving terminals being built on the Haven we can expect specialist LNG ships to start using the port from the end of 2007. There has been much publicity surrounding these developments and unfortunately much misunderstanding of the true situation as a result of the way in which some opponents of LNG terminals have inaccurately portrayed their view of how this will impact on the users of the port and the local community.

Whilst Milford Haven Port Authority would be pleased to respond to any questions or concerns about any aspect of LNG shipping (contact the Chief Executive on

01646 696100 or e-mail enquiries@mhpa.co.uk) a brief summary as to how we are planning for LNG ships to successfully co-exist with all recreational users of the Waterway is given below.

LNG shipping has been operating successfully and safely across the world for over 40 years. In over 45,000 loaded voyages whilst there have been some incidents none has resulted in a loss of any cargo. LNG shipping has an exemplary safety record and Milford Haven Port Authority has been working closely with both local projects in terms of the studies and risk assessments to ensure that the Port will continue to operate safely and efficiently. For the Haven's Leisure community, very little will in fact change - just the more regular sightings of quite spectacular commercial craft on the waterway!

No significant extra restrictions will be enforced, as a result of the 300 LNG ship calls expected each year once the terminals are fully operational - a relatively small increase on the 3,500 ship calls already handled in the port. In fact as the fourth largest port in the UK the Port Authority is skilled at handling the movements of all shapes and sizes of vessels - some of which are at present, as big, or larger than those that will be carrying LNG.

The independent research and risk assessments which have been commissioned by the Authority have confirmed both that there is sufficient capacity to accommodate the increase and that the current procedures, with some minor modifications are equally appropriate to handling LNG ships within the mix of current oil and gas tankers, ferries, fishing and general cargo vessels and the increasing number of recreational craft.

Thus there will continue to be restriction zones within 100 metres of the jetties, but this already applies as do the moving restriction zones of 1 mile in front and behind a loaded gas tanker. The small boat passages through the existing jetties will remain open following comprehensive risk assessments - (the point to note here is the possible temporary restriction on their use if the port is required to operate at a higher than normal security level) and the existing codes of conduct outlined in the Recreation Plan, the annually published Leisure Guide and indeed within this Guide will continue to apply.

What is clear is that for the many people who use the waterway for leisure use, no significant changes will occur. The Port Authority is fully committed to securing and indeed developing the recreational role that the Haven plays. Thus whilst a new energy era is being embraced, so too is the continued use of the Haven as a safe and enjoyable leisure environment.

LNG is methane (Natural Gas) which is liquefied by cooling it to temperatures of minus 160 degrees Celsius. The chilled liquid is then stored in insulated storage tanks, until such time as it is pumped into specially built tankers and shipped as a liquid at this temperature. Discharged into insulated tanks onshore it is then sent to vaporisers where it is re-gasified by warming the cold liquid until it reverts to a Gas.

Appendix Petition 11

Request for Information from the Department of Energy, Communication and
Natural Resources.under EC (Access to Information on the Environment)
Regulations 2007

Request for Information from the Department of Energy, Communication and Natural Resources.

From: [Bernie Comey \[mailto:Bernie.Comey@dcenr.gov.ie\]](mailto:Bernie.Comey@dcenr.gov.ie)

Sent: 18 January 2008 15:14

To: [McElligott, John](#)

Subject: [FW: Request for Information under EC \(Access to Information on the Environment\) Regulations 2007](#)

[Mr Mc Elligott](#)

[The attached information is provided in response to your email request of 9 January 2007.](#)

[Yours sincerely](#)

[Bernie Comey](#)
[Assistant Principal](#)
[Electricity and Gas Regulation Division](#)
[29 - 31 Adelaide Road](#)
[Dublin 2](#)

-
[Tel 01 - 6783131](#)
[Email \[Bernie.Comey@dcenr.gov.ie\]\(mailto:Bernie.Comey@dcenr.gov.ie\)](#)

18 January 2008

Mr John Mc Elligott
Kilcolgan Residents Association
Island View
Convent Street
Listowel
Co Kerry

Request for information under the European Communities (Access to Information on the Environment) Regulations 2007

Dear Mr Mc Elligott

I refer to your e-mail, dated 9 January 2008, requesting (in accordance with the European Communities (Access to Information on the Environment) Regulations 2007 ("the Regulations")) any environmental information held by this Department in connection with the proposed Shannon LNG terminal near Tarbert and other related issues.

Having carefully considered your request for information, I wish to advise you at the outset that this Department has no statutory role with respect to the planning

procedures for LNG facilities, nor has it been consulted by An Bord Pleanála with respect to this. The information held by the Department with respect to this project is therefore limited.

Having regard to the provisions of the Regulations, my decision as to your request is as follows:

All information at your disposal on the environmental consequences of an LNG terminal in the Shannon Estuary near Tarbert

No records are held by this Department relating to this matter other than the EIS Non-Technical Summary document referred to at No 4 below.

All information on the consequences and zone effected by an LNG accident at the Tarbert Site

No records are held by this Department relating to this matter other than the EIS Non-Technical Summary document referred to at No 4 below.

All information on the emergency plans and the names of the public authorities to be involved in an emergency evacuation plan as per Seveso II regulations (we are thinking of all schools, businesses, local authorities, port authorities) and how they will be coordinated.

Emergency planning is a matter for local authorities. It is a legal requirement that the owner of a “Seveso II” site must prepare an emergency plan which must be approved by the Health and Safety Authority. In addition, as the public body responsible for emergency planning, local authorities are required to prepare emergency plans in respect of each “Seveso II” site. Therefore, no records relating to your enquiry are held by this Department.

All information on alternative sites for an LNG storage facility or alternative LNG developments.

No records are held by the Department relating to alternative sites in the State for LNG storage facilities or alternative LNG developments.

All information on contacts your department has had with possible developers of LNG storage facilities in Ireland.

The Department is aware of a proposal relating to the planned development by Shannon LNG Ltd of a merchant Liquefied Natural Gas (LNG) storage facility at a site located in the Shannon Estuary. In this regard a copy of the Non-Technical Summary of the EIS prepared on behalf of the promoter as part of an application for planning permission is held by the Department. I have made a decision not to provide this document on the grounds that the information is already in the public domain as part of the planning process. The decision to refuse your request has been made under Regulation 7(3)(a) of the Regulations. A copy of a brochure published by Shannon LNG in May 2006 is provided herewith.

There are no other records in the Department of contacts between this Department

and Shannon LNG in regard to the project. Neither are there any records of contacts between this Department and other developers proposing to develop LNG storage facilities in Ireland.

All information on the All-Island Gas Storage Consultancy Study completed before Christmas

In early 2007, the then Department of Communications, Marine and Natural Resources (DCMNR) and the Department of Enterprise, Trade and Investment for Northern Ireland (DETINI) commissioned a joint study on a common approach on natural gas storage and liquefied natural gas (LNG) on an All-Island basis. This study stems from the strategic objectives set down in the All-Island Energy Market Development Framework, which identified the need for a common approach on natural gas storage and LNG.

The objective of the study was to assess the medium to long-term position with regard to security of natural gas supply on an all-island basis, to consider the scope for a common approach on natural gas storage and LNG with a view to optimising that position, and to make recommendations accordingly. Critical aspects of the study centre on security of supply and our heavy reliance on gas imports via undersea pipeline from the UK. The results of the study are currently under consideration in both Departments and the recommendations contained in the study, including North/South implications, will inform further initiatives and policy decisions as regards strategic storage.

Having considered your request, I have decided that:

given the nature of the report as a joint initiative by this Department and its Northern Ireland counterpart,
the type of information contained therein (including, but not limited to security of national gas supply and information about interconnection with the UK),
and
the consultation process involved, which included commercially sensitive information provided by commercial entities in strictest confidence,

- the public interest would not be served by disclosure of the document as per your request. Your request to make the record available is refused under Regulations 8(a)(ii) and 9(1)(a) and (c) of the Regulations.

All information on submissions to the All-Island Gas Storage Study completed as per the Government Energy Framework White Paper

As the study was carried out by independent consultants commissioned by DETINI and DCMNR, no submissions were requested by the Department, nor were any such documents received by it. Any and all consultations carried out by the consultants for the project had due regard to the need to ensure that issues of a

commercially sensitive nature would be protected at all times.

All information on when and how Government policy on LNG storage facilities will be decided

Currently over 90% of Ireland's energy needs are provided for by imports. In order to ensure the security of our energy supply, the Government's objective is to reduce our reliance on imports and to significantly enhance diversity of energy sources.

The Government White Paper *Delivering a Sustainable Energy Future for Ireland*, published in March 2007, sets out the energy policy framework over the period 2007–2020. A copy of the document is attached. The Framework Document states that Government's overriding policy objective is to ensure that energy is consistently available at competitive prices with minimal risk of supply disruption. One of the underpinning strategic goals identified in the document is to ensure the physical security and reliability of gas supplies to Ireland. With the decline of the Kinsale gas field and, pending the full development of the Corrib field, Ireland now imports over 90% of our natural gas from the UK.

The Energy Policy White Paper underlines the need to develop longer term strategies to reduce over-reliance on gas imports from the UK. Key actions set out in the White Paper include long term strategic planning by the Commission for Energy Regulation (CER) in relation to security of gas supply and working within the European Union to deliver fully integrated regional gas markets for Northern Europe and diversification of supply. The Framework Document commits to Government continuing to actively encourage private sector interest in investing in gas storage and LNG and to review the potential role for Government intervention in the event of market failure in the light of the findings of the all-island storage study. The document also commits to the putting in place of an all-island strategy for gas storage and LNG facilities in light of the outcome of the findings of the Study referred to under 6. above. However, as outlined under 6. above, this is at an early stage.

With regard to your request to submit views on alternative storage facilities, the Department would be happy to receive any views you may have with regard to new or alternative technologies. You may also decide to raise this matter in the context of the planning process for the Shannon project.

Should you be dissatisfied with the outcome of your request under the Regulations you may appeal this decision by writing to the Principal Officer, Electricity and Gas Regulation Division, 29 – 31 Adelaide Road, Dublin 2 seeking internal review of the matter. Please refer to this decision in your letter. You should make your appeal within one month from the date of receipt of this notification, however, the making of a late appeal may be permitted in exceptional circumstances. Any appeal lodged will involve a complete reconsideration of the matter by a member of the staff of this Department unconnected with the original decision, and the decision will be communicated to you within one month from receipt of the request for the internal review.

Yours sincerely

Bernie Comey
Electricity and Gas Regulation Division
Department of Communications, Energy and Natural Resources
29 – 31 Adelaide Road
Dublin 2

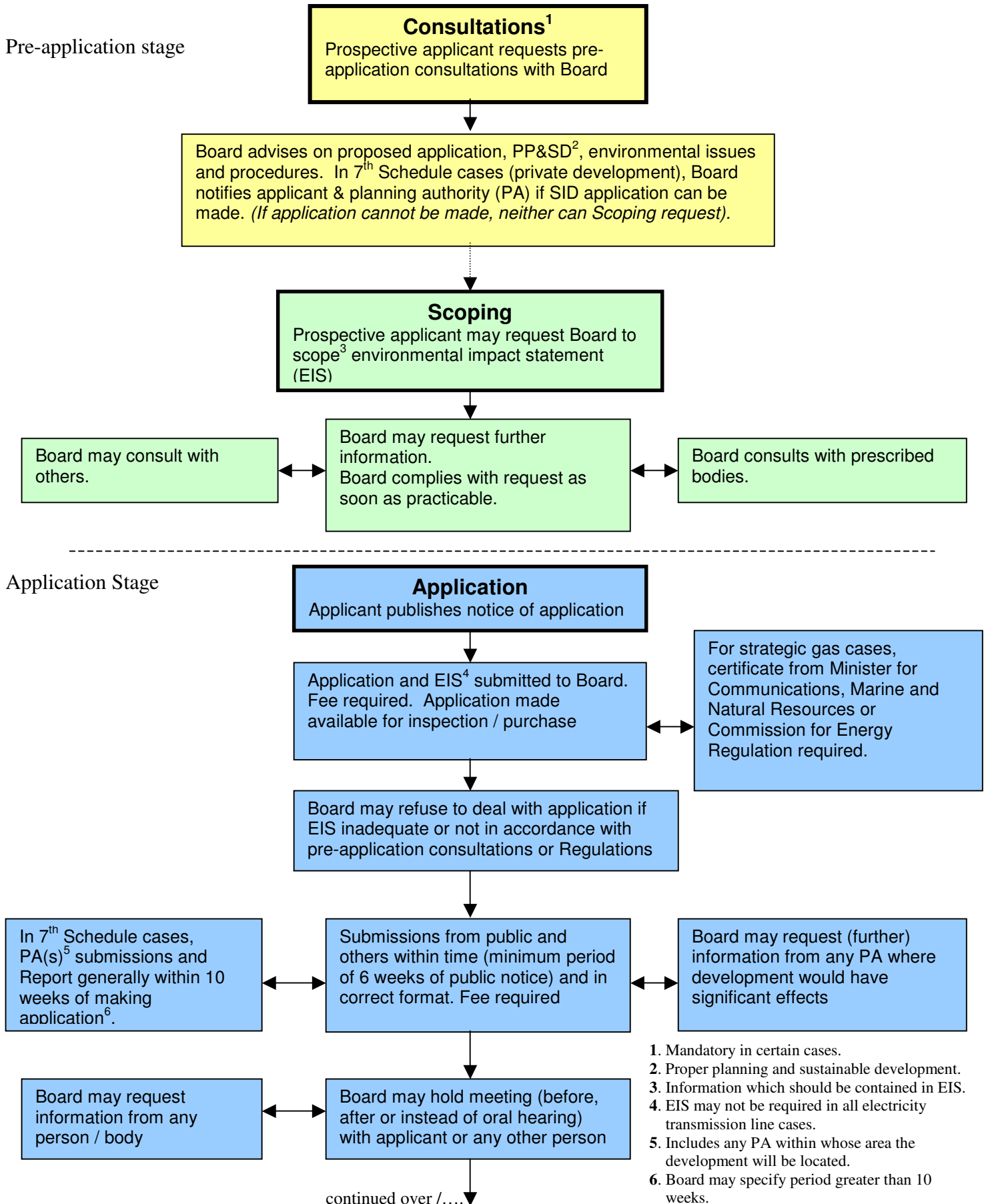
Appendix Petition 12

Strategic Infrastructure Development (SID)
Flowchart by An Bord Pleanála

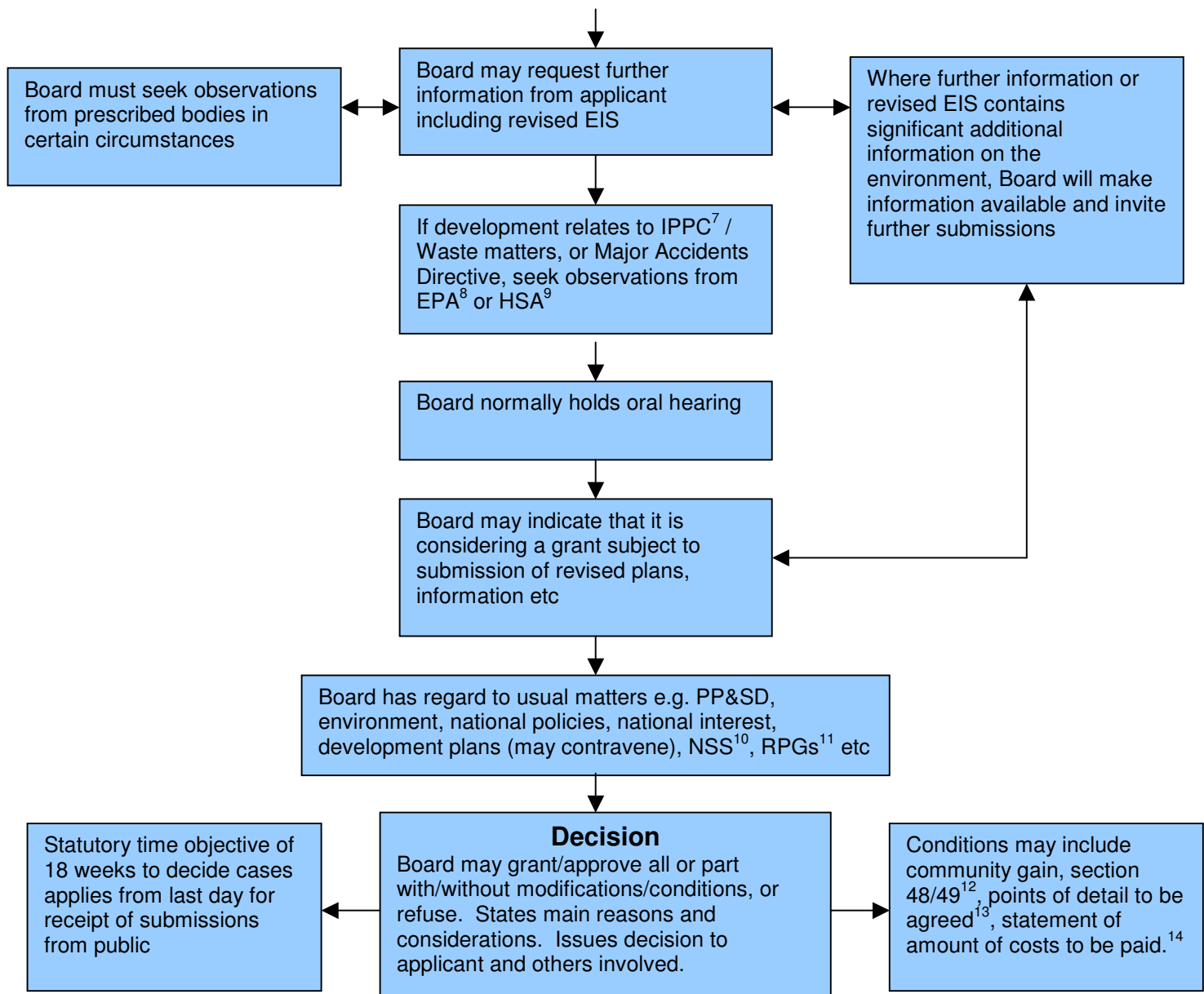
Strategic Infrastructure Development (SID)

Flowchart

(This flowchart gives a general indication of the stages involved in SID cases. However, procedures can vary depending on the particular type of SID involved)

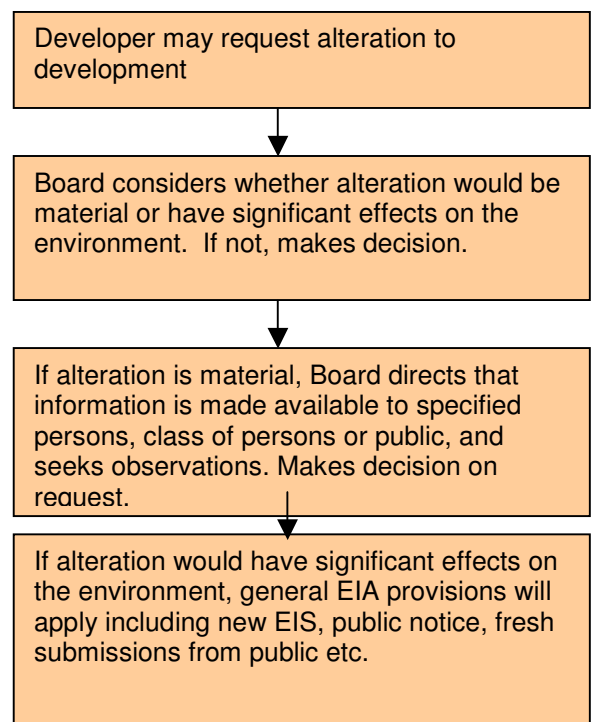


1. Mandatory in certain cases.
2. Proper planning and sustainable development.
3. Information which should be contained in EIS.
4. EIS may not be required in all electricity transmission line cases.
5. Includes any PA within whose area the development will be located.
6. Board may specify period greater than 10 weeks.



Post-decision stage

Board may amend decision to correct clerical error or to clarify what it intended to convey. May invite submissions from relevant persons. Change may not result in material alteration to development as permitted /approved.



7. Integrated pollution prevention and control.

8. Environmental Protection Agency.

9. Health and Safety Authority.

10. National Spatial Strategy.

11. Regional Planning Guidelines

12. Section 48/49 financial contribution conditions.

13. Only applies to 7th Schedule cases.

14. Must issue with 7th Schedule decision. In other cases, where it applies, it may issue at a later date.

6th March 2007.

Appendix Petition 13

THE SUPREME COURT

Murray C.J. 531 & 535/04

Denham J.

Geoghegan J.

Between

ERIC MARTIN

Applicant / Appellant

-v-

An Bord Pleanála, IRELAND

AND THE ATTORNEY GENERAL

RespondentS

AND

INDAVeR ireland LIMITED

NOTICE PARTy

JUDGMENT of Murray C.J. delivered on the 10th day of May, 2007

<http://www.supremecourt.ie/Judgments.nsf/1b0757edc371032e802572ea0061450e/dd911d2c4ba125d7802572d7003568af?OpenDocument>

Judgments Of the Supreme Court

Judgment Title: Martin -v- An Bord Pleanála & ors

Neutral Citation: [2007] IESC 23

Supreme Court Record Number: 531& 535/04

High Court Record Number: 2003 274 JR

Date of Delivery: 10/05/2007

Court: Supreme Court

Composition of Court: Murray C.J., Denham J., Geoghegan J.

Judgment by: Murray C.J.

Status of Judgment: Approved

- 37 -

THE SUPREME COURT
Murray C.J. 531 & 535/04
Denham J.
Geoghegan J.

Between
ERIC MARTIN

Applicant / Appellant

-v-

An Bord Pleanála, IRELAND
AND THE ATTORNEY GENERAL

RespondentS

AND
INDAVeR ireland LIMITED

NOTICE PARTY

JUDGMENT of Murray C.J. delivered on the 10th day of May, 2007

This is an appeal from an Order of the High Court of Smyth J. in which he

refused the relief sought by the appellant which in essence sought to challenge the decision taken by the first named respondent, hereinafter "*the Board*", on 3rd March, 2003, granting planning permission to the first named notice party, hereinafter "*Indaver*", for the development of a waste management and incinerator facility in Duleek, Co. Meath. As the appellant stated in his submissions, he seeks to challenge the lawfulness of the decision of the Board on a number of grounds including that the national legislative provisions on foot of which the decision to grant planning permission was made were incompatible with the obligations imposed on the State by Council Directive 85/337/EEC of 27th June, 1985, on the assessment of the effect of certain public and private projects on the environment as amended by Directive 97/11/EC of 3rd March, 1997, (hereinafter collectively referred to as "*the Directive*"). Having dismissed the appellant's application the learned High Court Judge certified a question of law for the purposes of an appeal to this Court. I refer to the nature and terms of the question later.

Background facts

The essential facts of the case are not in dispute. The development which Indaver intend to carry out consists of an incinerator waste management facility and associated development. The proposed development is to be carried out on a 25 acre site. The learned High Court Judge described the development as intended to consist of a range of structures which include a main processing building of 13,480 square metres incorporating a waster reception hall, waste sorting plant, bunker, operation / turbine buildings, boiler, grate furnace, ash bunker, demineralisation unit, boiler feed pumps, flu gas treatment building, solidification unit, Air Conditioning unit, turbine cooler and a 40 metre high stack. In addition it is proposed to have a number of ancillary structures – a pump house building of 200 square metres, recycling and water treatment. The facility will also include a process to recover energy from the waste in the form of steam and electricity, the latter for export to the national electricity grid.

In order to proceed with the construction and operation of the waste management facility Indaver are required by national law to obtain planning permission for the development, in the first instance from the local planning authority and in the event of an appeal, which there was in this case, from the Board. Secondly, it is required to obtain a Waste Licence from the Environmental Protection Agency pursuant to the provisions of the Waste Management Act 1996.

Without both the planning permission and the waste licence it cannot

proceed with the development.

Planning permission was granted to Indaver by the local planning authority and the grant of this permission was appealed to the Board by a number of third parties who objected to the proposed development. Indaver also lodged an appeal seeking the removal or modification of a condition in respect of the source or origin of the waste to be disposed of.

When the application came before the Board on appeal the Board had the function of examining the application for permission *de novo*. For this purpose it was also under a duty to carry out an Environmental Impact Assessment. As part of the appeal process an oral hearing was conducted over four consecutive days.

On 27th February 2003, the Board decided to grant permission subject to an extensive range of conditions which included limitations on the origin and volume of waste, the establishment of a community liaison committee, archaeological appraisal, traffic management, water supply and drainage arrangements, noise abatement and monitoring during construction, the prevention of ground water and surface water pollution and a range of other conditions.

It is common case that the development or project in question is of such a nature as to require that an Environmental Impact Assessment (hereafter referred to as “EIA”) be carried out prior to any consent being given to the project to proceed as required by the Directive. Accordingly national legislation must provide for the carrying out of the appropriate EIA.

The obligation to carry out an EIA in a project of the nature involved in this case derives principally from Article 4 paragraph 1 of the Directive which provides that projects listed in Annex I of the Directive should be made subject to an assessment in accordance with Articles 5 to 10. Again, it is common case, that the project in question here falls within Annex I. The statutory and regulatory measures implementing the Directives in national law have been described by Fennelly J. as a “*statutory maze*” (*O’Connell –v- The Environmental Protection Agency & Ors* [2003] 1 I.R. 530 at 533) but hopefully, because of the net issues which have been raised in this appeal and the common position taken by the parties on certain questions, it will not be necessary to pass through that maze and refer to all the relevant provisions.

The Planning Process

In this case the Board did carry out an EIA before it granted planning permission subject to certain conditions. This is consistent with Article 2(1) of the Directive which requires “*Member States shall adopt all*

measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment ... are made subject to a requirement for development consent and an assessment with regard to their effects”.

As the appellant has acknowledged, s. 26(5)(d) of the Local Government (Planning and Development) Act 1963, consistent with the obligations imposed by the Directive, requires the Board, when determining an application on appeal in respect of which an Environmental Impact Statement was submitted by the appellant, to have regard to that statement and to other information relating to the effects of the development on the environment.

An Environment Impact Statement (hereafter referred to as “*EIS*”) is a statement which a developer may be required to submit to a relevant authority so as to provide them with specified information concerning the potential impact of the developer’s project on the environment. An EIS is taken into account when the relevant authority is carrying out an EIA. The Directive does not, of course, use the term EIS. It is the term used in national legislation to denote a statement containing the information which a developer may be required to provide as provided for in Articles 5-10 of the Directive.

In this case no issue is taken with the substance of the EIA made by the Board within the ambit of its statutory competence. Moreover, it is clear, as the learned High Court Judge found, that the EIA conducted by the Board included an assessment of matters which could affect environmental pollution arising from the construction of the relevant plant.

This means in effect that there is no issue concerning the fact that the Board, for the purpose of deciding the planning application for the construction of the facility, carried out an EIA in accordance with its statutory obligations.

However the scope of the EIA carried out by the Board was limited in one particular respect. That limitation is the genesis of the appellant’s case.

The Board in carrying out an EIA for the purpose of the planning application was precluded from considering any matters relating to “*the risk of environmental pollution from the activity*”, that is to say the activity arising from the operation of the waste management facility once it had been constructed. The underlying rationale for such a limitation on the functions of the Board is that as regards developments or projects which are required to obtain a waste licence from the Environmental Protection Agency (hereafter the “*EPA*”) the risk of “*environmental pollution from*

the activity” is a matter to be assessed by that Agency when deciding whether to grant such a licence. This division of responsibility for environmental assessment has, as its purpose, the avoiding of duplication of functions by the Board and the EPA in the case of such development or project. It means that in such a case the Board carries out an EIA for the purpose of the construction element of the project and the EPA carries out an EIA in respect of the activity that will be carried out in the operation of the plant to be constructed.

That limitation on the functions of the Board arose by virtue of the fact that the development in question is one for which a waste licence from the EPA pursuant to the provisions of the Waste Management Act 1996 is required.

Section 54(3) provides as follows:

“Notwithstanding section 26 of the Act of 1963 or any other provision of the Local Government (Planning and Development) Acts, 1963 to 1993, where a waste licence has been granted or is or will be required in relation to an activity, a planning authority or An Bord Pleanála shall not, in respect of any development comprising or for the purposes of the activity—

- (a) decide to refuse a permission or an approval under Part IV of the Act of 1963 for the reason that the development would cause environmental pollution, or*
- (b) decide to grant such permission subject to conditions which are for the purposes of prevention, limitation, elimination, abatement or reduction of environmental pollution from the activity,*

and accordingly—

- (i) a planning authority in dealing with an application for a permission or for an approval for any such development shall not consider any matters relating to the risk of environmental pollution from the activity;*
- (ii) An Bord Pleanála shall not consider any appeal made to it*

against a decision of a planning authority in respect of such an application, or any submissions or observations made to it in relation to any such appeal, so far as the appeal, or the submissions or observations, as the case may be, relates or relate to the risk of environmental pollution from the activity.”

Section 98 of the Environment Protection Agency Act 1992 and s. 26(5)(dd) of the Local Government (Planning and Development) Act 1963, as amended, contain provisions in essentially the same terms for developments which require a licence pursuant to the provisions of the Act of 1992. The parties in their submissions were at times at cross purposes as to which of the foregoing sections excluded environmental pollution arising from the activity from the remit of the Board, but nothing turns on this. In any case it is clear that what is required by the developer is a waste management licence and that the relevant provision is s. 54(3) of the Act of 1996. As can be seen, that section imposes restrictions on the Board’s function in carrying out an EIA similar to the other provisions referred to.

I think it would be as well to point out here that “*environmental pollution*” in this context has a specific statutory meaning and is defined in s. 5(1) in the Waste Management Act 1996 as meaning:

“‘environmental pollution’ means in relation to waste, the holding, transport, recovery or disposal of waste in a manner which would, to a significant extent, endanger human health or harm the environment, and in particular –

(a) create a risk to waters, the atmosphere, land, soil, plants or animals,

(b) create a nuisance through noise, odours or litter, or

(c) adversely affect the countryside or places of special interest;”

The statutory process before the EPA

The planning process before the Board is complete the Board having made its decision and granted planning permission to Indaver subject to a whole range of conditions. It is also important to emphasise again that no issue arises concerning the manner in which the Board carried out the EIA in conformity with national legislation which was also

consistent with the Directive save the one matter put in issue by the appellant namely the exclusion of the risk of environmental pollution from the licensable activity from its remit.

The Environmental Protection Agency was established with a view to making further and better provision for the protection of the environment and the control of pollution as it is put in the long title to the Environmental Protection Agency Act 1992. This was the Act which established the Agency. The functions of the Agency, as specified in s. 52 of that Act, include the licensing regulation or control of activities for the purpose of environmental protection. The Waste Management Act 1996 confers on the EPA, *inter alia*, the function of deciding whether to grant a waste licence.

It is also the Agency which is charged with the monitoring of the quality of the environment. Further or additional functions in connection with the protection of the environment and in particular the control of pollution may be attributed to the Agency by way of statutory regulations. It also has a role in preparing guidelines for the Minister for the Environment on the information to be contained in Environmental Impact Statements in respect of certain specified developments (i.e. developments to which s. 72(1) of the Act of 1992 apply).

No evidence has been adduced by either party as to the process, in this case, before the EPA insofar as it has occurred, concerning an application for a waste licence. Indeed the appellant criticised the respondents for failing to bring any information before the Court concerning the status and nature of the process. However it seems to me that insofar as evidence relating to the process which actually has or will take place before the EPA with regard to the question of a waste licence is relevant and relied upon by the appellant, the onus is on the appellant to bring forward such evidence.

As regards the statutory functions of the EPA in relation to the grant or refusal of a waste licence it seems to me sufficient for present purposes to note that s. 39(1) of the Waste Management Act 1996 prohibits any person from operating a waste facility such as that envisaged in the plans of Indaver save under and in accordance with a licence, a “*waste licence*”, from the EPA, that is in force in relation to the carrying on of that activity.

The grant of a waste licence is governed, *inter alia*, by s. 40 of the Act of 1996. Subsection 2 of s. 40 imposes on the Agency, the EPA, certain

obligations when considering an application for a waste licence.

Subsection 2 of s. 40 provides as follows:

“ (2) Subject to subsection (5), in considering an application for a waste licence or in reviewing, pursuant to this Part, a waste licence, the Agency shall—

(a) carry out or cause to be carried out such investigations as it deems necessary or as may otherwise be prescribed for the purposes of such consideration or review,

(b) have regard to—

(i) any relevant air quality management plan under section 46 of the Act of 1987, or water quality management plan under [section 15](#) of the [Local Government \(Water Pollution\) Act, 1977](#), or waste management plan or hazardous waste management plan under Part II,

(ii) (I) any environmental impact statement in respect of proposed development comprising or for the purposes of the waste activity concerned, which is submitted to the Agency under and in accordance with a requirement of, or made pursuant to, regulations under section 45.

(II) any submissions or observations made to the Agency in relation to the environmental impact statement,

(III) such supplementary information (if any) relating to such statement as may have been furnished to the Agency by the applicant or licence holder under and in accordance with a requirement of, or made pursuant

*to, regulations under section 45,
(IV) where appropriate, the views
of other Member States of the
European Communities in relation
to the effects on the environment of
the proposed activity,
(iii) such other matters related to
the prevention, limitation,
elimination, abatement or
reduction of environmental
pollution from the activity
concerned as it considers
necessary, and
(iv) such other matters as may be
prescribed.”*

*(3)(a) For the purpose of subsection (2) (b)
(ii), the Agency shall, other than in the case
of an environmental impact statement in
respect of development proposed to be
carried out by or on behalf of a local
authority within the functional area of the
authority, have regard to the matters
mentioned in the environmental impact
statement and any submissions, observations
or supplementary information relating to
such statement made or furnished to the
Agency under and in accordance with a
requirement of, or made pursuant to,
regulations under section 45, only in so far
as they relate to the risk of environmental
pollution from the activity in question.*

*(b) The reference in this subsection to a
local authority's functional area is a
reference to its functional area in its
capacity as a planning authority.*

*(4) The Agency shall not grant a waste licence unless it is
satisfied that—*

*(a) any emissions from the recovery or disposal
activity in question (“the activity concerned”)*

will not result in the contravention of any relevant standard, including any standard for an environmental medium, or any relevant emission limit value, prescribed under any other enactment,

(b) the activity concerned, carried on in accordance with such conditions as may be attached to the licence, will not cause environmental pollution,

(c) the best available technology not entailing excessive costs will be used to prevent or eliminate or, where that is not practicable, to limit, abate or reduce an emission from the activity concerned,

(d) if the applicant is not a local authority, the corporation of a borough that is not a county borough, or the council of an urban district, subject to subsection (8), he or she is a fit and proper person to hold a waste licence,

(e) the applicant has complied with any requirements under section 53.

It should also be noted that according to s. 2 of the Act of 1996 the purpose for which it was enacted include the purpose of giving effect to certain Community Acts specified in that section and these include Council Directive 85/337/EEC of 27th June, 1985. Therefore there cannot be any doubt but that the EPA in exercising its functions concerning the grant of a waste licence is exercising statutory functions for the purpose of giving effect to the Directive.

It is equally clear from subsection 2(b) above and Article 13 of the Waste Management (Licensing) Regulations 1997 (S.I. No. 133 of 1997) (as amended) that the applicant for a waste license is required to provide the EPA with an EIS and that the EPA is required to carry out an EIA in relation to the application for the license including the risk of “*environmental pollution from the activity*”. Moreover, by virtue of Article 32 of the Local Government (Planning and Development) Regulations 1994 (S.I. No. 86 of 1994) a planning authority is required to notify the EPA of a planning application where the development comprises or is for the purpose of an activity in relation to which a waste licence is required. The notification to the EPA must include a

copy of an EIS. In a case in which the EPA has been notified of a planning application pursuant to Article 30 the planning authority must notify the EPA of its decision on the application within three working days of the decision.

The issues

As the appellant emphasised in the course of this appeal, the issues raised derive from the extent to which this division of responsibility between the Board and the EPA adequately gives effect to the requirements of the Directive and if not, whether the permission granted by the Board should be declared to be an invalid permission. Also in the appellant's view an effect of this statutory division of responsibility is that it is impossible to ensure that an 'integrated EIA', as required by the Directive, is properly carried out. On the other hand the position of the respondents is that since the EPA also carries out an EIA, the combination of the assessment conducted by the Board and by the EPA together constitutes a valid integrated assessment in conformity with the Directive.

I have summarised in very broad terms the position of the parties before setting out the specific points of law which have been raised in the appeal, which I do below, in order to highlight at this stage that it is the involvement of two agencies in the consent or permission process for the development to proceed and the so-called division of responsibilities between them with regard to the making of an EIA which is fundamental to those issues.

The specific issues

This appeal is founded on a certificate granted by the learned High Court Judge in which he certified that the decision in the case involved a point of law of exceptional public importance and that it is desirable in the public interest that an appeal should be taken to this Court on that point of law.

The point of law certified by the learned High Court Judge was stated in the following terms:

"Has the State in and through the statutes and regulations transposed into Irish law European Directive 85/337/EEC and 97/11/EC."

The point of law as certified by the learned High Court Judge is in general and abstract terms without any reference to the actual issues between the parties in this case. Taken at its face value it could involve a roving examination of the entire spectrum of national legislation in

relation to all the provisions of the Directive which in turn could involve the Court in examining questions that were hypothetical or outside the ambit of the proceedings in the High Court. This is of course something which this Court, as a Court of final appeal and not of first instance, cannot do and which the relevant statutory section providing for a certificate clearly does not contemplate it should do. More importantly, it clearly was not the intention of the learned High Court Judge that this Court should be asked to engage in such a hypothetical and roving exercise. For this reason it is desirable that points of law certified by the High Court for the purpose of an appeal of this nature should specify the particular point or points of law in issue. Undoubtedly any point of law so certified will fall to be interpreted in the light of the judgment of the High Court on the issues and the parties' submissions with regard to same. For the purpose of the present appeal it is possible, in that context, to identify the questions of law in issue and indeed the appellants, in their submissions, have identified three points of law which the High Court certificate was intended to cover, concerning the application of the Directive and validity of the decision of the Board. The three legal issues relevant to this appeal were set out in the submissions of the appellant in the following terms:

“ (a) Does a grant of planning permission constitute “development consent” within the meaning of the Directive?

(The appellant contends that the planning permission constitutes the development consent for the purposes of the Directive. This was denied by the State respondents, who contend that the development consent comprises the carrying out of an EIA by the Board and, in a case such as this where a waste licence is required, the assessment which the State contends the EPA would carry out.)

(b) If the development consent comprises the EIA conducted by the Board and the alleged assessment conducted or to be conducted by the EPA (the appellant does not accept that the EPA necessarily does in fact conduct such an assessment) is the assessment conducted “at the earliest possible stage in the decision-making process” as the Directive requires?

(c) If the assessment required by the Directive to be conducted comprises the EIA undertaken by the Board and the EIA allegedly

undertaken or to be undertaken by the EPA, does this structure satisfy the Directive requirement for an integrated assessment?”

“Development Consent”

In substance the first issue is whether the decision of An Bord Pleanála dated 3rd March, 2003, granting planning permission to Indaver must be considered as the only decision which is a “*development consent*” within the meaning of the Directive to the exclusion of any role subsequently played by the EPA in deciding whether it should grant a waste licence for the operation of the plant in question.

If the appellants are correct in their contention then they must succeed on this point of appeal because it is common case that however extensive the functions of the Board may be in assessing the environmental impact of the project they do not extend to assessing the risk of environmental pollution arising from the activity which is comprised in the factors referred to in Article 3 of the Directive. That is a matter for the EPA.

A “*development consent*” means, according to Article 1 of the Directive:

“The decision of the competent authority or authorities which entitles the developer to proceed with the project”.

The appellant accepts that a development consent within the meaning of the Directive is capable of comprising the decision of more than one competent authority, as Article 1 makes clear. That creates a difficulty, to say the least, for his proposition that the decision of the Board alone constitutes the development consent.

However, the appellant contends that the decision of the Board to grant planning permission clearly entitles the developer to “*proceed with the project*” insofar as the planning permission entitled the developer to construct the plant. Admittedly, he says, the planning permission does not authorise the developer to operate the plant. It cannot carry out any of the intended activity in the plant until it obtains a licence from the EPA. It does mean, nonetheless, that the developer can “*proceed*” and construct the plant even if it is on the basis that it will never function unless it gets a waste licence.

It was also submitted that since it is the planning permission which permits the developer to proceed with the project, even if it is only as to construction, the planning permission must be deemed to be the one and only development consent within the meaning of the Directive and any subsequent decision of the EPA to grant a license which would

permit the constructed plant to operate cannot be considered to be a development consent in conjunction with the decision of An Bord Pleanála.

As already mentioned, Article 1.2 makes it manifestly clear that the development consent may consist of decisions of two or more authorities which are competent to carry out the procedures required by the Directive in relation to EIA.

As Article 1 also makes clear a “*development consent*” is one which permits a developer to proceed with the project, not simply part of the project. Article 1.2 defines project as meaning:

“ - *the execution of construction works or of other installations or schemes,*
- *other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources:*”

It is common case that for certain projects the need for an EIA is left to the discretion of the competent authority and that need may be determined through a case by case examination or thresholds or criteria set by the Member State. It is also the case that certain projects, being those listed in Annex I of the Directive, must always be the subject of an EIA (see Article 4 of the Directive).

The proposed development of Indaver is governed by the mandatory requirements of the Directive as regards an EIA since it is a waste disposal installation and “*waste disposal installations*” are expressly referred to in Annex I. It is the fact that it involves the disposal of waste in its operation that makes the proposed development a project within Annex I.

I cannot find any rational basis for separating the development scheme in question into two projects consisting of the construction and its operation. As noted above the fact that it is an installation which will engage in the activity of waste disposal is a key element which defines the ‘project’.

In order to proceed with the development both planning permission and a waste licence are required from the Board and the EPA respectively. Both are required to carry out an EIA having regard to the comprehensive EIS lodged by the developer. As pointed out above Council Directive 85/337/EEC of 27th June, 1985, is expressly cited in s. 2 of the Waste Management Act 1996 as one of the Community Acts to which the Act is intended to give effect and it is clear that in addition

to the Board the EPA is a competent authority for the purpose of the Directive.

It is also interesting to note that Article 5 of the Directive provides that in projects which must, like the one in this case, be subject to an EIA by virtue of Article 4, Member States shall ensure that the developer supplies certain information concerning the project, that is to say information specified in Annex IV of the Directive. The information which a developer is required to provide pursuant to Annex IV, and which is intended to facilitate the EIA by the competent authorities, does not distinguish between the construction phase of a project and its activity. Moreover Article 5 also provides that Member States shall ensure that, if the developer so requests the competent authority shall give an opinion on the information to be supplied by it in accordance with the foregoing requirement. It goes on to say that “*Member States may require the competent authorities to give such an opinion irrespective of whether the developer so requests*”. That provision, entirely consistent with the other provisions of the Directive, having clearly envisaged that an EIA may be carried out by more than one authority in respect of the same project, provides that in such a case each of the authorities may be required to provide an opinion to the developer on the information to be supplied by it.

Thus, the provisions of Article 5 further underline the fact that any EIA may be carried out by more than one competent authority in relation to one particular project and that the decisions of those authorities may comprise the development consent.

It seems to me wholly artificial and unreal to seek to divide the development in this case into two, as the appellant seeks to do, thus requiring two development consents. To regard it as two projects would do violence to ordinary language. It is manifestly clear that the project in this case is for a “*waste installation*”. Its consent to proceed depends on planning permission in the first instance and a waste licence in the second instance. In the circumstances I think it would be absurd to consider that planning permission on its own constitutes “*development consent*”.

In these circumstances it seems to me that the “*development consent*” in the circumstances of this case must be considered to comprise the decision of An Bord Pleanála and the decision of the Agency (assuming that a license is granted). Accordingly, this ground of appeal is not well founded. By way of addendum to my conclusion on this issue I refer to

my observations later in this judgment on the English case of *R. –v- Secretary of State for the Environment & Ors, ex p. Greenpeace Ltd & Anor* [1994] 4 All E.R. 352. That case is relied on by the appellant in addressing the second issue but in fact contradicts his position on this issue.

“Earliest possible stage”

On the second issue calling in question the decision of the Board, the applicants have argued that the EIA required under the Directive must be carried out at the earliest possible stage in the decision-making process. In the context of the present case it was contended that a comprehensive EIA which included the risks of environmental pollution from the activity should have been done by the Board before it made its decision.

For this proposition the appellant relied primarily on two legal precedents the first of which is the decision of the Court of Justice in *Wells –v- Secretary of State for Transport, Local Government and the Regions* (case C-201/202) [2004] E.C.R. I - 00723 and an English case entitled *R. –v- Secretary of State for the Environment, ex p Greenpeace Ltd* [1994] 4 All E.R. 352.

With regard to the *Wells* case counsel for the applicant relied on the following passage in the decision of the Court of Justice commencing at para. 50:

“As provided in Article 2(1) of Directive 85/337, the environmental impact assessment must be carried out “before consent is given”.

According to the first recital in the preamble to the directive, the competent authority is to take account of the environmental effects of the project in question “at the earliest possible stage” in the decision-making process. Accordingly, where national law provides that the consent procedure is to be carried out in several stages, one involving a principal decision and the other involving an implementing decision which cannot extend beyond the parameters set by the principal decision, the effects which the project may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision. It is only if those effects are not identifiable until the time of the procedure relating to the implementing decision that the assessment should be carried

out in the course of that procedure ...

In a consent procedure comprising several stages, [the assessment of the environmental effects] must, in principle, be carried out as soon as it is possible to identify and assess all the effects which the project may have on the environment.”

On the basis of the foregoing it was submitted that the planning application was the earliest possible stage in the decision-making process for the project in issue in this case and therefore the point at which a comprehensive EIA should have been carried out. Accordingly the process adopted by the Board pursuant to national legislation was in contravention of the requirements of the Directive since its consideration of the risks of environmental pollution extended to those arising from the construction phase only and not from the activity. In the *Wells* case the Court of Justice was essentially concerned with the provisions of s. 22 of a United Kingdom Act, The Planning and Compensation Act 1991, which laid down a special set of rules permitting the resumption of mining operations in respect of old mining permissions which had been granted in 1946.

At para. 14 of its decision the Court of Justice explained:

“Section 22(3) of the Planning and Compensation Act 1991 provides that if no development has, at any time in the period of two years ending on 1 May 1991, been carried out to any substantial extent, operations may not resume until ‘the conditions to which the [old mining] permission is to be subject’ have been determined and registered in accordance with section 22(2). On the other hand, if no application for registration is made before 25 March 1992, the old mining permission will cease to have effect (section 22(4) of the Act and paragraph 1(3) of Schedule 2 thereto).”

At para. 19 the Court of Justice stated:

“Under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988, mining permissions granted pursuant to the Town and Country Planning Act 1990 are subject to environmental impact assessment in accordance with Directive 85/337. The regime prescribed in section 22 of the Planning and Compensation Act 1991 for old mining permissions was not, on the other hand, considered to be subject to such an environmental

impact assessment procedure.”

The essential question with which the Court was concerned with here was whether a decision pursuant to the United Kingdom Act of 1991 determining new conditions or approving certain matters reserved by the new conditions, which allowed mining operations to recommence, constituted development consent within the meaning of Article 1(2) of Directive 85/337 and thus that an EIA must be carried out.

I do not consider it necessary to go into the details of the rules or process under which these decisions were taken pursuant to the United Kingdom Act of 1991. Suffice it to say that the Court of Justice decided, contrary to the submission of the United Kingdom government, that “*decisions such as the decision determining new conditions and the decision approving matters reserved by the new conditions for the working of [the quarry in question] must be considered to constitute as a whole, a new ‘consent’ within the meaning of Article 2(1) of Directive 85/337.*” (Paragraph 47).

Therefore it rejected the submission that no EIA was required for such decisions.

Having so decided the Court of Justice, for the purpose of giving a complete answer to the national court in that context, then went on to consider the time at which an EIA should be carried out. In doing so it stated as follows:

“ 50. As provided in Article 2(1) of Directive 85/337, the environmental impact assessment must be carried out ‘before consent is given’.

51. According to the first recital in the preamble to the directive, the competent authority is to take account of the environmental effects of the project in question ‘at the earliest possible stage’ in the decision-making process.

52. Accordingly, where national law provides that the consent procedure is to be carried out in several stages, one involving a principal decision and the other involving an implementing decision which cannot extend beyond the parameters set by the principal decision, the effects which the project may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision. It is only if those effects are not identifiable until the time of the procedure relating to the implementing decision that the assessment should be carried

out in the course of that procedure.” (Emphasis Added)

It was in that context that the Court of Justice went on in the next paragraph to state:

“In a consent procedure comprising several stages, that assessment must, in principle, be carried out as soon as it is possible to identify and assess all the effects which the project may have on the environment.”

In short, the *Wells* case was concerned with a particular UK statutory scheme governing the revival of old mining permissions the consent procedure for which involved “*a principal decision*” and “*an implementing decision*” which could not extend beyond the parameter of the former. These were characteristics of the English law in question and the question fell to be addressed where no environmental impact examination had taken place at any point.

The situation in this case is quite different.

The process which arises under Irish law in the context of this case does not in any sense involve “*a principal decision*” followed by “*an implementing decision which cannot extend beyond the parameters set by the principal decision*”. As a matter of Irish law the decision of An Bord Pleanála could not be characterised as a “*principal decision*” in the sense of the *Wells* decision nor any decision of the EPA on a license an “*implementing decision*”. On the contrary a refusal to grant a license by the EPA would mean there was no consent to the project and it would not proceed. Alternatively, the EPA could impose conditions which reduced substantially the scope or size of the project allowed to proceed. I would also note, as the respondents have pointed out, in any given case concerning a project of this nature a waste licence could be granted before a planning application is decided.

Both decisions, that of the Board and any decision of the EPA, are substantive distinct decisions neither of which determine the other. Accordingly the passage from the *Wells* decision relied upon by the appellant is not applicable to the consent process under Irish law. That is of course not to say for a moment that national legislation should not be interpreted in the light of the provision in the Directive referring to the environmental effects of projects being taken into account, as it is put, at the earliest possible stage and that the EIA must be carried out before development consent is granted. Before I give specific consideration to those provisions I propose to address the other case relied upon by the appellant.

As already indicated that is the case of *R. –v- Secretary of State for the Environment, and ex p Greenpeace Ltd* [1994] 4 All E.R. 352 which is a decision of the High Court of England and Wales.

In a sense it is a little surprising that the applicant should rely on this particular authority since it seems to me to run counter to the earlier argument made by the appellant concerning “*development consent*” rather than support his argument under this issue.

That case concerned an English company known as British Nuclear Fuels plc (BNFL), which carried out the business of reprocessing spent nuclear fuel, obtained, in 1983, full planning permission to construct a thermal oxide reprocessing plant, known as Thorp, on its site.

Following completion of its plant in 1992 BNFL applied for new or further authorisations for the discharge of radioactive waste to sea and air. A body called the Inspectorate of Pollution and a Government Ministry were involved in considering that application as they had responsibility for regulating the disposal of radioactive waste. They prepared draft authorisations which they made available for public consultation. Following a statutory process of public consultation eventually, in December, 1993 the relevant Secretary of State and the Ministers concerned granted the new authorisation pursuant to an Act known as the Radioactive Substances Act 1993.

The decision to authorise was challenged before the High Court of England and Wales on several grounds. Much of these are not relevant to this case, concerning such matters as the proper exercise of a statutory discretion by the Ministers concerned.

The relevant issue that did arise was one as to whether Council Directive EEC/85/337 applied to the decision to grant authorisation for these particular emissions because, if so, no EIA having taken place in accordance with that Directive, the decision, it was submitted, had to be set aside.

It was not in dispute that BNFL had obtained planning permission for its project, the construction and operation of an installation to reprocess spent nuclear fuel prior to the coming into effect of the Directive. It was also common case that the Directive did not apply to projects which were granted permission to proceed (or projects that were “*in the pipeline*”) prior to coming into force of the Directive.

That was the reason that no EIA pursuant to the Directive was carried out for that project and the reason indeed why the High Court in that case was to conclude that there was no obligation for an EIA to be

carried out. It is to be noted that the factual matrix of that case is quite different from the present one.

In any event, with a view to getting over that particular difficulty the applicants in that case submitted, in what was the nub of their argument, as cited by the trial Judge at page 376:

“... that the construction of THORP was one project and that the bringing into of operation of the processes within THORP thereby causing emissions was a second. Mr. Collins submits that each project is within the wide expression in para. 3(h) of Annex II of the directive: ‘Installations for the reprocessing of irradiated nuclear fuels’. Unless the applicants can identify two separate projects in this way, their case under the directive must fail. If there was only one project then its commencement predated the 1985 directive and the directive does not apply to it.”

In dealing with this submission the judgement noted that:

“The directive applies to the assessment of the environmental effects of ‘public and private projects which are likely to have significant effects on the environment’. ‘Project’ is defined as ‘the execution of construction works or of other installations or schemes’ and ‘other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources’ (art 1.2).”

The applicant in that case further argued that discharges into the environment of ionising radiations constituted an intervention in the natural surroundings within the meaning of that Article. Thus, it was contended that the operation of Thorp was a second and separate project to which the Directive applied.

In rejecting the submissions of the applicant the judgment in that case stated at 377:-

“The definitions in art 1.2 of the directive must be read with Article 2.1 and 4 which identify the project to which the directive applies. THORP falls within Annex II, para. 3(h); it is an installation ‘for the reprocessing of irradiated nuclear fuels’. It is a distortion of art 1.2 to treat the bringing into operation of Thorp as an intervention ‘in the natural surroundings and landscape’ (Article 1.2). Projects of this nature are identified in Annex II, paras. 1 and 2 under

‘Agriculture’ and ‘Extracted industry’.”

Then comes the specific passage relied upon by the appellants in this case:

“I accept the respondents’ submission that the whole thrust of the directive is to require an environmental impact assessment at the outset, that is to say ‘at the earliest possible stage in all the technical planning and decision-making process’ (see preamble to the Directive). Article 2.1 moreover requires member states to make an environmental impact assessment ‘before consent is given’. This is in accordance with the preamble which refers to ‘development consent’. Development consent means ‘the decision of the competent authority ... which entitles the developer to proceed with the project’ (art 1.2). In my judgment such consent in this case means the decision of the competent authority which entitles the developer to proceed with the execution of the installation ‘for the reprocessing of irradiated nuclear fuels’ (Annex II, para. 3(h)). It is a distortion of language to regard the authorisation of emissions as such a decision. That decision was the Town and Country Planning (Windscale and Calder Works) Special Development order 1978...”

That ends the passage cited and relied upon by the appellant in this case. It is somewhat inaccurate in its reference to the first recital in the preamble which refers to *“the need to take effects on the environment into account at the earliest possible stage in all the technical planning and decision-making processes”*. But that is perhaps of no moment in that case because the reference to the time for carrying out an EIA was entirely *obiter* and the trial Judge was simply making reference to a contention by the respondents in general terms. It was *obiter* because he went on to decide that whatever the Directive may mean it had no application to the project in question as properly identified, the permission for which predated the coming into effect of the Directive. The trial Judge then went on to conclude further:

“Thus I conclude that on a true construction of the directive, the construction of THORP and the bringing into operation of THORP and consequent discharges were and are one project. That project predated the directive. The directive does not apply to the project. The Ministers were therefore

not under a legal duty to provide and make available an environmental impact assessment complying with the provisions and standards laid down in the directive before the grant of the authorisation. The applicants' submissions in this regard therefore fail."

Given the facts and circumstances of that case, including the fact that there was no issue before that Court as to the point in time when an EIA should be carried out, I do not think it contributes one way or another to the present issue under consideration in this case which falls to be decided in the light of the terms of the Directive itself.

Before moving on from that case I would point out that, as can be readily seen, the interpretation given to the Directive in that case runs directly counter to the contention made with regard to the first point of law in this appeal by the appellant, namely, that Indaver's project for the construction and operation of a waste disposal installation could be broken into two projects so that the proposal for its construction could be treated as one project and its operation on construction as a second project. That judgment rejects any interpretation of 'project' which excludes its activity or operation. However I did not feel it necessary to make a reference to this particular case when dealing with that particular point.

Having dealt with the two cases referred to by the appellant and which were the principal planks for his argument on the issue as to when an EIA should be carried out there is one other subsidiary point made on behalf of the appellant to which I would like to refer.

The appellant pointed out that there is a mandatory requirement on the planning authority to identify the environmental effects at the start "*since the planning authority / the Board must decide whether those effects are such as to necessitate calling for an EIS*". In fact the Board in this case did not have to make any such assessment in order to decide whether an EIS was necessary since it was mandatory under national legislation, as required by the Directive, that an EIS be provided by the developer having regard to the nature of the project and provisions of Article 4 and Annex I of the Directive, as referred to earlier. In any event I do not think anything of substance turns on the point.

In the end, apart from a reliance on the judgments in the two cases to which I have referred and which I do not consider to be of significant relevance, the appellant's argument was more in the nature of a simple

assertion that the Directive, by its terms, requires that a comprehensive EIA should have been carried out at the earliest possible stage which in turn means that the Board did not fulfil the obligations as required by the Directive. I now turn to what really is the nub of this issue – the relevant terms of the Directive.

The Directive and the timing of an assessment

The Directive provides for the implementation of procedures at national level to evaluate the effects of certain projects on the environment prior to projects going ahead with a view to “*preventing the creating of pollution or nuisances at source, rather than subsequently trying to counteract their effects*”. (See Recital I of 85/337/EEC.) (When referring to the Recitals, I identify the relevant Directive, 85/337/EEC and the amending Directive, 87/11/EC because although the substantive provisions can be referred to in consolidated form and as being one Directive they each have their separate Recitals.) As Advocate General Elmer pointed out in *European Commission –v- Federal Republic of Germany (C-431/92) [1995] ECR I-2189 at para. 35* “*It must be emphasised that the provisions of the directive are essentially of a procedural nature.*”

The one and only explicit reference to the point at which an EIA should be carried out is contained in Article 2.1 of the Directive, as inserted by the amending Directive 97/11/EC, 3rd March, 1997, which provides:

“Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have a significant effect on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for a development consent and an assessment with regard to their effects.” (emphasis added)

This is the only substantive provision dealing with the point in time at which an EIA should be carried out.

It reflects the only reference to such a point of time in the Recital to that Directive (97/11/EC) which states:

“Whereas projects for which an assessment is required should be subject to a requirement for development consent; whereas the assessment should be carried out before such consent is granted;”

Article 2.1 is again consistent with Recital 2 of that amending Directive which states:

“Whereas, pursuant to Article 1.30 r. (2) of the Treaty,

community policy on the environment is based on the precautionary principle and on the principle that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay;”

Recitals in Directives are not substantive provisions but they do, to put it in general terms, set out the legal basis for a Directive and in particular set out their policy basis and their policy objectives. They are there for important interpretive aids of the substantive provisions.

What Article 2.1 and the Recitals to which I have referred make clear is that the fundamental objective of the Directive in this context is that the effects of a project on the environment should be assessed prior to any decision to give development consent that is to say, consent to proceed with the project, in order that threats to the environment can be rectified at source and that the polluter principle is applied.

As I have already concluded in relation to the first issue in this appeal the consent in question can comprise the decision of more than one authority competent or responsible for performing duties, such as the carrying out of an EIA, arising from the Directive (Article 1.3 “*the competent authority or authorities shall be that or those which Member States designate as responsible for performing the duties arising from this Directive*”).)

In short, once the competent authorities have carried out an EIA before development consent is given the terms of Article 2.1 of the Directive are complied with. That is the plain meaning of the Directive.

The applicant has, of course, relied on Recital I of the Directive (85/337/EEC) from which he borrowed the phrase “*at the earliest possible stage*”. Before addressing that point I wish to put the foregoing provisions in context.

Article 5.1 of the Directive provides that “*In the case of projects which, pursuant to Article 4, must be subjected to an Environmental Impact Assessment in accordance with Articles 5 to 10,*” which is the position of the project with which this case is concerned “*Member States shall adopt the necessary measures to ensure that the developer supplies in an appropriate form the information specified in Annex IV in as much as:*

(a) the Member States consider that the information is relevant to a given stage of the consent procedure and to specific

characteristics of a particular project or type of project and of the environmental features likely to be affected; ...” (Emphasis added)

Article 5.2 provides that:

“Member States may require the competent authorities to give [an opinion on the information to be supplied by the developer] irrespective of whether the developer so requests.”

Thus each competent authority may be required to advise the developer as to the extent of the information which he is required to provide concerning the environmental impact of the project and which is relevant to the stage at which that authority is engaged in the consent process.

These provisions underscore the fact, if it needs underscoring, that the competent authorities, whether they be two or more, responsible for obligations deriving from the Directive must, in the circumstances referred to, require the developer to provide information necessary to the carrying out of an EIA. As Article 5 expressly states that environmental information is that relevant to the given stage of the consent procedure. This is why Article 5.2 provides for the imposition on those authorities, and not just an authority engaged at the first stage of the procedure, to advise the developer of the information required of them for the purpose of the EIA process.

This is all consistent and can only be consistent with the fact that different competent authorities will exercise their responsibilities deriving from the Directive in relation to an EIA at different stages or points of time in the process and procedures leading ultimately to a development consent. The obligation imposed on a competent authority is to require the developer to provide such information that is relevant to the particular stage.

The first Recital is referred to by the appellant in support of his argument that the entire EIA should have been carried out by the Board at the planning permission stage is in the following terms:

“Whereas the 1973(4) and 1977(5) Action Programmes of the European Communities on the Environment, as well as the 1983(6) Action Programme, the main outlines of which have been approved by the Council of the European Communities and the representatives of the Governments of the Member States, stress that the best environmental policy

consistent in preventing the creation of pollution or nuisances at source, rather than subsequently trying to counteract their effects; whereas they affirm to take effects on the environment into account at the earliest possible stage in all the technical planning and decision-making processes; whereas to that end, they provide for the implementation or procedures to evaluate such effects;”

As can be seen from that text the reference there is to certain affirmations in several Action Programmes on the Environment the main outlines of which have been approved by the Council of the European Union and the Member States.

It seems patently clear that Article 2.1 of the Directive in expressly requiring that an EIA is carried out before a consent is given to any project is a substantive provision which gives effect to the objectives of that Recital as well as others.

It is clear from the Directive that the procedural process leading up to a development consent may have successive stages where at each stage the relevant competent authority makes a decision (which may involve giving a permission or consent even if not a consent to proceed i.e. a development consent) which taken with other decisions will comprise the ‘development consent’, the consent to proceed with the project. At each such stage the developer may be required, as Article 5 provides, to provide environmental information “*relevant to the ‘given stage of the consent procedure’*”. Where there are such successive stages that requirement enables that competent authority to “*take effects on the environment into account at the earliest possible stage in the technical planning and decision-making processes*” (emphasis added) namely when the matter is first submitted to the competent authority for its decision. Then that competent authority is in a position to commence from the outset its examination of the environmental effects of the project relevant to the stage with which it is engaged.

In conclusion on this point I return, at the expense of repetition, to the two substantive provisions of the Directive namely Article 1.3 and Article 2.1 both of which explicitly provide for and require respectively more than one body being involved in the process leading to a development consent and that an EIA be carried out before a consent is given.

This is precisely what the relevant statutory provisions in this case ensure. It is an essential function of each of the competent authorities

to examine the environmental effects of the project once they receive an application concerning a project such as is in question here. They must do so before a consent is given. In my view it runs counter to the explicit terms and purposes of the Directive to suggest that the procedure followed by the Board conflicted with any requirement of the Directive.

Accordingly I consider the appellant's argument on this issue should be rejected.

"Integrated assessment"

The appellant contends that by virtue of the statutory division of responsibilities between the Board and the EPA it is not possible for an "*integrated assessment*" of the effects of the project on the environment to take place as required by the Directive. There is a deficiency in the process, he submits, because no one body carries out a global assessment.

As previously mentioned Article 3 of the Directive requires the EIA to be carried out so as to take into account the direct and indirect effects of a project on specified environmental factors which are:

- “ - *human beings, fauna and flora;*
- *soil, water, air, climate and the landscape;*
- *material assets and cultural heritage;*
- *the interaction between the factors mentioned in the first, second and third indents.*”

The first matter to note is that the term "*integrated assessment*" does not appear at all in the Directive. The term has been used to refer to the fourth indent above, namely, an examination of the interaction between the other factors mentioned. It has not been claimed, and on the contrary it has been established, that the Board carried out a comprehensive EIA, including the interaction between the factors referred to as far as the construction of the plant part of the project is concerned, to the exclusion only of the risk of environmental pollution, as defined in the statutory provision cited earlier in this judgment, related to the activity of the proposed installation.

It is also clear from the statutory functions of the EPA, when considering whether to grant a waste licence, and from its statutory procedures, that the EPA is required, at the very least, to carry out an EIA which includes taking account of all the relevant factors and the interaction between them, for the purpose of assessing the risk of environmental pollution arising from the activity of the proposed plant.

In short, all of the factors referred to in Article 3 of the Directive, and the interaction between them, are examined as required by the Directive and the interaction between them at each stage of the consent process by the relevant competent authority namely the Board and the EPA respectively. The Board carries out an ‘integrated assessment’ insofar as the construction of the project is concerned and the EPA carries out an ‘integrated assessment’ insofar as the activity stemming from the operation of the plant is concerned.

It is also relevant to note that nowhere in the Directive is it in any sense suggested that one competent body must carry out a ‘global assessment’ nor a ‘single assessment’ of the relevant environmental factors and the interaction between them. Those terms simply do not appear in it.

On the contrary the Directive, having specifically envisaged that more than one authority may be responsible at different stages for exercising obligations arising from the Directive expressly acknowledged in Article 2.2 that the “*environmental impact assessment may be integrated into the existing procedures for consent to projects in the Member States, or, failing this, into other procedures or into procedures to be established to comply with the aims of this Directive*”. In so stating, it is manifestly clear that the Directive did not envisage that that so-called integrated assessment, that is to say the interaction between the various factors, could only be carried out by one competent authority with global responsibility for that.

On the contrary the amending Council Directive 97/11/EC inserted para. (a) into Article 2.2 in the following terms:

“Member States may provide a single procedure in order to fulfil the requirements of this Directive ... on integrated pollution prevention ...”

This provision is permissive and was obviously designed to introduce a clause which allowed Member States to provide for a single procedure for the purpose of giving effect to the Directive but in no sense altered the existing provisions which envisage that two or more authorities may be competent for the purpose of fulfilling the requirements of the Directive. Indeed, since a requirement of an integrated assessment in the sense referred to by the appellant was a requirement of Directive 85/337/EEC there would have been no need for the insertion of the amending paragraph if the appellant’s contention as to the requirement of a global assessment by one authority was correct.

In his submissions on this point the appellant was “*not objecting to the fact that two distinct bodies are involved in the process*” but the Directive did not permit the absence of a single “*integrated assessment*” by one body.

It seems to me that it would be absurd to interpret the Directive so as to suggest that in permitting two or more competent bodies to carry out an EIA of the factors referred to in Article 3, including the interaction between them, by each body at the relevant stage of the process with which it was concerned, that nonetheless it was intended that there must be one body only that carries out an assessment of all the factors as if there was only one stage in the process and it was the only body making the assessment. This would run contrary to the plain meaning of the provisions and scheme of the Directive.

Moreover, having regard to those provisions of the Directive and given that the Directive is essentially procedural in nature (see citation above of the Opinion of Advocate General Elmer In Commission –v- Germany) if the Directive intended that there could only be one “*global*” assessment of the relevant environmental factors and their interaction by one body it would have stated so. But, as I say, it states the contrary.

On the basis of any reasonable view of the provisions of the Directive alone it seems to me clear that the contention of the appellant with regard to a global integrated assessment is unfounded.

However, before concluding finally on this point I wish to address the appellant’s reliance on the judgment of Fennelly J., in the decision of this Court, in *O’Connell –v- Environmental Protection Agency* [2003] 1 I.R. 530. I think the appellant’s reliance on that case was misconceived and that the learned High Court Judge was entirely correct in distinguishing that case from the issues in this case even though the judgment contains a very valuable analysis of the complex statutory and regulatory provisions governing this whole process. The appellant relied, *inter alia*, on a passage from Fennelly J.’s judgment, at 555, in which it was submitted he had held that it would be necessary to interpret s. 98, of the Environmental Protection Agency Act, 1992, as:

“*...not prohibiting the competent planning authorities from giving effect to the Directives (by having regard to the entire range of possible effects on the environmental and deciding whether an environmental impact assessment should be*

called for)... ”

That statement, it must be said was made in relation to a discretionary decision of the Board as to whether an EIS should be supplied by the developer, when an EIS is not mandatory. It does not relate to the actual carrying out of an assessment by a competent authority or authorities.

It was pointed out by counsel for the appellant, that in *O’Connell* it was held that it would be unacceptable if the effect of s. 98 (for which s. 54(3) of the Waste Management Act 1996 is the parallel provision in this case) was to preclude the planning authority from having regard to all forms of pollution in considering whether to require an EIS of the developer. It was submitted that the application of the logic adopted by Fennelly J. in respect of the earlier stage of considering whether an EIS was necessary should apply equally to the later stage of actually carrying out of an EIA.

As regards the *O’Connell* case one must first of all look at what was in issue in that case.

In the *O’Connell* case the project concerned was not one for which an Environmental Impact Assessment (EIA) was mandatory. It therefore fell to the planning authority in the first instance and An Bord Pleanála on appeal, to adopt the case-by-case examination as provided for in national legislation and as envisaged in Article 4.2 of the Directive (cited above) in order to determine whether an EIS should be provided by the developer in the circumstances of the case. In that case the Board (whose decision was not in issue) had been required to decide whether in the circumstances of the case an environmental assessment should be carried out and if so require the developer to supply an EIS. On the other hand if it decided that there was no need for such an assessment no EIS was required of the developer. That was the initial stage of the functions of the Board as regards an EIA.

The next step would have been to actually carry out an EIA in accordance with its statutory functions but only if it had decided that such was necessary in the course of its examination of the application at the initial step. In fact, in that case the Board did not consider that an EIA was necessary and therefore no EIS was requested or supplied. In the present case of course an EIS was supplied as an EIA by the Board was mandatory but nothing turns on that in this context.

In the *O’Connell* case a licence was required by the developer from the EPA pursuant to the Act of 1992 as the proposed development was

above the threshold laid out in that Act. No EIS was supplied to the EPA in the course of the application for the licence. The applicants sought judicial review of the decision of the EPA to grant the licence on the basis that, as it was in respect of a development which would, it was contended, have a significant effect on the environment, an EIS should have been required; that s. 98 of the Environmental Protection Agency Act 1992 precluded a planning authority and the Board from considering environmental pollution both when deciding whether to grant or refuse a planning permission and when considering whether to demand an EIS the Court should interpret the powers of the EPA as including that one demand an EIS otherwise the State was in breach of its obligations under the Directive.

As Fennelly J. point out (at p. 533) the case turned almost entirely on the contention that s. 98 of the Environmental Protection Agency Act 1992 prevented the planning authority or An Bord Pleanála from asking for a comprehensive EIS covering all pollution matters. This was on the basis that s. 98 of the Act prevented the Board when actually carrying out an EIA from considering the risks to environmental pollution arising from the activity of the project. It was contended for the applicant that since the Board could not have regard to such matters when actually carrying out an assessment it was precluded from having regard to environmental pollution arising from the activity when it was considering, as a first step, whether an EIS should be sought from the developer. On this basis counsel for the applicant contended that there would be no provision in Irish law requiring that a comprehensive or integrated EIS be provided when the competent authority was considering the licensing of an activity with a potential to pollute the environment from that activity; and no body at all charged with the task of evaluating, in an integrated way, all risks to the environment, for the purpose of taking the first step of requiring an EIS to be provided.

Since that result would be patently contrary to community law, it was submitted, the Court was obliged to imply into the Act of 1992 a power of the EPA to seek an EIA. (See Fennelly J. at [2003] I.I.R. 530 at 537) After an exhaustive examination of the “*maze*” of legislation and regulations the Court rejected the applicant’s contention.

It is important to note that it was at all times pointed out by Fennelly J. that where the Board actually carried out an EIA in relation to the kind of project in question it was precluded by s. 98 from considering the risk of environmental pollution arising from the activity which was

reserved to an assessment to be carried out by the EPA in the course of an application for a licence for the activity. That division of responsibilities is the same as applies in this particular case it being s. 54(3) of the Act of 1996 which has the same effect as s. 98 of the Act of 1992 in that respect. At no stage in the course of the judgment was that apportionment of responsibility regarding an EIA in that manner called in question.

What Fennelly J. held, on what he considered to be the proper construction of the relevant legislation and the regulations, was that the s. 98 restriction on the Board at the actual EIA stage did not extend or apply to the earlier stage when, it had to consider whether an EIS was necessary and that in exercising its discretion for that purpose it was entitled to look at all aspects of the project including the potential impact on the environment from the activity. Thus it was entitled to demand a comprehensive or integrated EIS from the developer. The issue only arose in the form which it did because there was in fact an apportionment or division of function between the Board and the EPA, the same as the apportionment of functions in this case, which was not, as I have mentioned, called in question. Fennelly J. concluded, at 555:

“Here, however, I do not think the words can have been intended by the legislature to refer to the stage when the planning authority has to consider whether to call for an environmental impact statement.”

In going on to further conclude that *“Section 98 does not, in my view, bear the meaning propounded on behalf of the applicant”*, he was confirming that the words excluding the risk of environmental pollution arising from the activity from the remit of the Board applied only at the stage when the actual environmental assessment was being carried out but not at that earlier stage when deciding whether or not to call for an EIS. At no stage was the division of responsibility between the two bodies at the later EIA stage criticised.

In this case we are only concerned with the later EIA stage.

In my view the learned High Court Judge was quite correct in distinguishing the *O’Connell* case from the present case, *inter alia*, on the basis that in the *O’Connell* case it was simply decided who or what was the body or authority authorised to call for an EIS and the scope of its power in doing so.

The issue arose in the *O’Connell* case precisely because there is a division of functions between the two competent authorities in the

actual carrying out of an EIA. If there had been no such division and there was one single body carrying out a global assessment at the stage of an actual EIA then the issue in that case would not have arisen. The *O'Connell* case concluded that the relevant statutory provisions were consistent with the Directive.

The appellant has submitted that because this Court in the *O'Connell* case interpreted the relevant statutory provisions and regulations as permitting the Board to call for an EIS which was comprehensive or integrated in all respects we should now hold that there should be one body entitled to carry out one single comprehensive environmental assessment subsequent to the EIS being provided. Apart from the fact that to hold such an approach as mandatory would be in clear conflict with the provisions of the Directive I fail to see its logic as an interpretation of the *O'Connell* case. In fact it would be to turn the *O'Connell* case on its head. For this reason I do not consider that that case has any material bearing on the issue raised by the appellant and certainly does not lend support to his contentions.

For the reasons set out above I consider that the submission of the respondents, that the combination of the assessments carried out by the Board and the EPA together meet the requirements of the Directive with regard to the EIA prior to consent, to be correct and that this ground of appeal also fails.

Final Conclusions

In relation to each of the above issues which I have addressed, I have found that the meaning and intent of the Directive is clear. In advancing the three points which he did it seems to me that the appellant is clutching at straws in his opposition to the decision made by the Board. The appeal should be dismissed. I do not see any reasonable scope for doubt on these issues. Having regard to the decision of the Court of Justice in *Cilfit –v- Minister della Sanità (Case C – 283/81) [1982] ECR 3415* and the criteria which it sets out I am quite satisfied that there is no necessity to make a reference to the Court of Justice pursuant to Article 234 of the Treaty.

Appendix Petition 14

Dr. Mary Kelly, director of Environmental Protection Agency (EPA) on enforcing a Strategic Environmental Assessment. - 5 December 2008

Mr. Johnny Mc Elligott
PRO Kilcolgan Residents Association
C/o Island View
Convent Street
Listowel
Co. Kerry

Headquarters, PO Box 3000
Johnstown Castle Estate
County Wexford, Ireland

Ceanncheathrú, Bosca Poist 3000
Eastát Chaisleán Bhaile Sheáin
Contae Loch Garman, Éire

T: +353 53 916 0600
F: +353 53 916 0699
E: info@epa.ie
W: www.epa.ie

LoCall: 1890 33 55 99

5 December 2008

Dear Mr. Mc Elligott

I am to refer to your letter dated 28th October 2008 on behalf of the Kilcolgan Residents Association with regard to the Shannon LNG project. I have noted what you say and wish to point out that the Agency does not have the power to require that an SEA be carried out in relation to any Plan or Programme.

As you are aware the LNG project will require an IPPC licence and GHG permit from the Agency. One of the IPPC licence requirements is that the application for the licence be accompanied by an EIS. In such instances the EIS that accompanied the planning application should accompany the IPPC licence application. The Agency is the competent authority to assess the EIS for compliance with Article 25 of the Environmental Impact Assessment Regulations in so far as the risk of environmental pollution from the licensable activity is concerned. Such an assessment would have to take into account the requirements of the Habitats and other important EU Directives.

The licensing process is an open and transparent one, which is regulated under the Environmental Protection Agency Act 1992 as amended and the supporting Environmental Protection Agency Licensing Regulations. The Agency welcomes participation in this process and has put in place on-line access to all documentation received by the Agency from all parties once the application is formally made. While a licence application has not been received by the Agency for this particular project at this time, I suggest that you visit our website www.epa.ie where you can update yourself on the situation.

Once an application is received, submissions can be made to the Agency by any person free of charge. The Agency will ensure that all submissions are fully considered before a proposed decision is issued. As with all applications, submissions received are also put on the website.

I should add that before the Agency can grant an IPPC licence it must satisfy itself with regard to a number of matters specified in the EPA Act including:

- ❖ the use of Best available Techniques,



- ❖ ensuring that emissions meet national and EU environmental standards and
- ❖ that emissions will not cause environmental pollution.

I hope this clarifies matters for you and should you need further clarification please contact Mr. P. Nolan who is the Programme Manager of the Licensing Unit of the Agency.

Yours sincerely

Mary Kelly

Dr. Mary Kelly

Appendix Petition 15

KILCOLGAN RESIDENTS ASSOCIATION & SAFETY BEFORE LNG -
Submission on proposed Shannon LNG Natural Gas Pipeline and proposed compulsory acquisition of lands thereon from Kilcolgan, County Kerry to Foynes, County Limerick.

Re: GA0003 - Gas pipeline to connect Shannon LNG Terminal at Ralappane, Co. Kerry to existing natural gas network at Leahys, Co. Limerick and DA0003 - Application for an acquisition order for the Shannon LNG Terminal at Tarbert, Co. Kerry to the Bord Gáis Eireann Network at Foynes, County Limerick.

7 October 2008



Kilcolgan Residents Association
Safety before LNG

Protecting the Shannon Estuary and its people

Kilcolgan Residents Association Telephone: +353-87-2804474
c/o Island View Email: safetybeforelng@hotmail.com
Convent Street Web: www.safetybeforelng.com
Listowel
County Kerry

7 October 2008

KILCOLGAN RESIDENTS ASSOCIATION & SAFETY BEFORE LNG

**Submission on proposed Shannon LNG Natural Gas Pipeline and proposed
compulsory acquisition of lands thereon from Kilcolgan, County Kerry to Foynes,
County Limerick**



7 October 2008

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

By Email only to: bord@Pleanala.ie

Re: GA0003 - Gas pipeline to connect Shannon LNG Terminal at Ralappane, Co. Kerry to existing natural gas network at Leahys, Co. Limerick and DA0003 - Application for an acquisition order for the Shannon LNG Terminal at Tarbert, Co. Kerry to the Bord Gáis Eireann Network at Foynes, County Limerick

Dear Sir / Madam,

The Kicolgan Residents Association represents nearby residents of the proposed LNG regasification terminal and people with close family and economic ties to the area.

The 'Safety Before LNG' group represents people from both Kilcolgan and the wider community and is advocating responsible strategic siting of LNG terminals in areas which do not put people's health and safety in danger. See attached signed submissions by Ms. Kathy Sinnott M.E.P.¹ and Mr. Tony Lowes for "Friends of the Irish Environment"² on whose behalf this submission is also, therefore, being made.

We are hereby formally objecting to the proposed Shannon LNG Natural Gas pipeline and compulsory acquisition order, referenced above, in their entirety, on health, safety, environmental and strategic planning grounds.

In May 2006 Shannon LNG, a subsidiary of the American Hess Corporation, announced an option to purchase, subject to planning, the lands at Kilcolgan owned by Shannon Development, of which Councillor John Brassil was a director, to construct an LNG terminal for a price believed by us to be in the region of 28.1 million euros³.

The Shannon Foynes Port Company, of which Senator Ned O'Sullivan (then a councillor) was a director at the time of the rezoning, described the development as follows:

*"The development site is located immediately to west of Ardmore Point. It is on State (Shannon Airport Development Co) owned land and is designated for development with a four year option. Shannon LNG is the developer. The company is required to achieve planning permission within 2 years."*⁴

¹ See Pipeline Appendix I – Signed submission by Ms. Kathy Sinnott M.E.P.

² See Pipeline Appendix K – Signed submission by "Friends of the Irish Environment".

³ <http://www.shannonlngplanning.ie/files/Newsletters/Issue1.pdf> page 1

⁴ http://www.sfpco.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

The lands, at the time, were zoned 'Rural General' and 'Secondary Special Amenity' and would have normally been subjected to a Strategic Environmental Assessment before rezoning as the proposed LNG project would certainly have a significant effect on the environment in this unspoilt area and given its status as a SEVESO II site.

However, RPS, the consultants employed by Kerry county council to undertake the screening report, claimed that they knew nothing about the proposed LNG terminal even though the site was purchased 6 months previously, highly publicised and announced in the Dail (the Upper House of Parliament) by the Minister for Energy and only lands owned by Shannon Development were being rezoned. It is highly incredulous that a reputable company such as RPS was not aware of the LNG terminal proposal, given that it is a top-tier Seveso II development, the most dangerous designation a development can have under the major hazards directive.

Incredibly, no SEA was therefore undertaken and a year of Environmental Assessment work was effectively dismissed as unnecessary for a dangerous LNG project.

The KRA has lodged a formal complaint with the Standards in Public Office Commission concerning its fears that Councillor Brassil (director of the landowners Shannon Development) and Councillor Ned O'Sullivan (director of Shannon Foynes Port Company), effectively prejudiced an SEA screening report⁵ in the interest of expediency.

It is our contention that the decision to build an LNG terminal was decided at the highest levels in the Irish Government and now the different statutory bodies are retrospectively and negligently approving the LNG project without any concern for safety, environmental or strategic issues.

To be quite clear, in our opinion, Kerry County Council refused to carry out an SEA on the lands about to be rezoned for the proposed LNG terminal because there was an option to purchase conditional on obtaining planning permission for an LNG terminal within 2 years on land zoned 'rural general' and 'secondary special amenity' for a price we believe to be in the region of 28 million euros. A full SEA would have taken upwards of 1 year to complete alone. Therefore, it is our view that the refusal was motivated by this condition to the detriment of the people of the south west on health, safety, environmental and strategic planning grounds.

The current Minister for Energy, Mr. Eamon Ryan T.D., (at the time in opposition) issued the following statement, on the announcement of the proposed LNG terminal on May 22, 2006⁶:

"Govt must give clear position on proposed LNG facility in North Kerry -

Spokesperson on Communications, Energy and Natural Resources

The Green Party today welcomed the announcement of the proposed new Liquefied Natural Gas (LNG) facility in North Kerry. Green Party Energy spokesperson Eamon

⁵ See Pipeline Appendix A - Complaint on possible breach of ethics and conflict of interest by Councillor John Brassil and Senator Ned O'Sullivan to the Standards in Public Office Commission.

⁶ http://www.greenparty.ie/en/news/latest_news/govt_must_give_clear_position_on_proposed_lng_facility_in_north_kerry

Ryan TD said: This proposed (LNG) facility will help reduce our reliance on gas coming on long distance pipelines running all the way from Siberia.

However, today's announcement seems to be more of a solo run from Micheál Martin, the Minister of Enterprise, Trade and Employment, rather than a real signal of Government plans. No firm analysis has been presented as to how such a facility would work in the Irish market.

The lack of any involvement by Energy Minister Noel Dempsey in today's announcement shows how disjointed the Government has become when it comes to energy policy. We are now calling on Minister Dempsey to outline whether he believes such a facility should be developed and to say whether he agrees with the location and arrangements being promoted by Minister Martin, concluded deputy Ryan."

This current application for a pipeline and compulsory acquisition of lands is another step in what we consider to be an inherently-flawed planning process, bordering on corruption. The main priority of this process seems to be to obtain full planning and associated permissions for an LNG terminal in the minimum of time to rubberstamp a political decision that has already been made to the detriment of the environment, health, and safety and in total disregard for any semblance of proper planning practice and sustainable development.

Our concerns in this particular application include the following.

1. Shannon Development's Annual Report 2006⁷ publicised a photo opportunity on the announcement of the LNG project with Councillor John Brassil, Minister Martin and senior vice president of Hess Corporation Gordon Shearer holding a map of the Greenfield rural site in North Kerry where the LNG terminal is proposed:



Pictured at the announcement by Micheál Martin TD, Minister for Enterprise, Trade and Employment, that Shannon Development has signed an 'option to purchase' agreement with Shannon LNG, a subsidiary of Hess LNG, for a portion of Shannon Development land bank at Tarbert/Ballylongford, Co Kerry, were (l-r): Kevin Thompstone, Chief Executive, Shannon Development; John Brassil, Board Member, Shannon Development, Eugene Brennan, Development and Marketing Director, Shannon Development, Gordon Shearer CEO, Hess LNG,

⁷ <http://www.shannonireland.com/media/Media,6816,en.pdf> The Annual Report 2006 of Shannon Development, page 12 (real page 14)

We are concerned at how Shannon Development could sign an “option-to-purchase” agreement with a developer conditional on obtaining planning permission for a top-tier Seveso II hazardous LNG terminal within 2 years⁸. It is highly questionable how Shannon Development could guarantee that planning permission could be obtained within 2 years for lands that, at the time, were zoned Rural General and Secondary Special Amenity.

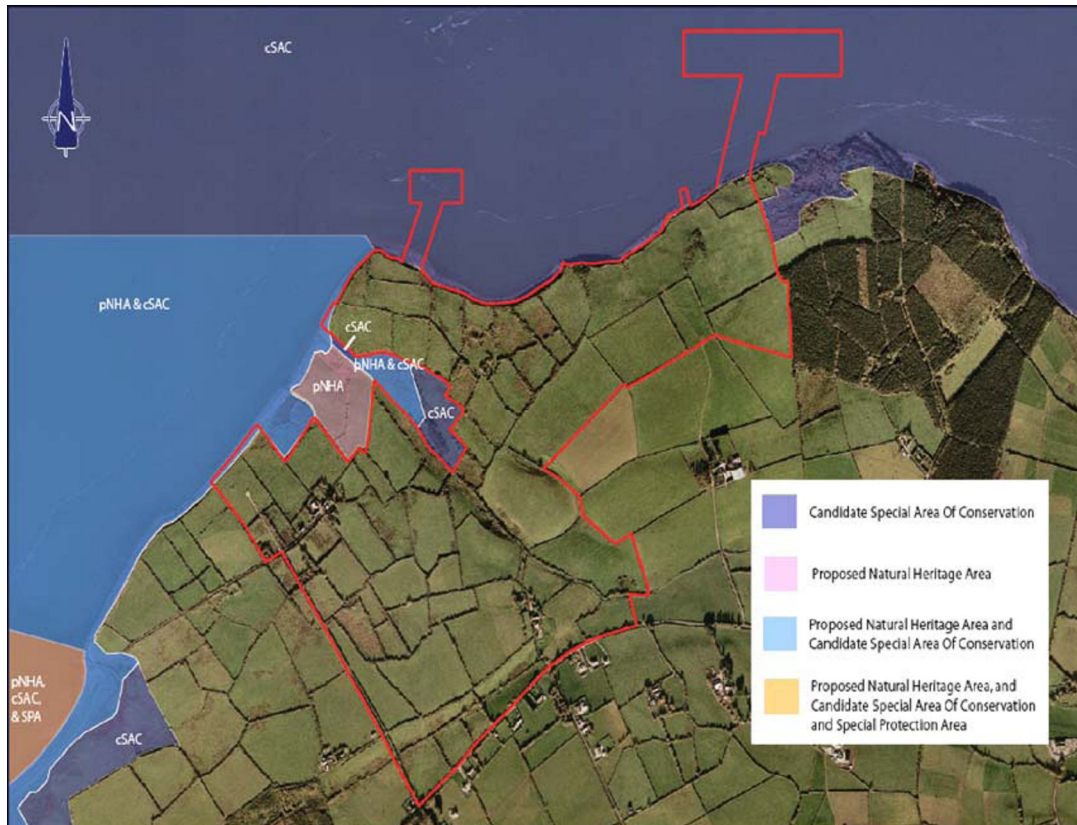
2. In November 2006, RPS published a Strategic Environmental Assessment Screening Report on the proposed variation to the Kerry County Development Plan. No mention was made of the Shannon LNG proposal. The criteria for determining whether a variation to a development plan requires an SEA is clearly defined in Schedule 2A of the Planning and Development (Strategic Environmental Assessment) Regulations 2004⁹. Seveso sites by their definition are dangerous and subject to the SEVESO Major Accidents Directive and as such fall under Schedule 2A (2) (the risks to human health or the environment (e.g. due to accidents). The full Schedule 2A underlines starkly how an LNG terminal cannot but have a significant effect on the environment and therefore require an SEA. 10 hectares of the proposed LNG development are for building 2 jetties and completing dredging works and ALL of these 10 hectares are on SAC waters. In addition the site surrounds and is surrounded by SAC, NHA and SPA land and water subject to Irish and European Environmental protection legislation. This is seen clearly on the map of the Environmental Designated Areas in the Shannon LNG EIS volume 1 page 2.¹⁰

⁸ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

⁹ C.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004 (S.I No 436 of 2004)

¹⁰ Shannon LNG Terminal EIS volume 1 page 2 submitted to the Ombudsman’s Office on November 19th 2007 c.f.

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf



3. The Planning and Development (Strategic Infrastructure) Act 2006 is being used for this application as the proposed pipeline is greater than 20 kilometres in length¹¹. However, three routes had initially been proposed. The alternative pipeline corridor that would pass closest to the ESB station being sold to Spanish Energy giant Endessa and earmarked for conversion to gas would be less than 20 kilometres in length and would not qualify for fast-track planning.
4. There is no blueprint on how the terminal and pipeline could integrate into other developments in the vicinity e.g. the pipeline proposed is 2 miles from the ESB station which is proposed to be converted to gas. No blueprint exists for any connection to the ESB station by the pipeline.
5. It is rumoured that a separate planning application may be put forward for another pipeline from Foynes to the ESB station in Tarbert if the current preferred route of this application is upheld. We are now convinced more than ever that only an independent strategic environmental assessment of the development of the southern shores of the Shannon Estuary can provide any logical overall environmental assessment of the impacts of the current proposed oil and gas storage developments coming in dribs and drabs into the public sphere. Development at abandon of industrial infrastructure in this manner does not constitute orderly development.

¹¹ <http://www.irishstatutebook.ie/2006/en/act/pub/0027/print.html> - Article 6

6. Federal fisheries officials have recommended that the U.S. Coast Guard deny permission for a liquid natural gas terminal off the Alabama coast that would use millions of gallons of sea water, citing potential threats to marine life. The terminal proposed by Houston-based TORP Technology would use an open-loop system requiring an average of about 127 million gallons of seawater per day to heat and regasify liquefied natural gas. In September 2008 the National Marine Fisheries Service warned the Coast Guard that the open-loop system could kill millions of fish eggs and billions of other microscopic marine organisms, setting back efforts to rebuild populations of red drum, snapper and other fish. It could also harm commercial and recreational fishing industries¹².

The same open-loop system is being proposed for the Shannon LNG terminal which will see 105 million gallons of chlorinated seawater being pumped into the estuary *daily*, causing serious environmental damage to the eco-system of this Special Area of Conservation (SAC). The withdrawal and discharge of huge volumes of seawater would affect marine life by killing ichthyoplankton and other micro-organisms forming the base of the marine food chain unable to escape from the intake area. Furthermore, the discharge of cooled and chemically-treated seawater would also affect marine life and water quality.

This issue has still not even been assessed prior to the planning decision as it is a permit given by the Environmental Protection Agency after planning permission is obtained.

Furthermore, if the EPA recommends a more environmentally-sensitive way to reheat the LNG (such as a closed-loop system) then this would require another planning application for modification or retention of an LNG terminal. This will never happen because of the sheer power and influence of HESS. The solution at that stage will be a mitigation approach which will not be a planning process undertaken from first principles.

7. The Planning and Development (Strategic Infrastructure) Act 2006 was signed into law on July 16th, 2006. The land deal for the proposed Shannon LNG project was signed on May 2006. LNG terminals and pipelines are defined within the Act as strategic infrastructure. We object that the state implemented a law under pressure from the Gas industry which amounts to using state assets and resources for the enrichment of private companies. This abuse of state powers is highlighted very clearly in a recent 'Irish Times' article relating to health and safety issues in the Corrib Gas pipeline issue highlighted in Appendix B¹³ and which we believe to be unconstitutional.
8. This pipeline application is new environmental information that should subject the whole project (i.e. the pipeline and the LNG terminal) to reassessment and not automatic retention, because the grant of development consent for the entire project (terminal and

¹² <http://www.bradenton.com/331/story/910532.html> - September 25th 2008

¹³ See Pipeline Appendix B – 'You don't build trust through gunboat diplomacy' Irish Times September 16th 2008

pipeline) should have been preceded by an EIA . In other words project splitting contravenes EU laws.

Equally, planning permission should be the final permission applied for because all environmental information is not available at the planning decision-making stage. It is bad planning practice to accord planning permission before all other licensing permits are obtained such as the EPA and Emissions licenses because this would provide more complete environmental information at the planning decision stage as obliged under European law.

This viewpoint has been confirmed in the following ruling:

On July 3rd, 2008 the European Court of Justice ruled as follows in case C-215/06 (Commission of the European Communities v Ireland)¹⁴ :

“The Court (Second Chamber) hereby Declares that, by failing to adopt all measures necessary to ensure that:

- projects which are within the scope of Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment either before or after amendment by Council Directive 97/11/EC of 3 March 1997 are, before they are executed in whole or in part, first, considered with regard to the need for an environmental impact assessment and, secondly, where those projects are likely to have significant effects on the environment by virtue of their nature, size or location, that they are made subject to an assessment with regard to their effects in accordance with Articles 5 to 10 of Directive 85/337, and
- the development consents given for, and the execution of, wind farm developments and associated works at Derrybrien, County Galway, were preceded by an assessment with regard to their environmental effects, in accordance with Articles 5 to 10 of Directive 85/337 either before or after amendment by Directive 97/11,

Ireland has failed to fulfil its obligations under Articles 2, 4 and 5 to 10 of that directive;”

Ground 105 of this case stated that

“Consequently, by failing to take all measures necessary to ensure that the grant of development consents relating to the first two phases of construction of the wind farm was preceded by an environmental impact assessment in conformity

¹⁴ [http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher\\$docrequire=alldocs&numaff=C-215/06&datefs=&datefe=&nomusuel=&domaine=&m](http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=Rechercher$docrequire=alldocs&numaff=C-215/06&datefs=&datefe=&nomusuel=&domaine=&m)

with Articles 5 to 10 of Directive 85/337 and by merely attaching to the applications for consent environmental impact statements which did not satisfy those requirements, Ireland has failed to fulfil its obligations under that directive.”

We therefore now request that An Bord Pleanála takes the ruling of this case in particular into consideration in its evaluation of this project. We are already aware that the Bord has serious reservations on this court ruling because it has already briefed John Gormley, the Minister for the Environment, that a number of developments that were granted planning permission over the past 11 years may be regarded as illegal developments under the European Court of Justice ruling of July 3rd 2008.¹⁵

9. We request that an assessment be made on uneconomical access to the Gas network and determine if this will affect supply of natural gas to the rest of Kerry and the construction of gas infrastructure in the county.
10. We question the need for a compulsory acquisition order for a pipeline and object to offers less than the open market value of the land.
11. We object that a private company with no interest in the common good is allowed to apply for compulsory acquisition of private land.
12. Ralappane House is now to be surrounded by a pipeline as well as an LNG terminal. It was not known at the time of the planning application for the terminal that the proposed pipeline route would pass in front of Rallapane House. This will destroy Ralappane House, a building now under consideration as a protected structure by Kerry County Council.¹⁶
13. Assessment of the emissions from the AGI should be included into the planning for the terminal. The AGI and pipeline infrastructure in the establishment will increase risks to nearby residents, contrary to Article 12 of the Seveso II Directive. Since the site is currently rural and non-industrial any development of this type is automatically an increase in risk and therefore Article 12 applies.
14. Risks from a pipeline were not included in the original assessment of the LNG terminal. Electorstatic risk increases with moving gas.
15. As the EIS of this application was not available on the internet for a lengthy period of time we are hereby formally requesting the right to make another submission on this application at a later stage. The applicant was under strict instructions at the pre-consultation stage

¹⁵ See pipeline Appendix H: Planning Decisions may be invalidated by ECJ
<http://www.thepost.ie/post/pages/p/story.aspx-qqqt=IRELAND-qqqm=news-qqqid=36509-qqqx=1.asp> and
<http://www.irishtimes.com/newspaper/ireland/2008/1007/1223323541016.html>

¹⁶ See Pipeline Appendix D: KRA submission on draft County Development Plan 2009-2015

(GC0003) to have the EIS available on the website but did not ensure this was the case until September 15th 2008.¹⁷

16. The Health and Safety Authority (HSA) is not going to assess the project under its Seveso II obligations. In a simple letter to Eoghan Lynch of Arup and Partners, the Cork-based representatives of Shannon LNG, Senior Inspector, Patrick Conneely, wrote during the secret negotiations of the pre-consultation phase of this application:

“Ref. 124323/1

Re: your letter of May 28 on off-site pipelines and HSA role etc.

Dear Eoghan,

The Authority confirms that pipelines external to an establishment are not covered by the major hazard regulations (SI 74 of 2006) and are of interest as construction places of work only.

It is also correct to state that the pipeline inside the establishment was covered to the satisfaction of the Authority in the previously submitted QRA

Yours sincerely,
Patrick Conneely”

As there were 3 possible alternative pipeline routes proposed at the planning application for the terminal there was no actual route determined at that stage.

It is, therefore, incredulous that the HSA could have adequately assessed a pipeline route and above-ground installation (AGI), when the actual application for this project did not even exist at the time.

17. We also object that the HSA is not going to independently assess the pipeline because the developer is now the only party to assess the danger of its own planning application. This is all the more problematic because Shannon LNG is not a public body but a private company motivated solely by profit.

18. High Court Challenge:

The most serious flaw in the HSA’s approach to safety opinion it gives to planning authorities is to consider only the probability of an accident and to ignore the consequences of an accident in the safety evaluation of gas and petroleum infrastructure projects. In our opinion this is totally unacceptable.

The Strategic Infrastructure Act 2006 is being used in this application and application of this law is currently being challenged in the High Court, a fact we believe should be taken into consideration in the assessment of this application. We strongly believe that it would be prudent of the Board to await the outcome of this case which is currently due to be heard before the Commercial Court section of the High Court on October 14th, 2008.

¹⁷ See Pipeline Appendix F: Unavailability of Pipeline EIS

The case we refer to is that of “O’Mahony v. An Bord Pleanála and Ors 2008/598 JR”¹⁸ and “Friends of the Irish Environment Limited v. An Bord Pleanála and Ors 2008/597 JR”

Friends of the Irish Environment released a press statement today as follows:¹⁹

“FIE CHALLENGES FIRST STRATEGIC INFRASTRUCTURE ACT PROJECT:

FIE is challenging in the High Court the first decision to be given for a project under the new ‘fast track’ Strategic Infrastructure Act, a Liquefied Natural Gas [LNG] Terminal near Tarbert on the Shannon estuary.

Until now, a planning decision given by a local authority can be appealed to An Bord Pleanála. But under the 2006 Strategic Infrastructure Act An Bord Pleanála itself makes the planning decision in the first instance and there is no further appeal.

Since the Aarhus Convention, European Directives have given citizens the right to a review of a decision that is ‘timely, equitable, and not prohibitively expensive’. It must be of all ‘substantive and procedural’ legal matters.

That is what FIE is seeking in its application to the Court.”

This challenge of the Strategic Infrastructure Act therefore by Friends of the Irish Environment should be considered by the Board in this application because any rulings on this matter will have a direct bearing on how the Act should be applied.

Raymond O’Mahony, in his challenge, is questioning whether a simple statement by the HSA that it “does not advise against” a project does indeed constitute advice to the planning authorities as required of the HSA by law. It is quite clear that the requirement for a completely independent risk assessment of this project and not one provided by the developer, and not one which is undertaken as part of project splitting as we have here is what will be considered by the High Court and we therefore request once again that you await the outcome of this court challenge on October 14th.

The Irish Times noted the following in the following article:²⁰

Tarbert challenge moves step closer

APPLICATIONS BY an environmental group and a local man for permission to bring proceedings challenging the proposed development of a €500 million gas terminal near Tarbert in Co Kerry will be heard at the Commercial Court later this year.

The proceedings were admitted to the Commercial Court list yesterday by Mr Justice Peter Kelly who directed that the applications for leave will be

¹⁸ <http://highcourtsearch.courts.ie/hcslive/cslogin>

¹⁹ <http://friendsoftheirishenvironment.net/?do=news&rid=25>

²⁰ <http://www.ireland.com/newspaper/ireland/2008/0617/1213646602803.html>

heard on October 14th. He said if leave was granted, the full trial of the actions would proceed immediately afterwards.

Proceedings have been brought by Friends of the Irish Environment Ltd (FIE) and by Raymond O'Mahony, a welder and member of the Kilcolgan Residents Association of Kilcolgan, Tarbert. Both are objecting to the proposed €500 million development by Shannon LNG Ltd of a liquid natural gas terminal at Kilcolgan, Tarbert.

Mr O'Mahony says he is extremely concerned about the safety of himself and his family and at how the Health and Safety Authority (HSA) has dealt with issues concerning the proposed terminal.

Both sets of proceedings were initiated in the High Court earlier this year and were admitted to the Commercial Court list, which fast-tracks commercial disputes, on the application of Shannon LNG.

Permission for the development was granted by An Bord Pleanála on March 31st.

Shannon LNG claims it had spent €15 million related to the proposed development by last April and that any delay in moving forward with the development will have significant commercial consequences. It is aiming to have the facility operational by 2012 or 2013.

In its judicial review application, FIE claims the HSA failed to give proper technical advice on the control of major accident hazards relating to the proposed development as required by domestic and European law. It also claims the State failed to properly transpose four relevant EU directives.

It claims the HSA decided that major accident regulations applied to the proposed development but that the HSA's consequent technical advice on the development was inadequate, amounting only to "a simple statement" that the HSE did not advise against the proposed development.

FIE also claims there is no national land use policy governing the proposed development and that the Tarbert site is on a special area of conservation, beside a proposed national heritage area and special protection area and close to areas frequented by the public.

Mr O'Mahony is seeking declarations that the HSA failed to give proper technical advice concerning the proposed development and failed to transpose properly a number of relevant EU directives.

MARY CAROLAN

© Irish Times 17.06.08

19. The Minister for the Environment, John Gormley (T.D.) , has already publicly stated that the planning authorities have chosen the best pipeline route for this application. We have written to Mr. Gormley requesting more information on whether or not the alternative routes can now, therefore, be objectively assessed at the planning stage²¹.

²¹ See Pipeline Appendix E: Statements by Minister Gormley (T.D.) on proposed pipeline route

On September 22nd 2008 we wrote to the Minister as follows:

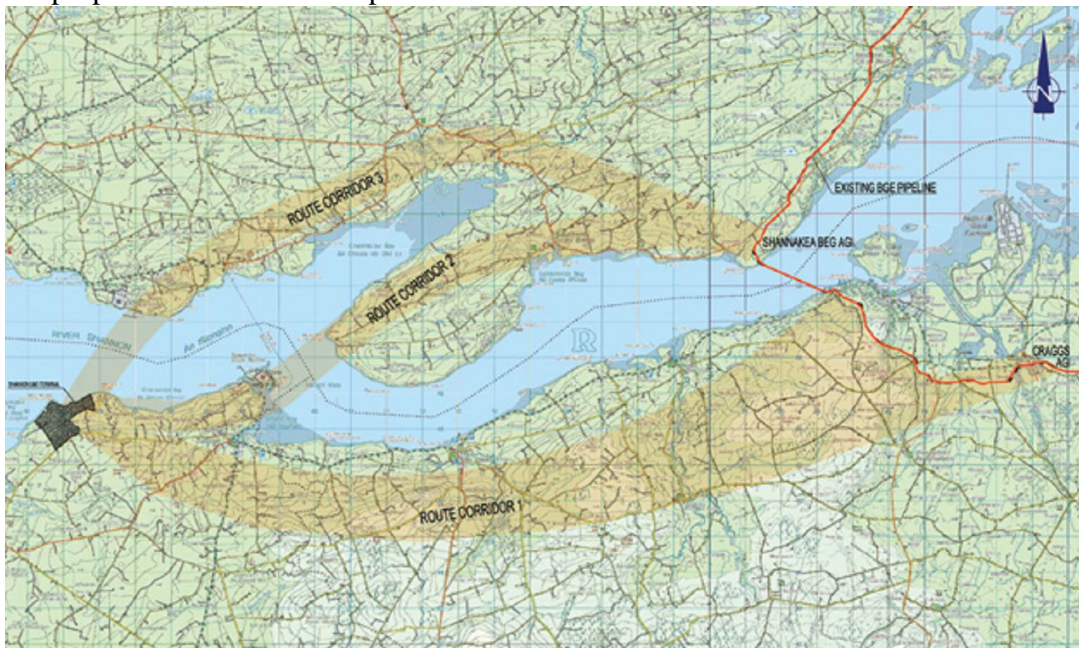
“Dear Minister.

Radio Kerry released the following statement on September 20th 2008²².

“Best route chosen for Shannon LNG says Minister

The Environment Minister is confident that planning authorities have chosen the best route for the Shannon LNG gas pipeline. John Gormley was speaking on the final day of the Green Party think-in in Tralee. In July, plans for the 26 kilometre pipeline on the Tarbert Ballylongford land bank passed the first pre-application stage. The facility will bring 50 jobs to the area. During an oral hearing on the pipeline in January the company said the biggest obstacle to the 500 million euro facility was public concerns over safety. But Minister Gormley says the route has been carefully planned.”

In the original planning application for the proposed LNG terminal, three alternative pipeline routes were mentioned – one of which would pass adjacent to the ESB station which the Spanish energy giant, Endessa, has stated will be converted to a gas-powered generator in the coming years, saving jobs in the town.²³ This is a map of the proposed route corridor options:



²² <http://www.radiokerry.ie/news/search.php> - Radio Kerry News September 20th 2008

²³

http://www.endesa.com/Portal/en/press/press_releases/our_companies/endesa/2008/31jul08_press_note+.htm

Does your statement mean that you agree that An Bord Pleanála chose the preferred route at the pre-consultation negotiations²⁴ between December 20th 2007 and July 22nd 2008 which has now been formally submitted under the fast-track planning process at An Bord Pleanála²⁵. Does it also mean that no consideration of the alternative route options will be accepted by the planning authorities at the formal planning decision stage?

The choice of alternative route was not put before the general public because the public is precluded from making any submissions to An Bord Pleanála at the pre-consultation stage. In other words, a planning decision was made without any formal public consultation. This would seem to be in direct contravention of the EU Directives on according participation to the general public in planning decisions and timely access to environmental information.

Incidentally, the actual pipeline route chosen, the most southerly one, is at least 2 miles from the power station, with no consideration whatsoever being given on where or how the pipeline could be linked to the ESB station²⁶.

As the preferred route was chosen behind closed doors, we are now worried that your statement seems to suggest that the formal planning application will rubber-stamp a decision that has already been made. Also, this statement seems to be giving public ministerial approval for a pipeline planning application which has only been submitted to the planning authorities. We find this very worrying and would like you to clarify matters on this issue since you have already made a public statement on this controversial development which puts us at a disadvantage in arguing our case against the threat to our health and safety, the environmental damage and the lack of any strategic planning for this LNG project.

Finally, we ask you if there is any point in the Kilcolgan Residents Association lodging a submission on the pipeline if, as you have been quoted as stating by Radio Kerry, “the route has been carefully planned” and “the planning authorities have chosen the best route for the Shannon LNG gas pipeline”?

We await your feedback.

²⁴ <http://www.Pleanála.ie/casenum/GC0003.htm> Pre-consultation application for Shannon LNG grid connection at An Bord Pleanála.

²⁵ <http://www.Pleanála.ie/casenum/GA0003.htm> Shannon LNG Gas pipeline planning application

²⁶ See section 18 of the following (as it deals with Ancillary projects – the pipeline) Pages 323 to 329: http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_2_of_4_Issue1.pdf The map of the alternative pipeline routes are on figure 18.1 of the following on page 69 – the last page: http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_3_of_4_Part_c_Issue1.pdf The proposed pipeline has been deemed a strategic infrastructure (c.f. <http://www.Pleanála.ie/casenum/GC0003.htm>) www.shannonpipelineplanning.ie (this site contains the EIS for the proposed pipeline).

Yours sincerely”

This intervention by the Minister was all the more worrying when his private secretary previously wrote to us on May 30th 2008 stating:

*“Under the Planning Acts, the Minister, and consequently the Department, may only intervene in the planning process in respect of heritage matters, i.e., the Minister may comment on planning applications or appeals, or give expert advice to planning authorities or to An Bord Pleanála, in relation to the protection of the built and natural heritage only. In all other circumstances, under Section 30 of the Planning and Development Act, 2000, the Minister is precluded from exercising any power or control in relation to any individual planning application or appeal with which a planning authority or An Bord Pleanála is or may be concerned.”*²⁷.

20. Hoegh LNG has submitted a planning application for an offshore storage facility off the coast of Dublin, proving that alternative sites for LNG storage do exist and are being actively pursued in the Irish Sea.²⁸
21. The All-Island Strategy document for Gas Storage attached - “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis – November 2007”²⁹ jointly commissioned by the Department of Communications, Energy and Natural Resources and the Department of Enterprise, Trade and Investment, Northern Ireland, was published in November 2007 but only released in Executive Summary format to the general public on March 2008. This was AFTER planning permission was given for the terminal.

At the oral hearing into the proposed LNG terminal we requested that the planning authority await the publication of this strategy document publication as it would represent a government policy document that would be a statutory basis for a planning decision. At the oral hearing the inspector was at a loss on who to believe about the alternative sites and options available and we feel that he came under undue pressure to make a decision due to the fast-track planning process without all environmental facts at his, or the general public’s, disposal, contrary to the EIA Directive

This represents a recent policy document by the government and we request that you now consider the recommendations it makes.

²⁷ See Pipeline Appendix E: Statements by Minister Gormley (T.D.) on proposed pipeline route

²⁸ See PIPELINE APPENDIX G: Serious New Information on Höegh LNG and Irish Sea Offshore Gas Storage for PA0002 post oral hearing into the proposed LNG terminal in County Kerry.

²⁹ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> or see Pipeline Appendix K – All Island LNG and gas storage policy document

This strategy document in evaluating the medium-term security of supply measures to be taken in Ireland recommends flattening the Corrib production profile³⁰ as follows:

“The Corrib field is being developed with a production profile delivering maximum production for three years, followed by a relatively rapid decline in production. Consideration should be given to developing the field with the same nameplate facilities capacity, but producing it at less than maximum reservoir capacity in initial years so as to permit an increase in indigenous supplies should this be required in the event of a failure of supplies from GB. This would also have the advantage of prolonging the lower level of output before decline. The need for this would reduce in the event that other supplies to the island of Ireland became available.”³¹

Indeed, following the publication of this government strategy paper, it is now our opinion that there is an obligation and statutory duty on An Bord Pleanála to insert production-level conditions, such as a “use it or lose it” condition on Shannon LNG in any planning permission given as this is no longer able to be enforced by the Department of Communications, Energy and Natural Resources.

The report also contained valuable information on high potential alternative storage sites and strategies which we now also request you consider:

- a) The “North Celtic Sea Basin” and the “East Irish Sea Basin” were identified in the strategy document as high potential offshore gas storage options³²; This potential is already being harnessed in the UK part of the East Irish Sea by the Norwegian Høegh LNG company in its proposed PORT MERIDIAN OFFSHORE LNG TERMINAL³³ and by Stag Energy in its GATEWAY GAS STORAGE PROJECT³⁴
- b) The offshore depleted gas fields of the Kinsale gas field represent a storage capacity almost three times the size of the proposed LNG Storage tanks at Kilcolgan;
- c) Other storage options such as Salt Caverns and LNG Re-gasification vessels are also considered.

³⁰ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> or see Pipeline Appendix K – All Island LNG and gas storage policy document, page 10.

³¹ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> or see Pipeline Appendix K – All Island LNG and gas storage policy document, page 12.

³² <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> or see Pipeline Appendix K – All Island LNG and gas storage policy document, page 5

³³ http://www.hoegh.com/lng/business_development/focus/ and see See PIPELINE APPENDIX G: Serious New Information on Høegh LNG and Irish Sea Offshore Gas Storage for PA0002 post oral hearing into the proposed LNG terminal in County Kerry.

³⁴ <http://www.stagenergy.com/Gateway/index.html> and see See PIPELINE APPENDIX G: Serious New Information on Høegh LNG and Irish Sea Offshore Gas Storage for PA0002 post oral hearing into the proposed LNG terminal in County Kerry.

22. The other developments planned for the landbank, such as the SemEuro oil storage facility, are being kept on hold until the LNG application is completed. There must be a clearer definition of the types of development that should be allowed than being based on the probability of an accident as provided solely by the developer. SemEuro has been in pre-consultation discussions with An Bord Pleanála since March 20th, 2007 (over 1 and a half years ago)³⁵ and we believe that the Board is not acting in an objective manner because it is refusing to declare the SemEuro application no longer valid. This allows it to avoid releasing the documents to the general public in order that the project and its impact on the LNG project be assessed.

23. On December 19th, 2007, Shannon LNG wrote to An Bord Pleanála, informing it that

“landowner liaison is underway” and “a comprehensive package of measures have been agreed with the Irish Farmers Association and Irish Creamery Milk Suppliers Association on the terms and conditions for securing the rights of way for the pipeline”.

On May 21st, 2008, Shannon LNG informed An Bord Pleanála that:

“we have issued wayleave offers to the landowners along the pipeline route and have requested that they be returned by 30 May”.

2 official pre-consultations took place between An Bord Pleanála and Shannon LNG – on February 8th, 2008 and on June 19th, 2008.

We are of the strongest opinion that An Bord Pleanála has allowed itself develop too close a relationship with the applicant and is now guilty of what we would term “agency capture”. It has not maintained an arms-length relationship and this is evident in that it has allowed and implicitly encouraged the developer to issue “wayleave offers” to the landowners. This is **tacit approval by An Bord Pleanála for the pipeline route chosen** and totally in contravention of the obligation to allow meaningful public participation in this planning process. When this point is taken along with the issue raised in point 19 above that the Minister for the Environment, John Gormley (T.D) , has already publicly stated that the planning authorities have chosen the best pipeline route for this application then it is reasonable to assume that a mockery is now being made of the planning process and the ordinary members of the general public on whose land all this development is taking place are being bullied into accepting a decision that they feel has already been made.

24. We are requesting an oral hearing be undertaken on the gas pipeline and the LNG terminal once more. However, we can only attend the hearing if it is held locally (in Tarbert, Listowel or Foynes) due to cost and accessibility for all. The previous hearing was held in Tralee, a 50-mile round trip. In addition, if the state will not provide its own independent LNG and pipeline safety experts for an oral hearing then we are requesting funding to engage these experts in the interests of fairness. Otherwise an oral hearing is nothing more than a meaningless publicity exercise.

³⁵ <http://www.Pleanála.ie/casenum/PC0008.htm> SemEuro Application for Petroleum storage installation and related marine facilities at Ballylongford, Co. Kerry.

25. The EIS submitted by Shannon LNG on the pipeline states:

“The soils in the region of the proposed route comprise stony clays with a high proportion of limestone rock fragments. On elevated land to the south of the pipeline there are large expanses of peat, and some of these boggy areas also extend northwards across the proposed route. These smaller areas of peat have been largely cut away or drained. There are also areas of alluvium in flood plain areas along the larger streams and rivers. Alluvium can be very variable in composition, ranging from soft clays to silts to gravels. The proposed pipeline will not have a significant impact on soils or geology.”

Given the recent bog slides in County Kerry³⁶ we require independent assessments on the effects on soils from experts not employed by the Gas company.

26. New information has been discovered since the oral hearing which now needs to be taken into consideration for the whole project:

- a. No risk assessment has been completed for an LNG spill on water
- b. The Marine Risk Assessment by Shannon Foynes Port Company highlighted the transformation of the southern shores of the Shannon Estuary into an oil and gas storage hub without any strategic environmental assessments being undertaken and which we now request be undertaken as a matter of urgency before any decision is made³⁷. A file has been sent to the Standards in Public Office Commission with our view that councillors prejudiced the outcome of a Strategic Environmental Assessment screening report in that the proposed and highly-publicised LNG terminal was not even considered in the screening report – negligently and deliberately in our opinion.
- c. The KRA made a submission on the new draft Kerry County Development Plan 2009-2013³⁸ which is retrospectively attempting to endorse the LNG terminal by stating among other things that 20-storey high LNG tanks will not have an effect on the landscape. A complaint has equally been sent to the County Council on the consultants, Fehily Timoney & Co, who undertook the SEA on the draft County Development Plan due to what we perceive as its lack of objectivity due to its indirect business links with Hess Corporation.
- d. In Massachusetts, the state House of Representatives unanimously approved a bill on July 24th 2008 prohibiting construction of LNG terminals within 5,000 feet of residences, schools, hospitals, elderly

³⁶ See Pipeline Appndix D: KRA submission on draft County Development Plan 2009-2015.

³⁷ Risk Assessment of Marine Operations at LNG Terminal may be viewed at http://www.sfpc.ie/operations_LNGRisk.html and in Pipeline Appendix D: KRA submission on draft County Development Plan 2009-2015

³⁸ See Pipeline Appndix D: KRA submission on draft County Development Plan 2009-2015.

housing complexes, businesses and developments.³⁹ It also prohibits LNG tankers from passing within 1,500 feet of populated shorelines. This law increases and formalises the protection afforded to communities. It gives clarity and certainty to all - to residents, developers, safety and planning authorities, saving time, expense and much community anguish. We are of the opinion that if the LNG terminal is to go ahead then no other development should take place within 3 miles of this development”.

- e. In the original planning application permission given for the LNG terminal, no account was taken of:
 - i. The effect of traffic on Tarbert village
 - ii. How primary and secondary schools are to open and close at the same time to facilitate construction traffic even when the same bus drivers serve both schools
 - iii. Not all lands on site are owned by Shannon LNG and the issue of lands being sterilised has still not been dealt with
 - iv. The plan for a gas-powered ESB station on the site has not been environmentally assessed.

27. On July 16th 2008 the European Petitions Committee formally informed the Kilcolgan Residents Association that it has asked both the European Commission and the European Parliament Committee on the Environment to conduct a preliminary investigation of the various aspects of the problem after the KRA expressed concerns that the LNG terminal, as proposed, contravenes several EU Directives. In its right of reply to this notification, the KRA submitted clarification on how it now sees at least nine EU Directives are being contravened. These are the WaterFramework Directive, the Emissions Trading Directive, the Environmental Liability Directive, the Seveso II Directive, the Gas Directive, the EIA Directive, the SEA Directive, the Habitats Directive and the IPPC Directive which we now request you take into consideration.⁴⁰

28. We request that you take on board all our other submissions and observations raised in our submission on the LNG terminal (PA0002)⁴¹, as well as the submissions made by all parties at the oral hearing in January 2008 and the eventual ruling documents of An Bord Pleanála.

29. We object to the manner in which the pipeline route has been forced on unsuspecting landowners who cannot possibly be expected to understand the consequences of the sale of lands without legal advice or obtain protection from the government which they would normally expect as their constitutional right. The landowners have been threatened that the lands will be taken off them anyway through this compulsory acquisition application and are being forced to sell out against their wills for fear of obtaining virtually nothing at all if

³⁹ Patrick signs LNG buffer bill into law

<http://www.heraldnews.com/news/x153381548/Patrick-signs-LNG-buffer-bill-into-law>

⁴⁰ See Pipeline Appndix D: KRA submission on draft County Development Plan 2009-2015.

⁴¹ <http://www.Pleanála.ie/casenum/PA0002.htm>

this application is successful.⁴² Considering that Shannon LNG wants a permanent wayleave of 14 metres in width and working access to 50 metres either side of the proposed pipeline, currently before An Bord Pleanála for consideration, no account has been taken of the real cost of sterilised land. For example a site worth 80,000 euros is being given away for 5,000 euros.

For example, if a farmer is going to have 400 metres of pipeline on his land, the compensation would be as follows:

1) Flexibility Payment		€ 5,000.00
2) Wayleave Payment	400 metres @ €25.50	€10,200.00
3) Early Signing Payment	400 metres @ €10.50	€4,200.00
Total Due		€19,400.00

(Due within 21 days of signing Consent Form)

The flexibility payment of €5000.00 is payable on signing the Consent Form and returning it to Shannon LNG NO LATER THAN 30/05/2008.

A payment of €34.00 per linear metre is payable in respect of the wayleave; 75% (€25.50 as above) is payable on signing the consent form and returning it to Shannon LNG NO LATER THAN 30/05/2008. However the remaining 25% does not become payable until the DEED OF EASEMENT is signed AFTER the construction is completed.

An early signing payment of €10.50 (see above) per linear metre is payable on signing the Consent Form and returning it to Shannon LNG NOT LATER THAN 30/05/2008.

An advance payment of €24.00 per linear metre in respect of losses/disturbance is payable at NOTICE OF ENTRY ON THE LAND (shortly before construction starts).

400 metres @ €24.00	€9600.00
---------------------	----------

The remaining 25% of Wayleave payment is payable on signing the Deed of Easement when construction is complete

400 metres @ €8.50	€3400.00
--------------------	----------

Total payable from start of job to completion assuming that all forms are signed and returned on time and ASSUMING THAT LANDOWNER DOES NOT OBJECT TO THE PLANNING APPLICATION TO AN BORD PLEANALA (as per Consent Form, page 1)

€19,400.00
€ 9,600.00
€ 3,400.00
€32,400.00

⁴² See PIPELINE APPENDIX J: Shannon LNG pipeline Contract, Consent forms, Code of Practice, Deed of Easements

If the "sweetner " flexibility payment of €5,000.00 is deducted, you are left with a payment of €27,400.00 which equates to €68.50 per linear metre.

Over 60 landowners are involved, but as this is being done behind closed doors at An Bord Pleanála once again, the community has absolutely no input into the location of the pipeline. Also, as the Oral Hearing into the LNG terminal was told in Tralee, landowners will not have a choice as compulsory acquisition orders will be taken out on them – this is not fair and the state has abdicated its responsibility to offer protection .

The Irish Constitution – Bunreacht na hÉireann – states in Article 40 (1) that “All citizens shall, as human persons, be held equal before the law”. It states in Article 40 (3)(1) that “The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen”. And in Article 40(3)(2) it states that “The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.”

We expect that An Bord Pleanála and the HSA, as an organ of the state should uphold these aforementioned constitutional rights in our interest. As residents of a sparsely-populated area we want to be treated with the same degree of protection from danger as residents of a more densely populated area, such as Dublin would be as obliged by Article 40(1).

We object that the laws being used under the Gas Acts and the Strategic Infrastructure Act to compulsorily acquire private land for a project that is not in the national interest on the grounds we have detailed in this submission are not constitutional. Furthermore, the acquisition orders are being requested by a foreign multinational energy company that does not have any concern for the national interest.

We intend to make a further submission to you on this issue as this is an issue that requires detailed legal argument which demands more time than this fast track planning process has allowed.

This LNG project is encouraging more dependence on imported fossil fuels, contrary to Ireland’s obligations under the Kyoto Protocol and the fight against global warming and climate change. This LNG project poses an unprecedented risk to public health and safety. It will cause damage to several environmentally sensitive areas. The project does not conform to well-established codes of practice. The whole LNG project has been ill-conceived, developer-lead, politically motivated and is being assessed without any strategic planning. The development will pose a risk to a primary drinking-water supply in the Kilcolgan area.

No meaningful consultation has been carried out with the local community.
The EIS is seriously flawed because it is assessing only part of the overall project.
The HSA has abdicated all responsibility in refusing to even assess the parts of this project in an actual SEVESO II establishment.
This development would industrialise a previously unspoilt landscape.
The quality of life of people in the region of this development will continue to be severely damaged and the long-term impacts will be catastrophic.
The highly technical nature and vast scope of the proposed project demand independent assessments that are available for public participation before any planning decision is made.
Due to the serious issues raised by us we are asking An Bord Pleanála to reject this project in its entirety on health and safety, environmental and strategic planning grounds.

Yours faithfully,
Johnny McElligott
P.R.O. Kilcolgan Residents Association.

PIPELINE APPENDIX A

Complaint on possible breach of ethics and conflict of interest by Councillor John Brassil and Senator Ned O’Sullivan in the prejudicing of an Strategic Environmental Screening Report to the Standards in Public Office Commission (SIPO).

Attached in a separate file.

PIPELINE APPENDIX B

Irish Times, September 16, 2008

You don't build trust through gunboat diplomacy

A final opportunity exists for consent to replace coercion over the Corrib gas project; the State must take it, writes **Fintan O'Toole**

LET'S CONDUCT a brief thought experiment. Suppose, for a moment, that Sean Dunne's proposal for a massive tower in Ballsbridge is given the go-ahead. Suppose, too, that local residents are infuriated by this decision, seeing it as an assault on their familiar way of life. Suppose then that some of those residents form an action group with the intention of disrupting the building of the tower by staging sit-ins or occupying the site. The dispute becomes embittered to the point where one of the residents decides to go on hunger strike.

If all of this were to happen, which of the two following scenarios do you think more likely to ensue?

The first scenario is that the State decides to use its full might against the burghers of Ballsbridge. The Garda devotes almost as much of its budget to policing the protests as it does to the entire Operation Anvil against organised crime.

The Army is called in and a tank is stationed at the entrance to the site. A private security firm is allowed to film Ballsbridge residents as they go about their daily business, and when residents report this to the Garda, they are told it is a "civil matter". The Garda seeks the help of Interpol to identify protesters.

The second scenario is that the situation is constantly in the headlines. There is a consensus that it has to be handled by dialogue. The Government steps in as an honest broker.

It is not hard to guess that, if all of this were to happen in Ballsbridge, the second scenario is much the most plausible.

But if we end the thought experiment and enter reality, the story is unfolding in west Mayo and everything described in the first scenario is actually happening. That it has been allowed to happen is a particular disgrace for the Green Party and especially for its brightest star, Minister for Energy Eamon Ryan.

Nothing in the outlandish first Ballsbridge scenario is at all an exaggeration of reality in the Erris peninsula. The Garda operation is likely to cost €15 million by the end of the year - Operation Anvil has a budget of €20 million.

The Army hasn't been called in, but for the first time in the history of the State, the Naval Service has been deployed against a civilian protest. The LE Orla was deployed in Broadhaven Bay to police protesters in kayaks. Photographs of protesters have been circulated to Interpol, even when those protesters are not charged with any crime.

A private security firm has been conducting surveillance operations against local residents. One man, Colm Henry, has reported that his grandchildren were filmed walking across their family's own land to Glengad beach. The parish priest of Kilcommon, Fr Michael Nallen, who was himself photographed by a security company, has alleged that his parishioners are "prisoners in their own area".

This extraordinarily heavy-handed response might be justified in some minds by a notion that the law must be upheld, whatever the cost. But the upholding of law is all on one side. The existing law was specifically changed for Shell - for the first time, a private company was allowed to obtain compulsory purchase orders against private citizens. This new legislation was so deeply flawed that it is probably invalid - the Government had to amend it subsequently and Shell used a different legal mechanism for the amended pipeline route.

Key parts of the Corrib project have, moreover, been exempted from the normal planning laws under the Strategic Infrastructure Act - again using powers normally intended for State projects to assist a private operation.

Even with this tweaking of the law in Shell's favour, the project has been marked by some obvious illegalities. Eamon Ryan himself failed to issue notices of consent to some of the current work at Glengad, as required by law - an "oversight" we were told. Shell built a road at Glengad without planning permission - An Bord Pleanála allowed them to retain it. A Shell contractor carried out entirely unauthorised drilling in the Glenamoy area of special conservation - it was ordered to restore the area but no prosecution was taken.

While the Naval Service and Interpol are called in against the protesters, neither Shell nor the State itself has been overpunctilious in observing legalities.

When citizens can't look to the State for fairness, events spiral out of control. This whole problem is rooted in what Shell itself has acknowledged to be "a lack of dialogue and trust".

You don't build dialogue and trust with the literal gunboat diplomacy we've seen in recent weeks. You build it by the State meeting its basic obligations to represent its citizens, even when they are foolish enough to live in Erris rather than in Ballsbridge.

There is now a fortuitous delay in the laying of the pipeline - the project may be put back until the spring. This creates a last opportunity to replace coercion with consent. Having supported the protesters and been elected partly on a promise to review the entire project, Eamon Ryan has a personal moral obligation to take on that responsibility.

© 2008 The Irish Times

This article appears in the print edition of the Irish Times

PIPELINE APPENDIX C

Planning application notice of direct planning application to An Bord Pleanála

PLANNING AND DEVELOPMENT ACTS 2000 TO 2006

Notice of Direct Planning Application to An Bord Pleanála
in Respect of a Strategic Infrastructure Development

COUNTY KERRY AND COUNTY LIMERICK

In accordance with Section 182C of the Planning and Development Act 2000 as amended by the Planning and Development (Strategic Infrastructure) Act 2006 Shannon LNG Limited gives notice of its intention to make an application for permission/approval to An Bord Pleanála in relation to the following proposed development:

The proposed development is a natural gas pipeline, with associated above ground installations (AGIs), to connect the Shannon LNG Regasification Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick. The proposed development is located in the townlands of Ralappane, Carhoonakineely, Carhoonakilla, Cockhill, Carhoona, Dooncaha, Doonard Upper, Tieraclea Upper, and Kilmurrihy, County Kerry, and Ballygoghlan, Ballycullane Upper, Ballyniagaul, Kinard, Ballygiltieran Lower, Killeany More, Flean More, Curra More, Lisready (Clare), Ballyroe, Knocknabooley West, Knocknabooley Middle, Knocknabooley East, Mount-trenchard, Ballynash (Bishop), Ballynash (Clare), and Leahys, County Limerick.

The development comprises a new below ground steel natural gas pipeline (approximately 26km long, 98bar, 750mm nominal diameter), with associated marker posts and cathodic protection facilities, and two new above ground installations, one at either end of the new pipeline.

The new above ground installation at the Shannon LNG Regasification Terminal comprises above ground and below ground pipework and valves, pig trap, instrument building, instrument kiosk, odorant facilities, metering building, analyser building, electrical metering cabinets, lighting, ancillary equipment and facilities, site roads, security fencing, gates, earthworks, below ground and above ground drainage, utility systems, operational laydown areas, landscaping, and all associated on-site infrastructure required to serve the proposed development.

The new above ground installation at the connection to the existing natural gas network at Leahys, County Limerick comprises above ground and below ground pipework and valves, pig trap, instrument buildings, metering and analyser building, analyser building, heater building, regulator building, heat exchangers, filters, metering equipment, pressure regulation/flow control equipment, electrical metering cabinets, lighting, ancillary equipment and facilities, entrance road and site roads, security fencing, gates, earthworks, below ground and above ground drainage including soakpits, utility systems, operational laydown areas, landscaping, works to existing public road to accommodate a new entrance, and all associated on-site infrastructure required to serve the proposed development.

The proposed Shannon LNG Terminal AGI falls within the footprint of the proposed Shannon LNG Terminal which is an establishment to which the Major Accident Directive applies.

An Environmental Impact Statement has been prepared in relation to the application.

The planning application and the Environmental Impact Statement may be inspected free of charge or purchased on payment of a specified fee during public office opening hours for a period of seven weeks commencing on 19 August 2008 at the following locations:

The Offices of An Bord Pleanála 64 Marlborough Street, Dublin 1.

The Offices of the relevant Planning Authority:

— Kerry County Council, County Buildings, Rathass, Tralee, and

— Limerick County Council, County Hall, Dooradoyle, Limerick

The Offices of Shannon LNG Limited, Clieveragh Business Park, Listowel, Co. Kerry.

The planning application and the Environmental Impact Statement may be inspected free of charge during public office opening hours for a period of seven weeks commencing on 19 August 2008 at the following locations:

Listowel Garda Station, Church Street, Listowel, County Kerry, and

Askeaton Garda Station, Askeaton County Limerick.

The application may also be viewed/downloaded on the following website:

<http://www.shannonpipelineplanning.ie>

Submissions or observations may be made only to An Bord Pleanála ('the Board') 64 Marlborough Street, Dublin 1 during the above-mentioned period of seven weeks relating to -

- (i) the implications of the proposed development for proper planning and sustainable development, and
- (ii) the likely effects on the environment of the proposed development, if carried out.

Any submissions/observations must be received by the Board not later than 5.30p.m. on the 07 October 2008, must be accompanied by a fee of €50, and must include the following information:

- (i) the name of the person making the submission or observation, the name of the person acting on his or her behalf, if any, and the address to which any correspondence relating to the application should be sent,
- (ii) the subject matter of the submission or observation, and
- (iii) the reasons, considerations and arguments on which the submission or observation is based in full.

Any submissions or observations which do not comply with the above requirements cannot be considered by the Board.

The Board may in respect of an application for permission/approval decide to -

- (a) (i) grant the permission/approval, or
- (ii) make such modifications to the proposed development as it specifies in its decision and grant permission/approval in respect of the proposed development as so modified, or
- (iii) grant permission/approval in respect of part of the proposed development (with or without specified modifications of it of the foregoing kind),
and any of the above decisions may be subject to or without conditions,
or
- (b) refuse to grant the permission/approval.

Any enquiries relating to the application process should be directed to the Strategic Infrastructure Section of An Bord Pleanála (Tel. 01-8588100)

PIPELINE APPENDIX D

KRA Submission on Draft Kerry County Development Plan 2009-2015

Attached in a separate file.

PIPELINE APPENDIX E

Statements by Minister Gormley (T.D.) on alternative pipeline routes.



Kilcolgan Residents Association
Protecting the Shannon Estuary

Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel
County Kerry

Telephone: +353-87-2804474
Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

22 September 2008

Minister John Gormley T.D.
Department of Environment, Heritage and Local Government,
Custom House,
Dublin 1.

By Email only to minister@environ.ie

Re: Shannon LNG pipeline statement by Minister Gormley

Dear Minister.

Radio Kerry released the following statement on September 20th 2008⁴³.

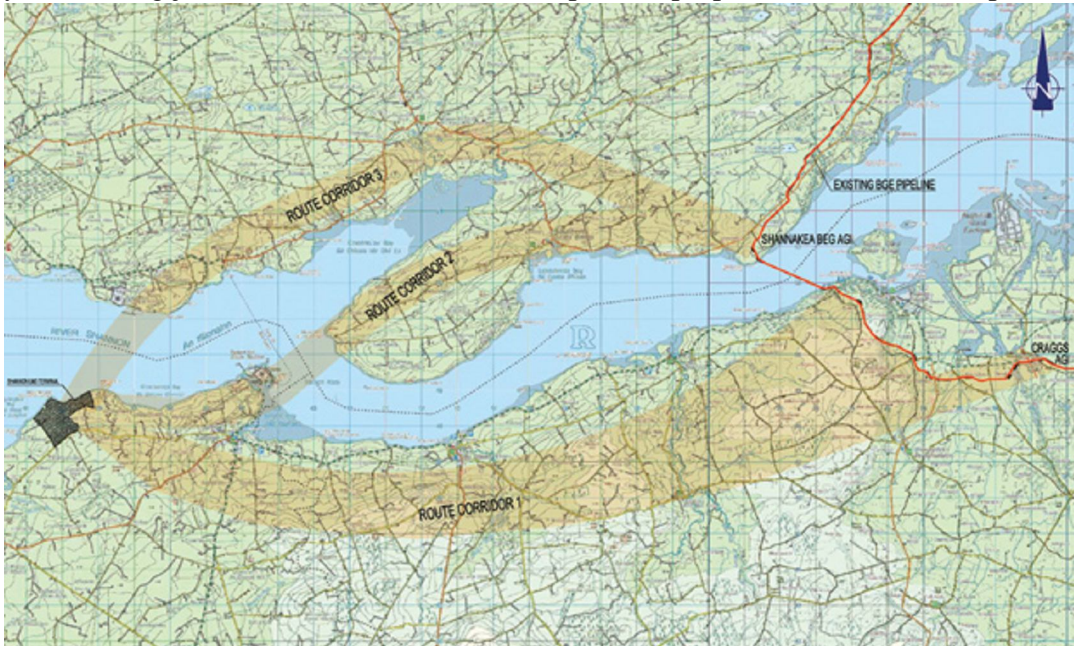
“Best route chosen for Shannon LNG says Minister

The Environment Minister is confident that planning authorities have chosen the best route for the Shannon LNG gas pipeline. John Gormley was speaking on the final day of the Green Party think-in in Tralee. In July, plans for the 26 kilometre pipeline on the Tarbert Ballylongford land bank passed the first pre-application stage. The facility will bring 50 jobs to the area. During an oral hearing on the pipeline in January the company said the biggest obstacle to the 500 million euro facility was public concerns over safety. But Minister Gormley says the route has been carefully planned.”

In the original planning application for the proposed LNG terminal, three alternative pipeline routes were mentioned – one of which would pass adjacent to the ESB station which the Spanish

⁴³ <http://www.radiokerry.ie/news/search.php> - Radio Kerry News September 20th 2008

energy giant, Endessa, has stated will be converted to a gas-powered generator in the coming years, saving jobs in the town.⁴⁴ This is a map of the proposed route corridor options:



Does your statement mean that you agree that An Bord Pleanála chose the preferred route at the pre-consultation negotiations⁴⁵ between December 20th 2007 and July 22nd 2008 which has now been formally submitted under the fast-track planning process at An Bord Pleanála⁴⁶. Does it also mean that no consideration of the alternative route options will be accepted by the planning authorities at the formal planning decision stage?

The choice of alternative route was not put before the general public because the public is precluded from making any submissions to An Bord Pleanála at the pre-consultation stage. In other words, a planning decision was made without any formal public consultation. This would seem to be in direct contravention of the EU Directives on according participation to the general public in planning decisions and timely access to environmental information.

Incidentally, the actual pipeline route chosen, the most southerly one, is at least 2 miles from the power station, with no consideration whatsoever being given on where or how the pipeline could be linked to the ESB station⁴⁷.

44

http://www.endesa.com/Portal/en/press/press_releases/our_companies/endesa/2008/31jul08_press_note+.htm

⁴⁵ <http://www.Pleanála.ie/casenum/GC0003.htm> Pre-consultation application for Shannon LNG grid connection at An Bord Pleanála.

⁴⁶ <http://www.Pleanála.ie/casenum/GA0003.htm> Shannon LNG Gas pipeline planning application

⁴⁷ See section 18 of the following (as it deals with Ancillary projects – the pipeline) Pages 323 to 329:

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_2_of_4_Issue1.pdf The

map of the alternative pipeline routes are on figure 18.1 of the following on page 69 – the last page:

http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_3_of_4_Part_c_Issue1.pdf

As the preferred route was chosen behind closed doors, we are now worried that your statement seems to suggest that the formal planning application will rubber-stamp a decision that has already been made. Also, this statement seems to be giving public ministerial approval for a pipeline planning application which has only been submitted to the planning authorities. We find this very worrying and would like you to clarify matters on this issue since you have already made a public statement on this controversial development which puts us at a disadvantage in arguing our case against the threat to our health and safety, the environmental damage and the lack of any strategic planning for this LNG project.

Finally, we ask you if there is any point in the Kilcolgan Residents Association lodging a submission on the pipeline if, as you have been quoted as stating by Radio Kerry, “the route has been carefully planned” and “the planning authorities have chosen the best route for the Shannon LNG gas pipeline”?

We await your feedback.

Yours sincerely,

Johnny McElligott

From: MINISTER [mailto:minister@environ.ie]
Sent: 30 May 2008 12:08
To: McElligott, John
Subject: REP3502/JG/07

Please Quote Ref: REP3502/JG/07

30 May 2008

Email: John.McElligott@cwmsg.cwplc.com

Dear Mr. McElligott,

I have been asked by Mr. John Gormley, T.D., Minister for the Environment, Heritage and Local Government to refer further to your email in connection with Variation No. 7 to Kerry County Development Plan 2003-2009.

The proposed pipeline has been deemed a strategic infrastructure (c.f. <http://www.Pleanála.ie/casenum/GC0003.htm>)
www.shannonpipelineplanning.ie (this site contains the EIS for the proposed pipeline).

The Minister has asked me to say that, under the 2004 Regulations, SI No. 436, it is a matter for the planning authority to consider, by way of a screening report, if a proposed variation to a Development Plan would have significant effects on the environment, thus warranting an SEA to be carried out. The Regulations also require the planning authority to make a copy of its decision, and its rationale for same, available for public inspection. In this instance, the Minister is informed that Kerry County Council completed a screening report and has confirmed that its decision was placed on file and is available for inspection.

The Planning and Development (Strategic Infrastructure) Act 2006 provides for the introduction of a 'strategic consent process' for strategic infrastructure of national importance and the restructuring of An Bord Pleanála to allow for the establishment of a Strategic Infrastructure Division to handle all major infrastructure projects. The Act also provides a better service for all stakeholders, infrastructure providers, State bodies and the general public alike, through a single stage process of approval for projects; a rigorous assessment of all projects, including their environmental impact; full public consultation; and certainty of timeframes.

Under the Planning Acts, the Minister, and consequently the Department, may only intervene in the planning process in respect of heritage matters, i.e., the Minister may comment on planning applications or appeals, or give expert advice to planning authorities or to An Bord Pleanála, in relation to the protection of the built and natural heritage only. In all other circumstances, under Section 30 of the Planning and Development Act, 2000, the Minister is precluded from exercising any power or control in relation to any individual planning application or appeal with which a planning authority or An Bord Pleanála is or may be concerned.

Yours sincerely,

Eddie Kiernan,
Private Secretary

Is faoi rún agus chun úsáide an té nó an aonán atá luaite leis, a sheoltar an ríomhphost seo agus aon comhad atá nasctha leis. Má bhfuair tú an ríomhphost seo trí earráid, déan teagmháil le bhainisteoir an chórais.

Deimhnítear leis an bhfo-nóta seo freisin go bhfuil an teachtaireacht ríomhphoist seo scuabtha le bogearraí frithvíorais chun víorais ríomhaire a aimsiú.

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager.

This footnote also confirms that this email message has been swept by anti-virus software for the presence of computer viruses.

From: MINISTER [mailto:minister@environ.ie]
Sent: 21 November 2007 11:23
To: McElligott, John
Subject: REP3502/JG/07

Please Quote Ref: REP3502/JG/07

21 November 2007

Email: John.McElligott@cwmsg.cwplc.com

Dear Mr. McElligott,

I have been asked by Mr. John Gormley, T.D., Minister for the Environment, Heritage and Local Government to refer to your recent email in connection with a complaint about Kerry County Council.

A further letter on this matter will issue as soon as possible.

Yours sincerely,

Eddie Kiernan
Private Secretary

Pipeline Appendix F:

Unavailability of Pipeline EIS.

The An Bord Pleanála letter to the KRA dated 22nd September 2008 reads as follows:

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.
Tel: (01) 858 8100
LoCall: 1890 275 175
Email bord@Pleanála.ie

Johnny McElligott
Kilcolgan Residents' Association,
Island View,
Convent Street,
Listowel,
County Kerry

22nd September 2008.

Our Ref: 08.GA0003

Re: Gas pipeline to connect Shannon LNG Terminal at Ralappane Co. Kerry to existing natural gas network at Leahys, Co. Limerick.

Dear Sir,

I have been asked by An Bord Pleanála to refer further to your letter dated the 3rd of September, 2008 and your e-mail dated the 16th of September, 2008 in relation to the above-mentioned case. The Board would request that, if at all possible, you make your submission to it on or before the date which was specified in the public notices (i.e. 7th of October, 2008). In relation to the problems encountered with the stand alone website, the Board will definitely review the matter of allowing an extension of time once the objection expiry period has passed.

Yours faithfully,
Kieran Somers
Executive Officer

From: safetybeforelng@hotmail.com
To: c.treacy@Pleanála.ie
CC: k.somers@Pleanála.ie
Subject: FW: GA003 and DA003 Complaint on unavailability of www.shannonpipelineplanning.ie website.
Date: Tue, 16 Sep 2008 09:46:28 +0000

Hi Caroline,

Yesterday was the first time we could begin to start downloading the EIS from Shannon LNG's website www.shannonpipelineplanning.ie. I raised this issue on the attached email on September 3rd, to which I never received any reply.

As the applicant was under strict instructions at the preconsultation stage (GC003) to have the EIS available on the website but did not ensure this was the case until this week, I am once again requesting an extension of the deadline for making an application to the pipeline application GA003 and Compulsory purchase DA003 in the interest of fairness.

It is not sufficient that this information is available in paper form in the places noted on the application, because we need this information to be assessed in much greater detail and the application extends for hundreds of pages.

There is nothing wrong with our email connection either as I.T. is my area of business.

An extension of approximately 3 weeks would be reasonable from our point of view.

Could you also please send us a cd version of the application and we will send public access the required fee?

We await your feedback.

Kind Regards,

Johnny McElligott

Kilcolgan Residents Association

<http://www.safetybeforelng.com>

e-mail: safetybeforelng@hotmail.com

Tel.: +353-87-2804474

Address: Island View, Convent Street, Listowel, County Kerry, Ireland

From: safetybeforelng@hotmail.com

To: bord@Pleanála.ie

Subject: GA003 and DA003 Complaint on unavailability of www.shannonpipelineplanning.ie website.

Date: Wed, 3 Sep 2008 18:02:24 +0000

Kilcolgan Residents Association

<http://www.safetybeforelng.com>

e-mail: safetybeforelng@hotmail.com

Tel.: +353-87-2804474

Address: Island View, Convent Street, Listowel, County Kerry, Ireland

03 September 2008

For Attention of:
Strategic Infrastructure Section,
An Bord Pleanála
64 Marlborough Street,
Dublin 1.

By Email only to: bord@Pleanála.ie

Re: GA0003 and DA0003 Complaint on unavailability of www.shannonpipelineplanning.ie website.

Dear Sir/Madam,

As detailed below, it has not been possible to access the Shannon LNG pipeline website which was a specific precondition in the decision of GC0003.

As it is extremely important for the public to have access to this website, which has now been down since at least the middle of August, we are hereby requesting that you investigate formally with the applicant the length of time this website is actually going to be available for public consultation.

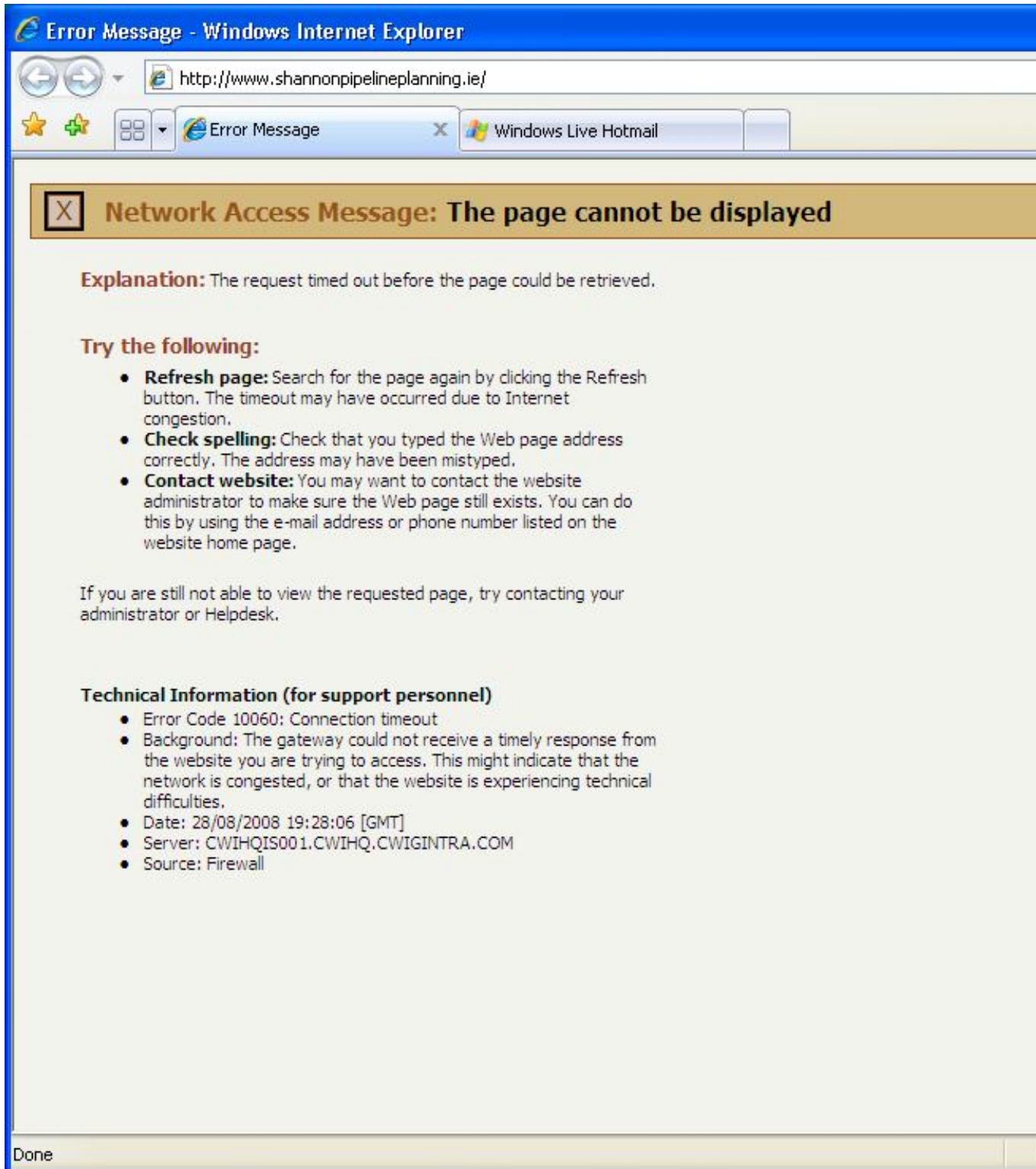
We had the same problem with the application for the LNG terminal, where the site was down for long periods and which only seemed to be available to the public when the problem was highlighted with the Board.

The KRA is now therefore requesting an extension of the deadline for making submissions to the board on GA003 and DA0003 because this deadline is already extremely tight.

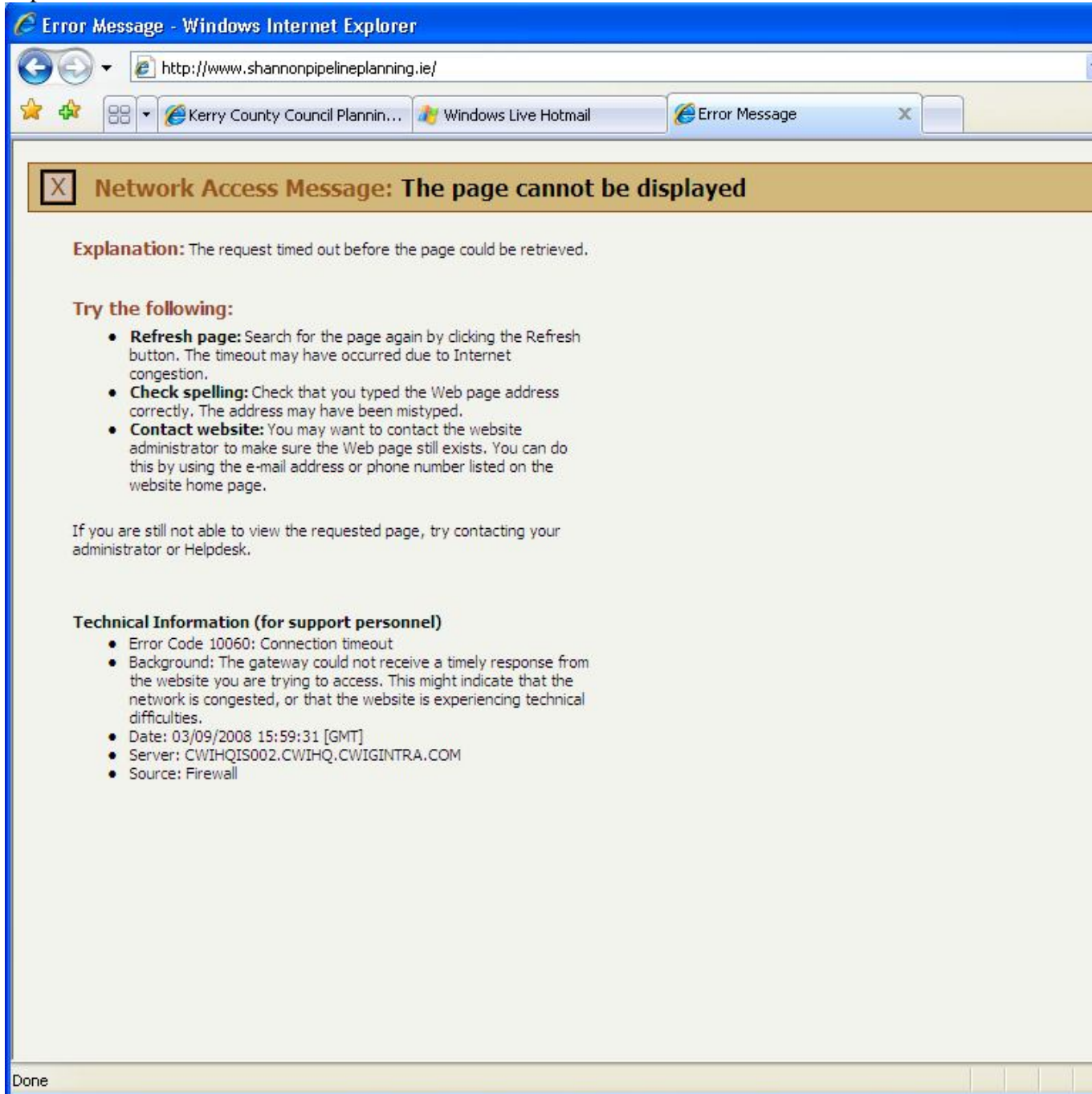
We await your feedback,

Yours faithfully,
Johnny McElligott

August 28th 2008 unavailable.



September 3rd 2008 :still unavailable:



08.GA0003:

Shannon LNG Limited

Gas pipeline to connect Shannon LNG terminal at Ralappane, Co. Kerry to existing natural gas network at Leahys, County Limerick.

Case Reference: 08.GA0003

Case Type: Application for approval

Website address to access information:

www.shannonpipelineplanning.ie

Status: Case is due to be decided by 18th February, 2009

Last day for making a submission to the Board: 7th October, 2008

Date of Correspondence: Details of Correspondence_____

14th August, 2008 Application for approval received on 14th August, 2008.

21st August, 2008 Letter of acknowledgement issued to the applicant and letters issued to Kerry County Council and Limerick County Council regarding the application

PIPELINE APPENDIX G:

Serious New Information on Höegh LNG and Irish Sea Offshore Gas Storage for PA0002 post oral hearing into the proposed LNG terminal in County Kerry.

Attached in a separate file.

PIPELINE APPENDIX H:

Planning decisions may be invalidated by ECJ

<http://www.thepost.ie/post/pages/p/story.aspx-qqqt=IRELAND-qqqm=news-qqqid=36509-qqqx=1.asp>

Sunday, October 05, 2008 By John Burke

Businessman Jim Mansfield has been told by An Bord Pleanála that the retention planning permission recently granted for his €90 million conference centre at Citywest in Dublin may be invalidated by a European court ruling.

An Bord Pleanála has briefed John Gormley, the Minister for the Environment, that a number of developments that were granted planning permission over the past 11 years may be regarded as illegal developments under a European Court of Justice (ECJ) ruling on July 3.

The board granted retention permission for Mansfield's partly-constructed conference centre, which would have the capacity for more than 4,100 delegates, a fortnight after the ECJ ruling. However, in a letter dated September 15, it forwarded Mansfield advice from the Department of Environment that the permission might be in breach of the court ruling.

Gormley had asked An Bord Pleanála to assess the impact of the ECJ ruling. The court ruled that a failure to mandate environmental impact assessments (EIS) before projects begin and the mechanism of subsequently granting retention for projects with no planning permission break EU law.

An Bord Pleanála is understood to have expressed the view that the ECJ ruling may apply to projects in Ireland dating back to 1997, when the EU directive covering the requirement to conduct an EIS was last amended. Gormley has told the board that he intends to introduce legislation to give effect to the EU directive in accordance with the findings of the ECJ.

Ian Lumley, heritage officer for An Taisce - which objected to the granting of permission to Mansfield's centre - said the conservation body was aware of the impact of the ruling on the project and was deciding how to respond. An Bord Pleanála declined to comment.

Mansfield's business interests include the Citywest hotel, Weston aerodrome and substantial land interests. His conference centre project has been the subject of objections since 2004, when South Dublin County Council originally gave the facility the go-ahead.

The European Court of Justice ruling dealt with a specific complaint by the EC over Ireland's failure to carry out a proper environmental impact assessment on a wind farm project at Derrybrien in Galway.

It also considered a wider complaint from Brussels that the Irish government's existing planning rules on impact assessments and retention permission fail to protect the environment.

Irish Times,

Tuesday October 7th 2008

<http://www.irishtimes.com/newspaper/ireland/2008/1007/1223323541016.html>

New law to tackle unauthorised developments

FRANK McDONALD, Environment Editor

LEGISLATION IS being drafted to ensure that planning authorities do not grant retrospective permission for unauthorised developments in cases where an environmental impact assessment (EIA) is required.

This follows a judgment by the European Court of Justice (ECJ) last July, in which the court invalidated Irish law allowing local councils and An Bord Pleanála to grant retention for developments that failed to comply with the EU's directive on EIAs.

Among the schemes that would be affected by the court's judgment are several major quarries and the proposed convention centre at the Citywest Hotel complex in Saggart, Co Dublin, for which the appeals board recently granted retention.

The board wrote to Citywest developer Jim Mansfield on September 15th last, spelling out the implications of the judgment and saying he should "take legal advice before acting on the planning permission" in these circumstances.

Minister for the Environment John Gormley is warning the local authorities that any current retention applications that should have been subject to prior EIA must now be returned to developers, on the basis that they are invalid.

They are also being told by the Minister that developers who had already received retention permission in similar cases since July 3rd - the date of the European Court judgment - should be "advised not to act upon the permission" on legal grounds.

These developers "must be informed that as a result of the judgment the permission granted is in breach of Community law as it was granted under a legislative system that the ECJ found was inconsistent with the EIA Directive", the circular says.

Referring to the proposed amending legislation, Mr Gormley said: "My aim is to remove the possibility of retention for unauthorised development which would otherwise have been subject to EIA, other than in exceptional circumstances."

A spokesman for the Minister could not say what these circumstances might be as the legislation has yet to be drafted, but he made it clear that Mr Gormley intended to take a "zero tolerance" approach to the retention of such unauthorised developments.

However, he emphasised that the amending legislation would only apply to major developments above the thresholds at which an EIA would be required.

"It's not about going after people who might have built domestic extensions without permission".

The Minister said he envisaged that the legislation would also revoke the current seven-year time limit within which enforcement action may be taken in respect of all unauthorised developments, whether or not they would require a prior EIA under EU rules.

A spokesman for An Taisce said the Minister was the competent authority for ensuring compliance with EU directives and he should use his power under Section 44 of the 2000 Planning Act to direct local authorities to revoke non-compliant permissions.

The ECJ judgment related to a wind farm at Derrybrien, Co Galway, where the construction of a service road caused a major landslide on the blanket bog.

Earlier this year, there were two further "bogslides" at wind farm development sites in Kerry and Leitrim.

A coalition of environmental groups, including An Taisce, Birdwatch Ireland and Friends of the Irish Environment has called for a moratorium on wind farm construction involving blanket bog sites until "best practice guidelines" were adopted.

"Peat landslide hazard and risk assessments must be undertaken", a spokesman for the groups said.

"No further developments can be permitted to proceed until this process is complete and guidelines similar to those in other countries are in place," the group said yesterday.

© 2008 The Irish Times

PIPELINE APPENDIX I:

Signed submission by Ms. KATHY SINNOTT M.E.P.

Attached in a separate file.

PIPELINE APPENDIX J:

Shannon LNG pipeline Contract, Consent forms, Code of Practice, Deed of Easements

SHANNON LNG

SHANNON PIPELINE **CONSENT TO LAYING OF GAS PIPELINE** **CONSENT FORM**

I/We _____ am/are the sole owner(s)/joint owner(s)/Leaseholder(s)/occupying tenant(s) of the land shown on the plan reference Drawing NO. SLNG/NUMBER/NUMBER received from Shannon LNG Limited (Shannon LNG).

The land is used for the following purposes _____.

In consideration of the payment to me/us of the advance payment (deposit) referred to below and in further consideration of the undertakings to be entered into by Shannon LNG in the Deed of Easement (as per form attached) for the protection of the said land, I/We agree to (join in the) grant to Shannon LNG and/or its nominees, licences, successors and assigns a way leave (in the form of the Deed of Easement) to lay, operate and maintain a gas pipeline and apparatus as defined in Clause A(iv) in the Deed of Easement connected therewith in a working strip of land, which may be subject to minor re-routing to meet particular construction, planning, archaeological and engineering requirements; the widths are as specified below and as indicated on the enclosed plan.

Width of Permanent Way leave - 14 Metres

Width of Working Strip (including - 30 Metres
Permanent Wayleave)

The width of the working strip may be varied to meet the particular requirements along the route.

I/We hereby acknowledge that I/We have received the form of Deed of Easement herein referred to, and I/We agree to execute the Deed of Easement in that form on completion of the project.

I/We also hereby consent to, and agree not to object to, a planning application to An Bord Pleanála by Shannon LNG which application shall include reference to a corridor of 50 metres either side of the proposed pipeline.

In consideration of the advance payment (as hereinafter specified) to be made to me/us

under the terms of aforesaid, I/We forthwith irrevocably authorise Shannon LNG its nominees, licences, successors and assigns and its and their servants, agents, consultants and contractors;

a) to enter the proposed way leave strip, and

b) to enter the adjoining working strip

For the purposes of laying, operating and maintaining the requisite gas pipeline and ancillary apparatus as defined in Clause A (iv) in the Deed of Easement in connection therewith and for the purpose of gaining access to any lands affected by the gas pipeline for the purposes aforesaid.

I/We note that the Formal Deed of Easement will be prepared by Shannon LNG at their own expense and that Shannon LNG will pay me/us €_____ (subject to verification of the length of way leave on final measurement following construction of the pipeline) for permanent way leave granted. The consideration for the permanent wayleave is based on payment of €34.00 per linear metre. The total consideration payable will be adjusted on the final measurement of the way leave and the balance of the way leave consideration will be paid subsequent to final measurement and subject to the Deed of Easement being signed by me/us.

I/We note that on the signing of this Consent Form Shannon LNG will make an advance payment (deposit) to me/us of €_____ in respect of the permanent way leave. The advance payment (deposit) will be made subject to the establishment by me/us of up to date prima facie evidence of title to the reasonable satisfaction of Shannon LNG and receipt of Shannon LNG of consent forms from all landowners to this offer. In addition to the foregoing, I/We also note that Shannon LNG will (under the terms of the Code of Practice) recompense me/us for damage/injury of losses incurred as a result of the carrying out of the proposed works and for any loss of agricultural earnings reasonably and necessarily incurred by me/us as a result thereof. The amount of such payment shall be agreed, or failing agreement will be subject to Arbitration in accordance with the provision of 1(d) (ii) of the Code of Practice.

It is acknowledged that the agreement to grant the way leave as detailed in this form of consent will bind my/our successor in title and assigns and that if I/We sell the land that is subject to the proposed easement that I/We will;

(I) notify the purchaser of the provisions of this agreement and

(ii) contractually bind the purchaser to grant way leave herein provided to Shannon LNG and/or its nominees, licences, successors and assigns upon completion of the Project in accordance with the terms of this consent form.

Signed:_____ Signed:_____
Date:_____ Date:_____
Witness:_____
Solicitor's Name _____
Solicitors Address _____

-
-

Please return this form when completed to ;

Peter Naughton
Naughton McGrath Solicitors
114 Rock Street
Tralee
County Kerry

Note: if there is a leaseholder or occupying tenant, joint owners, joint leaseholders or joint tenants, please complete as appropriate or inform Shannon LNG.
The landowner will be required (before the commencement of construction) to complete the Landowner/Tenant Form to enable payment by Shannon LNG of the monies relating to Losses/Disturbance.

SHANNON LNG
SHANNON PIPELINE
CODE OF PRACTICE

-

1. General

In return for the grant by the landowner of the rights to Shannon LNG Limited and its nominees, licences, successors and assigns (Shannon LNG) to lay and maintain the Shannon Pipeline in accordance with the provisions of the Shannon LNG Deed of Easement, a copy of which has been furnished to the landowner, Shannon LNG gives the following undertakings:

(a) Flexibility Payment

In acknowledgement of the fact that Shannon LNG may not construct the pipeline for a number of years and in return for the related flexibility required of the landowners Shannon LNG agrees to pay each landowner a Flexibility Payment of €5000. This payment will be made to the landowner on the completion and return of the Consent Form on or before the date specified in the covering letter. The payment is subject to prima facie evidence of title.

(b) Early Signing Payment

In addition to the compensation referred to at (a) above, Shannon LNG agrees to pay the landowner at the rate of €10.50 per linear metre in respect of the completion and return of the Consent Form on or before the date specified in the covering letter. The payment is subject to prima facie evidence of title.

(c) Payment for 14 metre wide Permanent Wayleave and Adjoining Working Facilities

Shannon LNG will pay to the landowner compensation in respect of the permanent way leave at the rate of €34.00 per linear metre.

75% of the monies due under this heading will be paid to the landowner within 21 days of the return of the Consent Form. This Consent Form should be returned on or before the date specified in the covering letter. The payment is subject to prima facie evidence of title. The remaining 25% of the monies (which may be subject to minor variation following final measurement of the pipeline length) due under this heading will be paid within 30 days of the signing of the Deed of Easement provide^{3d} satisfactory evidence of title has been provided by the landowner. Interest at "AA" bank rates will be paid on the balance outstanding for any period in excess of 24 months from the date of Notice of Entry (on to the land) or production of satisfactory evidence of title, which ever is the later.

(d) Compensation for Losses

(I) Shannon LNH will recompense the landowner or occupier for all loss of earning and other damage, disturbance or injury reasonably and necessarily incurred due to the exercise by Shannon LNG of the rights granted by the landowner. Alternatively property damaged or injured shall be restored by Shannon LNG. Shannon LNG will make an advance payment of €24.00 per linear metre on issue of the Notice of Entry. This payment will be made in advance to the landowner or occupier so as to avoid hardship from the loss of earnings arising from construction of the pipeline. This payment on-account will be taken into consideration when losses and disturbance compensation is computed by the agreed Agronomist. The Agronomist will assess any additional losses at large river, railway, canal and other such crossings, where there is a substantial increase in the working width. The agreed compensation will on the approval of Shannon LNG be paid as a separate item and in addition to the advance payment. In assessing losses the Agronomist will have due regard to EU and State support schemes. Where the pipeline construction affects the landowner(s) or occupier(s) entitlement to payment under any EU or state support scheme it is incumbent on the landowner or occupier to inform the relevant Authority of such works and to amend his/her application form to comply with the requirements of the various schemes.

(ii) The amount of the losses incurred and the value of any damage or injury incurred by the landowner/occupier shall be ascertained and assessed by the agreed Agronomist. In ascertaining and assessing the value of any such damage or injury the Agronomist shall have due regard to the Record of Condition of the land as referred to in Clause 5 hereof. The assessment of the Agronomist will be prepared by the Agronomist in consultation with the landowner or occupier and will be submitted to Shannon LNG for approval. In the event of Shannon LNG not accepting any such assessment the disagreement will be subject to arbitration as provided for in the Deed of Easement. If the landowner or occupier employs any other Agronomist, Shannon LNG will not be responsible for the fees of the said additional Agronomist.

(e) National Agreement in Respect of Gas Pipelines

The payments specified at (b), © and (d) above are in line with the current National Agreement (as administered by Bord Gais Eireann) in respect of gas pipelines. Shannon LNG agrees to pay to the landowner, at the date of issue of the Notice of Entry, any increase-over and above the rates payable herein- granted in the National Agreement in respect of these items. The payments are subject to prima facie evidence of title.

(f) Project Approvals

Shannon LNG require approvals both statutory and otherwise in respect of various elements of the overall project. Shannon LNG retain the right, in the event of any approval not being granted or for any other reason, to discontinue or temporarily suspend the project at any time. In the event of such discontinuation Shannon LNG will make no further payments to landowners; in the

event of such suspension Shannon LNG will make no further payments to landowners during the period of suspension. In either case previously outlined Shannon LNG will not seek recompense for payments already made.

(g) Procedures in the event of claim for Loss of Development Rights

In the event of the landowner at any time being refused planning permission to carry out development of the land due to the exercise by Shannon LNG of the rights hereby granted, compensation will be payable in accordance with the Deed of Easement or the pipeline may be sleeved or diverted or otherwise altered to the discretion of Shannon LNG. Liability for payment of compensation will be subject to satisfactory evidence that the loss claimed has in fact occurred and that the development in question cannot reasonably be carried out elsewhere on land belonging to the landowner. Such compensation will be agreed between Shannon LNG and the landowner at time arising, in default of which it may be referred to arbitration as provided for in the Deed of Easement.

(h) Miscellaneous

Shannon LNG will enter into the formal Deed of Easement with the landowner on completion of the construction of the pipeline when final measurement and mapping will occur.

(I) In any case where the terms set out above are not accepted by the landowner, Shannon LNG shall not be bound by these terms. In particular, in the event of any dispute or difference being referred to arbitration, Shannon LNG reserves the right to pursue the matter as appropriate.

2 Working Strip and Wayleaves

The normal working strip shall be 30 metres (98ft.) for 900 mm (36") and 750 mm (30") diameter pipelines. The permanent way leave will normally be 14 metres (46ft.) in width and within the working strip. All of these widths may be varied to meet the particular requirements of Shannon LNG along the route. The landowner shall be provided with a 1:2500 scale map showing the strip on his land. Where possible entry onto the working strip will be made only at points where it intersects public roads. The Contractor will not be authorised to operate on land outside the working strip without the prior permission of the owner except where access is required specifically to a working strip of the individual landowner affected by the pipeline. Compensation will be paid for any crop loss and disturbance associated with this access. The amount of compensation will be agreed between Shannon LNG and the landowner at the time arising, in default of which it may be referred to arbitration as provided for in Clause 8 of the Deed of Easement.

3 Supervision of Work

The works shall throughout be executed under the supervision of the engineer acting on behalf of Shannon LNG who shall appoint Agricultural Liaison Officers to supervise the execution of the works and to maintain contact with the landowners along the route of the main. The landowners will at the earliest opportunity, be informed of the name, address and telephone number of the person to whom queries may be addressed.

Shannon LNG will accept responsibility for the actions of their Contractors and of their subcontractors and of all persons employed by Shannon LNG in connection with the works, except for actions carried out expressly at the request of the owner or occupier of the land. Any instructions or alterations required on behalf of the landowner shall only be negotiated direct with Shannon LNG's Agricultural Liaison Officer and with no other person except with the prior consent in writing of Shannon LNG.

4 Commencement of Work

Notice of intention to commence work shall be given to landowners along the route of the pipeline before entry is made on their land. The notice shall be as long as possible but a minimum of 7 days notice of commencement shall be given. The work shall, so far as is possible,

be carried out in accordance with a programme of which the landowner shall be kept informed.

5 Record of Condition

Before any constructional work is begun Shannon LNG will prepare a written record of the condition of any affected property for agreement with the landowner or occupier.

6 Trial Holes

Trial holes in advance of work, where necessary, shall be opened only after consultation with the landowner and the following compensation rates shall apply - Trial Pits €253.95, Bore Holes €253.95 and Probing €126.97.

The method of carrying out work will be such to cause the least disturbance. Compensation will be paid if damage is done.

7 Timber

Trees shall be removed within the working strip after consultation between Shannon LNG and the landowner and all saleable timber shall remain the property of the timber owner and shall be cut and disposed of in accordance with the reasonable requirements of the timber owner.

Compensation will also be paid for any damage to established woodlands caused by windblow resulting from the rights obtained by Shannon LNG provided prompt notice of claim is given to Shannon LNG.

8 Fencing

Fences, lights and guards shall be provided as necessary for the protection of members of the public and animals, and to avoid trespass. All temporary fencing shall be erected in position before construction commences and shall be maintained thereafter (unless otherwise agreed by the occupier) until reinstatement of land is completed and shall be removed. Fences, walls and hedges will be replaced with appropriate materials in each case.

9 Farm Roadways: Passes

Where excavations cross existing farm pathways or roadways Shannon LNG shall provide a means of crossing them acceptable to the landowner. Where an existing access is obstructed Shannon LNG shall provide adequate facilities for passage of persons, machinery and stock across the working strip. All permanent Pathways/roadways affected will be restored to their original state.

10 Water Services

All necessary precautions shall be taken to protect all water-courses and water supplies against pollution attributable to the laying of the pipeline. All proper steps will be taken to reduce to a minimum any interference with water supplies. Before trenching or trial boring operations commence Shannon LNG or its agents shall acquaint themselves with the position, type and size of all underground services. In the event of a water pipe or supply being severed, Shannon LNG shall effect an immediate repair or provide alternative supplies. If the service is not repaired within two hours, the landowner may have it repaired and charged to Shannon LNG.

In the event of a well or other water supply being permanently affected or destroyed by the pipeline works, Shannon LNG will construct an alternative supply (e.g. a second well) as soon as possible.

In the event of a public water pipe or supply being severed, Shannon LNG will recompense landowners for any additional water charges arising.

11 Drinking Troughs

Where cattle drinking troughs come within the working strip, or where fields are severed from the normal water supply, temporary drinking troughs shall be provided at sites determined by the landowner outside of the working strip. At the termination of the works, all troughs shall, at the

discretion of the landowner, be replaced in their original position.

12 Sewers, Septic Tanks

Where excavations interfere with water supplies, drainage, sewers or septic tanks within the curtilage of a dwelling house even though these may be outside the way leave, these utilities shall be maintained by Shannon LNG without interruption during the course of the work and the owner shall provide all necessary access facilities to enable Shannon LNG to do so. They shall be restored to the satisfaction of the owner at the termination of the work.

-

13 Depth of Pipeline

The pipeline shall be laid at a depth which will avoid land drains where they exist and shall not impede future drainage of surrounding land. The pipeline shall normally have a cover of soil of at least 1.2 metres (4ft.) Where the pipeline passes below a ditch or stream it shall be protected by 150mm (6") concrete slab and located at such a depth as to provide at least 300mm (12") cover from the true cleaned bottom of the ditch or stream to the top of the concrete slab.

14 Land Drains

All ditches, open drains or watercourses interfered with by the works will be maintained in effective condition during construction and finally restored to as good a condition as before the commencement of the works. Particular care shall be taken to ensure that the minimum amount of damage or disturbance to land drains is caused where practicable the main shall be laid to run below the level of the land drains. The position of all land drains cut or disturbed during excavation shall be prominently marked by pegs at both sides of the trench immediately following their location.

The Deed of Easement includes a clause setting out the permanent responsibility which Shannon LNG will accept for land drains.

15 Trenching

All topsoil to a depth determined by Shannon LNG's Agricultural Inspectors shall be kept separate and stacked to one side of the working strip and kept free from the passage of vehicles and plant and replaced carefully after completion of the works. Subsoil and hardcore materials shall be kept separate from topsoil.

16 Backfilling

When the pipeline has been laid backfilling shall be carried out with the excavated materials. Where in the opinion of Shannon LNG's Engineer excavated materials is of such a character as to make it inadvisable to replace it in the trench it shall be removed. The topsoil shall be carefully replaced and additional topsoil shall be provided as reasonably required. Subsequent to back blading of ripped sub soil ,shale and rock in excess of 150mm (6") in dimension displaced by the pipeline construction works shall be removed from site. Shannon LNG shall ensure that the restoration is not adversely affected by waterlogged conditions.

17 Reinstatement of Land

Shannon LNG shall be responsible for restoring all ground within the working strip, and any other ground disturbed by its operations, to a condition equivalent to that existing before the commencement of the works.

This shall involve:

(a) After subsoil is restored it shall be ripped with a mechanical ripper to a minimum uniform depth of 600mm. In all cases the depth of ripping shall exceed the depth of subsoil compaction. All surface stones and roots over 150mm (6") in diameter shall be picked before any topsoil is

put back.

(b) The topsoil should be left in a loose and friable condition.

© Levelling off of the ground so as to present a neat and level appearance (the level of the trench area shall be the same as that of the undisturbed surrounding ground one year after restoration is completed).

(d) The removal of all stones in excess of 50mm (2") in diameter from the surface.

(e) The reseeding of the area of grassland in consultation with the landowner. The rate of seeding and time and method of sowing including application of fertiliser shall be in accordance with good agricultural practice.

(f) Driving over the land where topsoil has been put back must be kept to a minimum, particularly in wet weather. Mechanical equipment heavier than standard tractors and trailers should not be allowed travel back over the topsoil.

(g) Where a weed problem exists as a result of the work, chemical sprays shall be used.

18 Completion of Works

On completion of the works Shannon LNG shall remove all temporary buildings, fences, roadways, all surplus soil, stone or gravel and any debris such as trees, brushwood etc. and any other matter that does not naturally belong to the site.

19 Support of Structures

Temporary underpinning supports and other protective measures for buildings, structures and apparatus in or adjacent to the trench shall be of proper design and sound construction and shall be securely placed to the reasonable satisfaction of the owner or occupier and of Shannon LNG's Engineer.

20 Cathodic Protection

Where it is necessary to install apparatus in connection with a cathodic protection scheme, such installation shall be subject of separate negotiation. Where the main is cathodically protected against corrosion all buildings and structures likely to be affected shall be suitably protected, provided reasonable facilities are given by the landowner to Shannon LNG for this to be done.

21 Missing ?

22 Ancillary Apparatus

It is not anticipated that it will be necessary to install any apparatus (other than marker posts) above ground, but any such apparatus so installed shall wherever practicable be sited by agreement between the landowner and Shannon LNG. In the event of interference with agricultural operations occurring, extra compensation shall be negotiated. As far as is practicable, marker posts shall be sited in or adjacent to hedges or fences.

23 Straying Stock

Shannon LNG will after consultation with the landowner take all necessary precautions to prevent the straying of livestock and will relieve the owner/occupier or owner of such livestock of all loss, damage or claims arising from the loss of such animals and will pay compensation for injury to or death of the animals where such straying is due to any act or omission on the part of Shannon LNG.

24 Animal Disease

Shannon LNG will comply with any regulations which may be necessary in connection with any Department of Agriculture Disease Eradication Scheme.

25 Indemnification

Shannon LNG will indemnify the landowner against all actions, claims and demands arising from the exercise by it of the rights granted in accordance with Clause 2 of the Deed of Easement.

26 Arbitration

In the event of disagreement between the landowners and Shannon LNG on any terms and provisions of this document or the Deed of Easement arbitration as provided for by Clause 8 of the Deed shall be initiated.

27 Inspection and Maintenance

Except in case of emergency, notice shall be given to the landowner of any subsequent entry for purposes of maintenance or inspection of the pipeline. Where practicable the landowner shall be consulted as to the means of access necessary to carry out such works. Such works shall be suspended or restricted other than in cases of emergency to comply with any requirements of the Department of Agriculture and the occupier if the area is declared infected on account of foot and mouth disease, fowl pest, swine fever, brucellosis or other notifiable disease. Shannon LNG may wish to have the route inspected approximately twice a year and all representatives of Shannon LNG entering on land for the purpose of inspection, maintenance or execution of the works or any subsequent works will carry and produce on request adequate means of identification.

28 Sporting Rights

Shannon LNG will take reasonable and practicable steps to protect fishing and sporting rights and will pay compensation for any loss of damage to such rights arising out of the construction of the works.

29 Landowner's Time

Where, with the written agreement of Shannon LNG or its authorised agents the owners of land on a pipeline route properly spend time on work in connection with pipeline operations on their land, payment will be made provided that such work is undertaken under the direction and control of Shannon LNG or its authorised agents.

30 Professional Charges

The formal Deed of Easement relating to the landowner's property (as referred to in Clause 1 hereof), together with abbreviated queries on title, will be prepared by and at the cost of Shannon LNG. The landowner's legal costs and other charges and expenses reasonably and necessarily incurred in dealing with the queries of Shannon LNG's solicitors on title and in completion of the Deed of Easement will be discharged by Shannon LNG subject to a maximum contribution of €750 plus VAT plus all legal outlay reasonably and necessarily incurred in meeting Shannon LNG's reasonable requirements on title.

No payment will be made by Shannon LNG towards any costs/expenses incurred by the landowner(s) in perfecting defects in title.

Where dispute or difference in relation to any of the matters covered by the Deed of Easement arise and is referred to Arbitration in pursuance of Clause 8 of the Deed of Easement, Shannon LNG reserves the right to request at Arbitration that each of the parties bears its own costs.

31 Shannon LNG Agricultural Liaison Officers

(I) Where Shannon LNG Agricultural Liaison Officers have a direct involvement in negotiating

separate agreements between landowners and contractors, Shannon LNG will be responsible for ensuring that such works are carried out in a proper manner.

(ii) Should disputes arise between the Agricultural Liaison Officer and the landowner, the matter will be referred to Shannon LNG's Senior Agricultural Liaison Officer to resolve any such issues. In the event of the matter not being resolved the services of the Agronomist may be used.

32 Agronomist

The Agronomist for this project will contact the landowners directly and will compile assessments of losses and disturbance arising from construction of the pipeline in accordance with Paragraph 1 (d) of this code.

33 General

In the event of conflict between the terms and content of this document and those of the Deed of Easement the provisions of the Deed shall prevail and be regarded as final and conclusive.

Deed of Easement

THIS INDENTURE is made the day of Two Thousand and

BETWEEN

Of

(Hereinafter called "the Grantor" which expression where the context so admits or requires shall include his Executors, Administrators and Assigns) of the one part

AND

SHANNON LNG LIMITED whose registered office is situated at 70 Sir John Rogerson's Quay, Dublin 2

AND/OR (To be advised) (together hereinafter called "the Company" which expression where the context so admits or requires shall included its Successors and Assigns) of the Other Part.

WHEREAS

A. In these presents:

(I) "The Act" means the Gas Act 1976 (as amended).

(ii) "Gas" has the same meaning as in the Act.

(iii) "The Land" means the land of the Grantor specified in the First Schedule Hereto.

(iv) "The Pipeline" means any main or pipe or ducting or cable referred to in Clause 1 hereof and includes part of any such main pipe or ducting or Cable or any apparatus equipment or other thing (or part thereof) which Is ancillary to any of them whether moveable or permanent or which Assists in the inspection placement maintenance repair replacement Rendering unusable or servicing of any main pipe ducting or cable or Any of them.

(v) "The Strip" means the strip of land more particularly delineated and Described on the map or plan hereto annexed and thereon coloured red and Lettered A to B and forming part of the Land.

(vi) Reference to any enactment (including the Act) includes reference to any Statutory modification thereof whether by way of amendment, addition, Deletion or repeal and re-enactment with or without amendment.

(vii) The singular of any word in these definitions or elsewhere in the Agreement includes the plural and the masculine gender includes the Feminine and neuter genders and where two or more persons together Constitute the Grantor the covenants by such a person shall be deemed to

Be joint and several covenants by both or every one of such persons.

B. The Grantor is seized and possessed of the Land for the tenure mentioned in the First Schedule hereto.

C. The Grantor has agreed with the Company to grant to it for the purposes of its Functions the rights and easements and irrevocable licences hereinafter set forth And upon treaty for such grant it was agreed that the Company and the Grantor Would give to the other of them the several covenants hereinafter contained on The part of each of them the Company and the Grantor to the intent that the said Covenants would be binding on their respective successors in title.

NOW THIS INDENTURE WITNESSETH as follows:-

1 In pursuance of the said Agreement and in consideration of the sum of _____ Euros (€) paid by the company to the Grantor (the receipt whereof the Grantor doth hereby acknowledge) the Grantor as beneficial owner HEREBY GRANTS unto the Company ALL AND SINGULAR the full free and sufficient way leaves rights easements licences and liberties to lay construct use inspect maintain repair replace remove or render unusable any main or pipe or ducting or cable or any other materials connected with or facilitating the exercise or performance by the Company of any of its functions or powers including (without prejudice to the foregoing) for the transmission and/or storage of gas together with the right to introduce and place all necessary apparatus ancillary thereto on over or beneath the surface of that part of the land that consists of the Strip together with the full and free right and liberty of the Company its officers and servants and all other persons authorised by the Company to pass and repass over the strip for any of the purposes aforesaid and for the purposes of any similar works of the Company contiguous to the pipeline or the strip and the Grantor further grants to the Company a right of way over the land and over any adjoining land of the Grantor for the purposes of access to the strip at all reasonable times and at any time in the case of emergency in each case with all the necessary equipment machinery and apparatus TO HOLD the said rights easements and licences unto the Company in fee simple or for such lesser interest as the Grantor may have as appearing in the First Schedule hereto (subject to the provision for surrender as specified in Clause 2 (iii) hereof) as rights easements and licences appurtenant to all and every or any lands of the Company.

2. The Company (to the intent so as to bind the rights easements and licences hereby granted into whatsoever hands the same may come and with the intent to benefit and protect the land and every part thereof) hereby covenants with the Grantor as follows:-

(I) in exercising the rights easements and licences hereby granted to take all reasonable precautions to avoid obstruction or interference with the user of the Land and damage and injury thereto.

(II) So far as is reasonable practicable and with all practicable speed to make good all damage or injury to the Land caused by the exercise by the Company of the rights easements and licences hereby granted.

(iii) So far as is reasonably practicable and so long as the pipeline is used for or in connection with the transmission, distribution or storage of Gas or other minerals as aforesaid to keep the Pipeline in proper repair and condition, and upon permanent abandonment of the Pipeline or any part thereof (notification whereof shall be given to the Grantor by the Company):

(a) To render the same permanently safe and

(b) Surrender back the same granted hereby to the Grantor.

(iv) To indemnify and keep indemnified the Grantor his servants, agents, licences and invitees against all sums in respect of loss or damage, claims, demands, costs and expenses which the Grantor shall become legally liable to pay as compensation for Accidental Bodily Injury or Accidental loss of or Damage to property where such Injury or Damage is caused by, arises from, is traceable to or connected with the Pipeline other than in consequence of any malicious act or omission of the Grantor.

(v) To pay all rates and taxes which may be imposed in respect of the Pipeline or the easements and licences hereby granted and any increased rates, taxes or insurance premiums which may be imposed on the Grantor in respect of adjoining land by virtue of the existence of the Pipeline.

(vi) If any interference with or disturbance of the functioning of any drain or drainage system in or under the Land can be shown by the Grantor to have been caused by the laying of any main pipe or thing in the exercise of the rights easements and licences hereby granted, then with all practicable speed so far as is reasonably practicable to make good any damage or injury thereby occasioned and to make full compensation to the Grantor in respect thereof and in so far as the same shall not have been made good as aforesaid.

(vii) To pay full compensation to the Grantor his servants, agents, licences and invitees (excepting any compensation payable by virtue of Causes 4, 5 or 6 hereof) in respect of any bodily injury or loss or damage to material property suffered by him or them (together with all consequential loss arising there from) where the same is caused by, arises from, is traceable to or connected with the Pipeline, other than in Consequence of any malicious or criminally reckless act or omission of the Grantor and except in so far as the same has been made good by the Company without loss to the Grantor.

(viii) To perform and observe the undertakings to be performed and observed by the Company as contained in the Code of Practice (dated January 2008) a copy of which has been furnished to the Grantor (the receipt of which the Grantor hereby acknowledges) prior to the signing hereof).

PROVIDED that the Grantor shall not settle or compromise any action claim or demand as is referred to in sub-clause (IV) of this clause without the prior consent of the Company.

3. The Grantor (to the intent so as to bind the land and every part thereof into whatsoever hands the same may come and with the intent to benefit and protect the rights easements and licences hereby granted) hereby covenants with the Company as follows:-

(I) Not to do or cause deliberately or recklessly permit or suffer to be done on the Land anything calculated or likely to cause damage or injury to the Pipeline.

(ii) Not without the prior consent in writing of the Company (such consent not to be unreasonably withheld) to make or cause or recklessly permit or suffer to be made any material alteration to or any deposit of anything upon any part of the Strip so as to interfere with or obstruct the access thereto or to the Pipeline by the Company or so as to lessen or in anyway interfere with the support afforded to the Pipeline by the surrounding soil including minerals or so as materially to reduce the depth of soil above the pipeline.

(iii) Not to erect or install or cause or recklessly permit or suffer to be erected or installed any building or structure or permanent apparatus or the carrying out of any works on, over or beneath the surface of the Strip or the making of any material change in the use of the Strip

which would be likely to cause damage or injury to the Pipeline.

(iv) To observe the covenants and stipulations set out in the Third Schedule hereto.

PROVIDED that nothing in this clause shall prevent the Grantor from installing any necessary service pipes drains wires or cables under the supervision and with the consent (which consent shall not be unreasonably withheld and for which no charge shall be made) of the Company or its agents or the carrying on of normal agricultural operations or acts of good husbandry including fencing hedging and ditching not causing such interference obstruction or material reduction of the depth of soil aforesaid.

4. (I) (a) If permission is or might have been granted under the Planning and Development Acts 2000 to 2007 for development which consists of or includes building operations which the Grantor is or would be prevented by the covenants of Clause 3 hereof in carrying out or it is shown that but for the Pipeline such a permission might reasonably have been expected to be granted or if but for the existence of the Pipeline (or this Deed) a condition or conditions attaching to same would otherwise have been satisfied or complied with, and

(b) If the said development as aforesaid (or in any alternative form which is equally beneficial to the Grantor for which permission might reasonably be expected to be granted) cannot reasonably be carried out elsewhere on the Land (or other land of the Grantor adjoining the Land) consistently with the Grantor's covenants in Clause 3 hereof.

THEN subject to the provisions of this Clause the Company shall pay compensation to the Grantor.

(ii) (A) If the Grantor claims to be entitled to payment of compensation under the provisions of sub-clause (I) hereof he shall give notice in writing to the Company of such claim and shall furnish all such particulars in relation thereto as the Company may be reasonably require and within a reasonable time.

(b) The Company will pay to the Grantor a sum of compensation which will make good the Grantor's loss and damage as agreed between the Company and the Grantor or in default of agreement as may be determined by arbitration in accordance in Clause 8 hereof.

PROVIDED always that the Company shall not in respect of the same portion of the Strip be liable to make more than one award of compensation under this Clause.

5. (I) If permission is granted under the Planning and Development Acts 2000 to 2007 for development which consists of the extraction of sand and gravel deposits or mineral deposits which the Grantor is prevented by the covenants of Clause 3 hereof from extracting, or if it is shown that but for the Pipeline such permission might reasonably have been expected to be granted, then and in that event the provisions of sub-clause (ii) hereof shall apply. For the purposes of this clause the definition of "mineral deposits" shall not be restricted to the list of minerals specified in the Schedule to the Minerals Development ACT, 1940.

(II) The provisions of Clauses 2 and 3 hereof shall have effect subject to this Clause as follows:-

(a) Subject to the provisions of this Clause, the provisions (hereinafter in this Clause referred to as "the said provisions" of Sections 78 to 85 of the Railway Clauses Consolidation Act, 1845, shall be deemed to be incorporated herein.

(b) The said provisions shall be construed as if:

(I) References to the Mine Owners were references to Grantor.

(ii) References to the Company were references to the Company.

(iii) References to any railway or works of the Company were references to the works set out in Clause 1 hereof.

© Any arbitration under the said provisions shall be held in accordance with Clause 8 hereof.

PROVIDED always that an award of compensation made under this Clause in respect of any part of the Strip shall not affect a subsequent claim to compensation made under Clause 4 hereof in respect of the same or substantially the same part of the Strip but if the Grantor has first received an award of compensation under said Clause 4 hereof in respect of any part of the Strip then and in that event he shall not subsequently be entitled to compensation under this Clause in respect of the same or substantially the same part of the Strip.

6. (I) If in the course of an overall land use programme in relation to the Land the Grantor is or would be prevented by the Covenants of Clause 3 hereof from planting a commercial forestry or allowing an existing plantation to continue on the Strip or any part thereof.

THEN subject to the provisions of this Clause the Company shall pay compensation to the Grantor.

(ii) (A) If the Grantor claims to be entitled to payment of compensation under the provisions of Sub-Clause (I) hereof he shall give notice in writing to the Company of such claim and shall furnish all such particulars in relation hereto as the Company may reasonably require and within a reasonable time.

(b) The Company will pay to the Grantor a sum for compensation which will make good the Grantor's loss and damage as agreed between the Company and the Grantor or in default of agreement as may be determined by arbitration in accordance with Clause 8 hereof.

PROVIDED always that the Company shall not in respect of the same portion of the Strip be liable to make more than one award of compensation under this Clause.

7. (I) If the Grantor is or would be prevented by the covenants of Clause 3 hereof from extracting turf from land outside of the Strip,

THEN subject to the provisions of this Clause the Company shall pay compensation to the Grantor.

(ii) (A) If the Grantor claims to be entitled to payment of compensation under the provisions of Sub-Clause (I) hereof he shall give notice in writing to the Company of such claim and shall furnish all such particulars in relation thereto as the Company may reasonably require and within a reasonable time.

(b) The Company will pay to the Grantor a sum for compensation which will make good the Grantor's loss and damage as agreed between the Company and the Grantor or in default of agreement as may be determined by arbitration in accordance with Clause 8 hereof.

PROVIDED always:

(a) The Company shall not in respect of the same portion of land be liable to make more than one award for compensation under this Clause.

(b) For the avoidance of any doubt, this Clause shall not apply in relation to the extraction of turf from any part of the Strip, which extraction of turf is prohibited and for which prohibition no compensation shall be payable by the Company to the Grantor.

8. Any dispute arising under Clauses 2, 3, 4, 5, 6 or 7 hereof shall be determined in default of agreement by a single arbitrator to be agreed upon between the parties hereto (of failing agreement to be appointed on the application of either party 9 after notice in writing to the other party) by the President of the Incorporated Law Society of Ireland and save as aforesaid the provisions of the Arbitration Acts, 1954 to 1998 shall apply to any such reference and determination.

9. The Grantor hereby acknowledges the right of the Company to production of the Deeds and Documents set out in the Second Schedule hereto (possession whereof is retained by the Grantor) and to delivery of copies thereof and hereby undertakes for the safe custody thereof.

10. All communication relative to this Indenture shall be addressed to the Grantor at his address given at the commencement of this Indenture and to the Company at its registered office, or such other address as the Company may at any time or from time to time notify to the Grantor.

11. Assignment/Sub-Contracting

And it is hereby agreed that the Company may, at its sole and absolute discretion,:

(a) nominate or sub-contract (1) Bord Gais Eireann and/or (2) other gas undertaking and/or (3) other owner or operator from time to time of the Pipeline or the LNG Terminal to exercise the easements granted hereunder in respect of the Pipeline (or any part or parts thereof) laid in the Land on foot of this Indenture: and/or

(b) assign, licence, charge, mortgage and secure or otherwise deal with all or any part of the easements granted hereunder to (1) Bord Gais Eireann and/or (2) other gas undertaker and/or (3) other owner or operator from time to time of the LNG Terminal and/or the Pipeline; and/or

© assign, licence, charge, mortgage and secure or otherwise deal with all or any part of the easements granted hereunder to or in favour of any bank, lending institution or other financier

12. **IT IS HEREBY CERTIFIED** that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds €_____

13. **IT IS HEREBY FURTHER CERTIFIED** for the purposes of the Stamping of this Instrument that this is an Instrument to which the provisions of Section 29 OF THE Stamp Duties Consolidation Act, 1999 do not apply by reason of the fact that this Instrument relates to the granting of an Easement over Land.

14. The Company **HEREBY CERTIFIES** that the Company being the Body becoming entitled to the entire beneficial interest in the Land hereby purported to be vested by this Indenture relates to the granting of an Easement over land.

15. **IT IS HEREBY CERTIFIED** that this instrument is a Conveyance of Transfer on any occasion, not being a sale or mortgage.

16. The Grantor as Registered Owner or as the person entitled to be registered as owner hereby assents to the registration of the aforesaid rights easements licences and covenants as burdens on

the property specified in the First Schedule hereto.

17. Where the land specified in the First Schedule hereto) or any part thereof) is registered land, the Grantor grants the within way leaves, rights, easements, licences and liberties to the Company as Registered Owner (or the person entitled to be registered owner) of said registered land.

THIRD SCHEDULE

Grantor's Covenant Pursuant to Clause 3 (IV)

1. Not to plant on the land any poplar trees, willow trees, ash trees, beech trees, conifers, horse chestnut trees, lime trees, maple trees, sycamore trees, apple trees, or pear trees or any other trees of a similar size (whether deciduous or evergreen) within seven metres of the centreline of the Pipeline.

2. Not to allow any shrubs or hedges planted on the Strip to grow to a height exceeding 4 metres.

In this Schedule any stipulation of a negative nature whereby the Grantor is restrained from doing any act or thing shall be read and construed as a covenant on the part of the Grantor not to do so permit or suffer such thing to be done.

PIPELINE APPENDIX K:

“Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis – November 2007” jointly commissioned by the Department of Communications, Energy and Natural Resources and the Department of Enterprise, Trade and Investment, Northern Ireland

See <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf>

Attached in a separate file.

PIPELINE APPENDIX L:

Signed Submission by “Friends of the Irish Environment”.

From: admin@friendsoftheirishenvironment.net
To: safetybeforelng@hotmail.com
Subject: RE: Submission on pipeline due today at 5pm
Date: Tue, 7 Oct 2008 16:29:16 +0100

To: Kilcolgan Residents Association

7 October 2008

Dear Johnny;

Thank you for sending on the submission on the proposed pipeline group.

This is to confirm that Friends of the Irish Environment would like to be added as a signature to the submission.

Best wishes,

Tony

Tony Lowes, Director,

Friends of the Irish Environment

Friends of the Irish Environment

A company limited by guarantee registered in Ireland.

Company No. 326985. Directors: Caroline Lewis, Tony Lowes.

Full mailing address: Allihies, County Cork, Republic of Ireland [No postal code.]

Tel & Fax: 353 (0)27 73131

Email: admin@friendsoftheirishenvironment.net

Website: <http://friendsoftheirishenvironment.net>

Appendix Petition 16

David O'Callaghan of the "Sea Energy Group" Submission on draft County Development Plan 2009-2015, 1 September 2008.

DAVID CALLAGHAN AND THE SEA ENERGY GROUP, 8 APPIAN WAY
DUBLIN 6
email : callaghan@eircom .net

1st September 2008

THE SEA ENERGY GROUP'S

SUBMISSION ON

Draft Kerry County Development Plan 2009-2015

For Attention of:
Ms. Michelle O'Connell,
Planning Department,
Kerry County Council,
Áras an Chontae,
Tralee,
County Kerry.

Email: michelle.oconnell@kerrycoco.ie

JOINTLY WITH SHANNON DEVELOPMENT WE MADE A SUBMISSION TO SUSTAINABLE ENERGY IRELAND TO CREATE A FACILITY AT BALLYLONGFORD FOR THE DEVELOPMENT OF CAL TECHNOLOGIES AND THE CREATION OF RENEWABLE ENERGY MODULES FOR HARNESSING SEA ENERGY (TIDAL FLOW OFFSHORE WIND AND WAVE.)

THE BALLYLONGFORD SITE IS BY FAR THE BEST SITE IN IRELAND IF NOT IN EUROPE FOR THIS ACTIVITY BECAUSE OF ITS SHELTERED LOW WAVE ENVIRONMENT AND, IN PARTICULAR, ITS UNIQUE INSHORE DEEP WATER. IT HAS THE POTENTIAL TO PROVIDE SOME 2000 WELL PAID AND LONG TERM JOBS IN THE NEAR FUTURE AND SHOULD NOT BE “GIVEN AWAY” TO AN AMERICAN COMPANY WITH A MONOPOLY IN IRELAND FOR THE PROVISION OF LNG AND CAUSING A ONGOING DANGER TO THE SURROUNDING COMMUNITIES (INCLUDING LIMERICK CITY WHICH IS DOWN WIND).

AN LNG TERMINAL CAN BE BETTER LOCATED OFFSHORE WHERE LAND IS NOT REQUIRED AND WHERE RISK IS LOW SHOULD THINGS GO WRONG. SIGNIFICANTLY COSTS ARE LESS IN THE LONGER TERM DUE TO A REDUCED TURNAROUND TIME FOR BULK CARRIERS AND A DANGER ALLOWANCE WILL NOT BE REQUIRED BY TRADE UNIONS FOR WORKERS IN THE PROPOSED ADJOINING INDUSTRIAL DEVELOPMENT SITES.

YOUR DRAFT PLAN STATES :

“Aside from the deepwater asset it is hoped that the presence of the LNG plant, the availability of natural gas, the proximity to the national grid and the potential for refrigeration from the regasification process, combined with the additional physical infrastructure in terms of roads and water will make this a very attractive location for other industries to locate in the future.

THIS STATEMENT IS MISLEADING BECAUSE :

- THE DEEP WATER ASSET WILL BE COMPROMISED THROUGH LOCATING AN LNG TERMINAL ON THE SHORE.

- OFF THE WATERFORD-WEXFORD COAST THE NATIONAL GAS GRID IS CLOSER AND THE PREVAILING WIND IS IN AN OFFSHORE DIRECTION.
- IN ANY EVENT A GAS SUPPLY WILL BE IMPORTED TO PROVIDE GAS FOR THE SOON TO BE CONVERTED TARBERT POWER STATION
- TO STATE THAT THERE IS POTENTIAL FOR REFRIGERATION IGNORES THE COST OF SUCH AN ADAPTATION.
- USING 1M GALLONS OF WATER A DAY FROM THE SHANNON WILL HAVE A SIGNIFICANT EFFECT ON THE LOCAL ENVIRONMENT
- THE PRESENCE OF AN LNG TERMINAL WILL OVERWHELM ANY ADVANTAGE BEING GAINED FROM NEW ROADS AND SERVICES

IT IS OUR HOPE THAT YOUR DRAFT WILL BE REWRITTEN AND THE WELL ESTABLISHED COMMON SENSE OF KERRY PEOPLE WILL PREVAIL.

DAVID CALLAGHAN AND THE SEA ENERGY GROUP