



Comhshaol, Oidhreacht agus Rialtas Áitiúil
Environment, Heritage and Local Government



31 March 2010

Mr. Johnny McElligott
Safety Before LNG
Island View
Convent Street
Listowel
County Kerry

Re: Applications by Shannon LNG for consents under the Foreshore Act related to the construction of a Liquefied Natural Gas Terminal at Tarbert, Co Kerry

Our refs: MS51/9/596 - 599

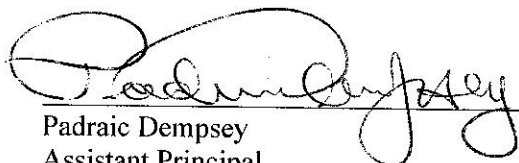
Dear Mr. McElligott,

I refer to your letter addressed to Minister Brendan Smith dated 19th November 2009 concerning the above. As you may be aware, certain foreshore functions, including responsibility for these applications, were transferred to this Department with effect from 15th January 2010.

The foregoing applications were put out to public notice in November 2008 and the deadline specified for the receipt of objections or representations from the public was 31st December 2008. Your submission has therefore been received substantially outside of the public notice period.

Notwithstanding the foregoing we have carefully examined the content of your submission. We are satisfied that the issues raised have already been comprehensively addressed by the competent authorities with statutory responsibility for the areas concerned, including An Bord Pleanála, the Health and Safety Authority, and Shannon Foynes Port Company. We are also satisfied that neither the Shell Pipeline decision by An Bord Pleanála of 2nd November 2009 nor the European Court of Human Rights case cited are relevant to the processing of the foreshore applications on hand. It should also be noted that the Minister for the Environment, Heritage and Local Government, in exercise of his statutory functions under the Foreshore Act, may grant foreshore consents for the applications concerned if in his opinion it is in the public interest.

Yours sincerely,



Padraic Dempsey
Assistant Principal
Foreshore Unit



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Safety Before LNG

Protecting the Shannon Estuary & its people

March 22nd, 2010

Foreshore Section,
Department of the Environment, Heritage and Local Government
Johnstown Castle Estate,
Co. Wexford
Email only: danny.obrien@environ.ie and foreshore@environ.ie

cc. Mr. John Gormley T.D.,
Minister of the Environment, Heritage and Local Government, Custom House, Dublin 1.
(Email only: minister@environ.ie)

Re. Impacts of January 2010 interim findings of the EU Commission on the Shannon LNG application for Foreshore Licences MS51/9/596-599

Dear Sir/Madam,

Before a final decision is made by your department on the Foreshore Licence applications by Shannon LNG we are informing you of the following issues which have only come to light since our previous submission to you on November 19th 2009. As we are now officially informing you of these new issues we are once again of the opinion that you are under an ethical and legal obligation to consider them because you are the final statutory body to assess this project on safety, environmental and strategic grounds.

1. EU Petitions Committee Interim Findings

On January 22nd, 2010, following feedback from the EU Commission on our petition with the EU parliament on breaches of the SEA Directive for the Shannon LNG project an interim ruling attached below was issued by the EU Petitions Committee highlighting the following points:

Rezoning land for the LNG terminal should have been subjected to a Strategic Environmental Assessment (SEA). In its initial submission to the EU parliament Ireland claimed that it was allowed an exemption to the mandatory SEA if the project affected less than 10,000 people. However, on January 22nd 2010 the EU Commission agreed with us that:

“Information provided by the petitioner demonstrates that the population affected exceeds 10,000”

These finding by the EU Commission and Parliament is an official acceptance that the LNG tankers have an affect on both the estuary and adjoining coastlands throughout the entire shipping route of the LNG tankers from the moment they approach the estuary from the Atlantic Ocean and that an SEA was therefore required.

The Commission went on to criticise the lack of an SEA for the Shannon LNG even more directly as follows:

“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.”

The EU Commission further went on to criticise the EIA for the Shannon LNG project as follows:

“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.”

The conclusion that the EU Commission came to was:

“On the basis of the further information provided, the Commission has decided to raise the abovementioned issues with the Irish authorities.”

'Safety Before LNG', vindicated by the EU Commission findings, is now of the opinion that if the Irish Government is to show even token respect for EU directives requiring comprehensive Strategic and Environmental Assessments then an LNG Marine Risk Assessment must be undertaken along with an SEA. It is impossible to ascertain the cumulative effects of the project if no such assessment is completed.

2. European Transhipment Hub

As recently as June 2004, plans were announced by the Shannon Foynes Port Company to invest in port facilities along the Shannon Estuary, which would include a major transhipment terminal at Ballylongford on the site of the proposed LNG terminal. However, since the LNG terminal was proposed, all plans for this transhipment facility have mysteriously been shelved. As can be seen from the attached Shannon Foynes Port Company brochure of the time, the port authority highlighted the fact that:

“the proposed development area is state owned and would be - unhampered by past structures – unhindered for future development.”

We note that it is even recognised by the port authority that structures such as an LNG terminal on the site can hamper any other proposed development and hinder the estuary for future development. Once again, therefore, the only way to determine the cumulative impacts of the creation of an oil and gas storage energy hub on the southern shores of the Shannon Estuary and its possible negative effects on the proposed transhipment hub is to undertake a marine LNG QRA and an SEA before giving any foreshore licences.

Shannon Foynes Port Authority is still promoting the Shannon Estuary as a “Global Deepwater Shipping Resource” as follows: ¹

“The Shannon Estuary, on the West Coast of Ireland, extending 100 kilometres from Limerick City to the sea, is a deep-water, sheltered resource adjacent to all major shipping lanes in and out of Europe. Currently, vessels up to 200,000 tonnes DWT are routinely handled, and a roadmap to extend this to 400,000 tonnes DWT has been developed”.

Atlantic Way Vision 2020

The 'Atlantic Way' organisation has close to 500 members working in indigenous and multinational business, education, chambers of commerce, community organisations, local government and development agencies². Among the major initiatives currently being supported by Atlantic Way are A European Transshipment Hub on the Shannon Estuary for use by North American, Asian and other interests.

The 'Atlantic Way' describes its concerns as follows:

“The Atlantic Way Region, with a population of over one million people, is a dynamic region, a prime international investment and lifestyle location situated along Ireland’s Western corridor. Our ambition, and our shared vision, is to maximize the synergies of all sectors by driving forward an agreed agenda for co-ordinated and joined-up development, creating a region of greater international scale and significance, and a region of proven excellence.”

‘Atlantic Way 2020’³, attached below, is a plan that sets out specific priority areas for progress in the Atlantic Way zone for the period up to the year 2020. It reflects the outcome of consultations held with various interests to formulate a practical set of visionary goals relating to the major strengths, assets and needs of the area in the short to medium-term.

One of the initiatives featured in the report that Atlantic Way is working to advance is a Shannon Estuary Major European Transshipment Hub describing the issue as follows:

“World shipping experts agree that, because of major changes in the dynamics of world shipping, and because of the uniqueness of the resource, the Shannon Estuary can be a major European transshipment hub — a facility of strong interest to global players in the United States, Asia and beyond who require cost efficient access into Europe.

World Shipping Challenge

- *Major increase in vessel sizes, post the Panama Canal expansion (due to open in 2014), to achieve economies of scale.*
- *The need to relieve massive congestion & delays in existing European port systems*
- *An environmental policy shift to 'short sea shipping' models.*

1 See www.shannonestuary.ie

2 See www.atlanticway.com

3 See <http://www.atlanticway.com/default/index.cfm/vision-2020/>

Ireland's Opportunity

- *Shannon Estuary can accommodate the largest unitized cargo ships in the world and has no tidal restrictions.*
- *Location means minimal deviation from deep-sea shipping lanes into Europe.*
- *Breaking out cargo and utilizing smaller vessels for onward shipping would mean major savings, eliminating the need for double- handling of cargoes at congested European ports such as Rotterdam, Antwerp and Hamburg. ”*

Without any strategic or marine LNG risk assessment of the effects of exclusion zones required around LNG tankers (which for the other proposed Hess LNG terminal at Fall River USA by its subsidiary 'Weaver's Cove' extend two miles to the front of the tanker, a mile astern and 1,000 yards to either side⁴) it is impossible to assess the effects of the plans of the oil and gas energy hub on the proposed deepwater transshipment hub.

3. Shannon Energy Valley Launch

On Monday 15th March 2010 The University of Limerick (UL), the National University of Ireland, Galway (NUI Galway), Shannon Development, and Silicon Valley's Irish Technology Leadership Group (ITLG) announced the launch of the Shannon Energy Valley, a major renewable energy hub in Ireland's Shannon Region.⁵ The Shannon Energy Valley describes its objectives as follows:

“The MOU sets out the objectives of the four-way alliance between the Irish and US bodies as:

- a. The creation of a world-class cluster of sustainable energy-related activity to support job creation and business start-ups through national and international investment*
- b. Reduction of Ireland's carbon footprint, energy generation costs, dependency on fossil fuel imports and helping the country meet environmental and emissions commitments*
- c. Enhancing Ireland's capability in the sustainable energy sector by attracting world-class R&D energy expertise, realising its commercial benefits and enabling further, advanced R&D activities*
- d. Growing Ireland's smart economy by developing additional education and training capability at undergraduate and postgraduate levels in specialised energy disciplines.”*

It is impossible to assess the Shannon Energy Valley plan without any strategic environmental assessment to assess the effect of the massive importation of LNG on the objective of *“reduction of Ireland's carbon footprint, energy generation costs, dependency on fossil fuel imports and helping the country meet environmental and emissions commitments”*

4 See http://www.warwickonline.com/view/full_story_news/6728705/article-Sure-it-s-about-money--but-LNG-is-also-good-sense--says-CEO?instance=home_news_right)

5 See <http://www.shannonenergyvalley.com/launch.html>

4. Endesa Power Station Becoming Hostage to Shannon LNG

It has now also been noted in the application by Endesa to construct a new gas-fired power station at the site of the old ESB fuel-powered station will become dependant on the Shannon LNG-sourced gas because there are currently no plans for an independent pipeline to the national grid at Foynes 26 kilometres east of the site.⁶ This is yet one more new development underlining a need for a strategic assessment.

5. Bob Hanna's Comments on Corrib Pipeline Precedent

Further to our submission on November 19th 2009 on the impacts of the recent An Bord Pleanála decision on the Corrib Shell pipeline⁷, it has now even been acknowledged publicly by chief technical advisor at the Department of Communications, Energy and Natural Resources, Mr. Bob Hanna, that the precedent created would “*have the effect of prohibiting all significant infrastructure developments*” . In an unsolicited letter to An Bord Pleanála on 20 January 2010 (attached below), Mr. Bob Hanna stated:

“In my capacity as Energy Installations Inspector for Ireland, I have observations on some issues raised in this letter.

The risk assessment methodology espoused in the Board's letter is based solely on consequence, with no attention given to likelihood of occurrence or mitigation measures proposed. This is different from international best practice in this area. Risk, or hazard, assessment is considered to be a function of both consequence of occurrence of a specified event and likelihood or probability of that event occurring.

There are very significant potential consequential implications arising from this approach. If it is deemed to establish a precedent, it would have the effect of prohibiting all significant infrastructure developments.”

As the proposed LNG terminal will become the most sizeable hazard in the country this intervention by the Energy Installations Inspector for Ireland is a recognition that an LNG accident would have significant consequences and therefore, at the very least, the cumulative impacts of this new energy plan have to be assessed by an LNG marine Risk Assessment and an SEA.

6. Foreshore Section Supporting Shannon LNG Before Decision Delivered

'Safety Before LNG' is also concerned by comments attributed to a Department of Environment spokesman on the Foreshore licensing process in the 'Kerryman' newspaper of March 17th 2010 where it was stated :

“If there is no decision forthcoming by the end of the month, there will obviously be aggrieved community groups and others who will make their voices heard. To the best of our knowledge, from the constant contact we are in with Shannon LNG, the company are still fullsteam ahead with the plans, but obviously will not commit until the final obstacles are surmounted,” the dept spokesman said.”⁸

6 See <http://www.tarbertpowerproject.com/>

7 See <http://pleanala.ie/casenum/GA0004.htm>

8 See <http://www.kerryman.ie/news/anxious-wait-for-lng-decision-2101515.html>

We are of the opinion that it is unethical for the department to be giving such a blatantly one-sided pre-emptive support for the Shannon LNG project even before a decision is made and ask if this is a normal approach by the Foreshore Section in project assessment?

7. Shannon Development Lacking Credibility

In the 'Kerryman' newspaper of March 17th 2010 it was stated:

“Chairman of Shannon Development (who own the land Shannon LNG hope to develop) and Kerry County Councillor, John Brassil, said the regional agency were informed on Friday that a decision would be made on the licence by the end of this month. Cllr Brassil was one of those sharply critical of the foreshore licence delay, describing it as a 'totally unacceptable situation'.”

“Cllr Brassil said the option on the landbank site Shannon LNG was renewed recently and would likely be paid on the company's commitment to the project in what will be an undisclosed deal due to 'commercial sensitivity'.”⁹

New information released under the Freedom of Information Act has revealed that from 2005 to November 2009 Councillor John Brassil received €109,557.09 from Shannon Development - €87,504 of that figure being directors fees alone. Shannon Development had already received €493,000 from Shannon LNG at least three months before the rezoning decision took place.

John Brassil, and by association Shannon Development, in our opinion, have now lost all credibility of objectiveness in his calling for a Shannon LNG foreshore licence without asking for any strategic assessment of the Shannon Estuary. As far as we are concerned, Shannon Development is only interested in money it will receive in “sweating its assets” and has no concern for sustainable development or proper planning. Shannon Development's support for the Shannon Energy Valley¹⁰ runs hollow when it is quite obvious that 125 LNG tankers per year will sterilise any transshipment hub or renewable energy hub development of the estuary.

9 See <http://www.kerryman.ie/news/anxious-wait-for-lng-decision-2101515.html>

10 See www.shannonenergyvalley.com

8. **Integrity of Planning Process is a Vital National Interest**

On March 12th 2009, it was reported in the 'Irish Times' that Mr. Justice John Hedigan stated that the integrity of the planning process is a “vital national interest”. The paper went on to report:

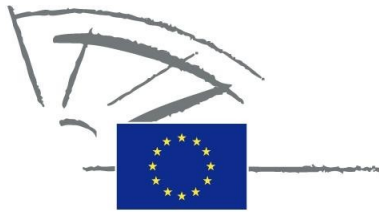
'Bad planning decisions “sentence generations to live with the consequences” and, in interpreting the planning legislation, the courts should never lose sight of the overarching national interest in the integrity of the planning process, Mr. Justice John Hedigan said.'

In summary, the European Commission has agreed that more than 10,000 people are affected by the LNG project. It is now impossible to assess the Shannon Valley Renewable Energy Hub Plan, the LNG oil and gas Energy Hub Plan and the European Deepwater Transshipment Hub Plan without undertaking an independent LNG Marine QRA, a detailed Environmental Impact Assessment on the cumulative impacts of the LNG project and a Strategic Environmental Assessment on the Shannon Estuary. Not to do so would mean that this entire Foreshore Licensing process is a sham.

We await your feedback.

Yours sincerely,

Johnny McElligott



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

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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

IRELAND'S

SHANNON ESTUARY

Showing on Exhibition Stand A4

PROPOSED 21st CENTURY PORT & CONTAINER TERMINAL

**ON
IRELAND'S WEST COAST
IN
ESTUARY OF THE RIVER SHANNON.**

TO BE CONSTRUCTED ON

A GREENFIELD SITE - 620 Acres (250 Hectares)

**THE PROPOSED DEVELOPMENT AREA IS
STATE OWNED AND WOULD BE;**

- *UNHAMPERED BY PAST STRUCTURES***
- *UNHINDERED FOR FUTURE DEVELOPMENT***

**In addition to the Wharfage
to cater for the largest ships,
the proposed port would contain;**

- *A Giant Dry Dock***
- *Bunkering Facilities***
- *Adequate Container Parks***
- *Administration Structures***

SHANNON ESTUARY

Transshipment and Logistics Hub for the North Atlantic

The reality of port congestion in many parts of the world is now posing major challenges for ocean carriers and port development opportunities for terminal operators. Congestion is now a reality in many of the major ports in Northern Europe and the Mediterranean, with leading industry experts predicting capacity constraints in both ports and inland infrastructure for the foreseeable future.

The rapid implementation of the current proposals for port expansion in Northern Europe is facing many obstacles, so that terminal operators have to look at other options to meet the market's demand for "24/7/365" port services.

These options include the development of an entirely new terminal capable of providing unrestricted access to the very large ships now entering service, together with the rapid handling and distribution of their enormous volumes of containers.

There are few, if any, available sites on Europe's Atlantic coastline able to meet the requirements of the global container shipping industry in the next decade. The Shannon Estuary is one such location. It is the optimum location in northwest Europe for a new deep-sea hub port.

The Shannon Estuary

According to feasibility studies carried out by MDS Transmodal in 2000 and by Cap Gemini in 2002, the state owned Ballylongford landbank on the Shannon Estuary is an "ideal location for a new container transshipment terminal". A transshipment terminal here would serve the major transatlantic and north-south crossings, act as a gateway port for the UK and northern Europe, and provide Irish importers/exporters with direct, faster and lower cost connections to world markets.

The Shannon Estuary:

- Is strategically located close to the major shipping lanes, providing a global gateway between Northern Europe and the USA, Canada, the Caribbean, and the Mediterranean, Africa and the Far East.
- Requires the minimum deviation from both north-south and east-west deep sea routes, and is the nearest European port to the east coast of the USA.
- Can provide significant volumes of hinterland traffic with Ireland's growing world import/export markets.
- Already has a 250 hectare State owned site on deep water designated for industrial development.
- Has a well-established, efficient port structure in place under the jurisdiction of the **Shannon Foynes Port Company**. Both panamax and cape size bulk carriers have long been handled at terminals within the port.
- Has a highly supportive national government and a pro-business climate.

The development of a transshipment hub in the Shannon Estuary would:

- Be in line with EU policy to reduce road traffic congestion by developing short sea shipping and feeder services.
- Meet the requirement for additional Irish port capacity expected to rise from 2008 onwards.
- Be in line with the Irish Government's spatial policy, and provide substantial employment in the under developed region of North Kerry, West Limerick and West Clare.
- Provide an opportunity for the development of a major European logistics hub, accommodating various modal splits, including sea - air freight through nearby Shannon Airport.

Why the Shannon Estuary

A comparison of mainline distances* shows that the Shannon Estuary provides the shortest and fastest sailing times between Northern Europe and both the East Coast USA/Caribbean and the Mediterranean/Africa/Far East

* Distances taken from Lloyd's Maritime Atlas, Lloyd's Nautical Year Book, and from distance tables provided by the Harbour Masters office, Shannon Foynes Port Company.

A further comparison of a typical multiport service to the major European ports with Shannon as a single call hub operation shows that a Shannon based operation has the potential to enable a mainline operator to remove one ship from strings operating on weekly services to ECUSA, the Far East and a Far East / Europe / ECUSA service.

These comparisons confirm that the use of a Shannon transshipment hub is a more cost effective option than multiporting for the new generation of container ships operating on the main trade lanes to/from Northern Europe, in terms of ship time.

Feedership Services

The optimum container transshipment hub must offer competitive feedership costs, as well as reducing mainline ship deviation costs, so that it offers net savings on the total system costs.

A comparison of feeder distances from the main gateway ports and Shannon to a selection of feeder ports confirms that the average feeder distance from Shannon compares favourably with the average feeder distances from the major ports. The selected ports were Cork, Dublin, Liverpool, Glasgow, Grangemouth, Hull, Reykjavik, Gothenburg, Gdansk, Southampton, Bilbao, Lisbon and Gibraltar. Adjacent ports were excluded from the comparisons.

The effect is that Shannon's very short mainline ship deviation distance, together with its competitive average feeder distance, makes it the most efficient location overall for the full range of both north / south and east / west transshipment services in Northern European in terms of total ship/teu/miles.

Irish Market

According to the IDA*, Ireland is the most globalised economy in the world. The economy has outperformed all other European economies since the early 1990s, and is one of the most attractive business locations in the world according to the Economist.

Strategic service functions, including supply chain management, are one of the broadening range of high value activities undertaken by multinational companies in Ireland.

Unitised freight through Republic of Ireland ports amounted to some 2.8m units in 2004, including an estimated 1.5m teu. Some 40% of that total was transhipped to/from non-EU markets, mainly through Rotterdam, Amsterdam and Felixstowe.

Port Development

The Irish Government recognises that a modern economy needs modern infrastructure. In its "Ports Policy Statement 2005" the government envisages "a process aimed at identifying a small number of projects to meet the capacity deficit identified in unitised traffic".

The initiative to develop the container transshipment in the Shannon Estuary is being led by the Shannon Foynes Port Company**, together with Shannon Development *** as the regional development agency with responsibility for the development of the Ballylongford landbank. The Irish Maritime Development Office**** is the stage agency charged with facilitating the development of shipping and port related business.

Summary

Analysis confirms that the Shannon Estuary is the closest deep-water harbour to both the main east-east and north-south container shipping routes and is also a competitive location for feeder services.

It is the optimum location in North Western Europe for a transshipment hub port, and has the potential to provide the major carriers with considerable cost savings on all their mainline services to and from Northern Europe.

The strong economy, pro business government, favourable tax environment and world-class work force have convinced many of the world's leading manufacturing, technological and service companies to invest and re-invest in Ireland.

The Shannon Estuary's unrivalled strategic location, together with Ireland's competitive advantages, makes the Shannon Estuary an attractive option to port developers and mainline carriers looking for container port facilities in Northern Europe.

* Ireland's Industrial Development Authority (www.idaireland.com)

** Shannon Foynes Port Company (www.sfpc.ie)

*** Shannon Development (www.shannon-dev.ie)

**** Irish Maritime Development Office (www.marine.ie)

IRELAND'S SHANNON ESTUARY

GENERAL

Ireland's Shannon Region and in particular the area around the Shannon Estuary has distinct advantages to offer large scale manufacturing industry:

- Low corporate tax rate.
Maximum 10% on profits.

Advantages offered include:

- Strategic location on major shipping and air routes.
- Unlike the major traditional ports of North-West Europe, the Estuary is not affected by congested or shallow approaches, shortage of land or labour or constraints imposed by the proximity of large centres of population.
- Up to 30 million gallons of fresh, processed and industrial water per day can be made available.

**All Enquiries to:
Shannon Foynes
PORT COMPANY**

Martin Morrissey
Commercial Manager

Foynes, Co. Limerick, Ireland.

Tel: +353 (0) 69 73121
Fax: +353 (0) 69 65142
Mobile: 086 609 4852

Email: mmorrissey@sfpc.ie

Web: www.sfpc.ie

Some of the unique features of the Shannon Estuary as a site for maritime industrial development are:

- Accommodates vessels of 200,000 dwt.
- Bulk cargo vessels of 400,000 dwt could be accommodated in sheltered waters with minimal dredging.
- 96km of sheltered waters and deep water channel.

Other Advantages

Sophisticated, ultra-modern telecommunications system.

- A pleasant living and working environment in one of Ireland's fastest expanding industry-gearred regions.
- A comprehensive range of financial incentives.

INTERNATIONAL OFFICES

USA OFFICES:

New York	Tel: 212 - 972 1000
Boston	Tel: 617 - 367 8225
Chicago	Tel: 312 - 236 0222
Dallas	Tel: 214 - 618 4463
Cleveland	Tel: 216 - 248 3350

EUROPEAN OFFICES:

London-England	Tel: 071 - 629 5941
Stuttgart-Germany	Tel: 711 - 221 468
Dusseldorf-Germany	Tel: 211 - 369 868
Munich-Germany	Tel: 89 - 227 641
Stockholm-Sweden	Tel: 08 - 663 6010
Amsterdam-Holland	Tel: 20 - 221 525

ASIA and PACIFIC OFFICES:

Tokyo-Japan	Tel: 3 - 262 7621
Seoul-Korea	Tel: 2 - 755 4767
Taipei-Taiwan	Tel: 2 - 725 12691
Hong Kong	Tel: 25 - 845 1118
Sydney-Australia	Tel: 2 - 239 5999

Atlantic Way Supported Initiatives

*Ideas that can
make a difference*

More than most countries, Ireland is being particularly challenged by the recession and by the downturn in the economies of many of our major markets. The scale of the challenges needs to be matched by a scale of appropriate creative responses.

The projects featured here are among the initiatives that Atlantic Way is working to advance. They are projects that can make real difference.





Envisioning
the Shannon
Estuary 2015

Shannon Estuary

Major European Transshipment Hub

World shipping experts agree that, because of major changes in the dynamics of world shipping, and because of the uniqueness of the resource, the Shannon Estuary can be a major European transshipment hub — a facility of strong interest to global players in the United States, Asia and beyond who require cost efficient access into Europe.

World Shipping Challenge

- Major increase in vessel sizes, post the Panama Canal expansion (due to open in 2014), to achieve economies of scale.
- The need to relieve massive congestion & delays in existing European port systems.
- An environmental policy shift to 'short sea shipping' models.

Ireland's Opportunity

- Shannon Estuary can accommodate the largest unitized cargo ships in the world and has no tidal restrictions.
- Location means minimal deviation from deep-sea shipping lanes into Europe.
- Breaking out cargo and utilizing smaller vessels for onward shipping would mean major savings, eliminating the need for double-handling of cargoes at congested European ports such as Rotterdam, Antwerp and Hamburg.

A World Innovation Campus at Shannon

Innovation is the key to Ireland's economic progress — creating competitive advantage to help us develop existing and new overseas markets.



Westpark Shannon — the future home of a World Innovation Campus

Shannon is the potential home of a World Innovation Campus; a centre that taps into, harnesses, supports and nurtures Ireland's talent base, helping entrepreneurs to create sustainable, innovative products and services that can give us an edge in the international marketplace.

The centre would also track trends, technology and other advancements and tap into 'best in world' sectoral thinking — creating linkages to regions of excellence around the world.

Atlantic Way Open World | Open Minds Programme

The Open World | Open Minds project is an Atlantic Way initiative — a programme of collaboration with a necklace of progressive regions from around the world, for mutual benefit.

As we seek innovative solutions to the challenges we face, we know that other progressive regions worldwide are seeking, or have found, solutions to similar challenges. Invariably, these are regions with ambition, a shared vision and strong leadership; regions where innovation thrives and where broad and willing collaboration exists at all levels. These are also the regions that are advancing ahead of others.

The Atlantic Way is working to partner with the best regions internationally, building active partnership links and developing joint commercial ventures. We have already forged vibrant connections with regions in the U.S., Canada, Europe, Asia and the Middle East and are working to broaden and strengthen our collaborations.

Open World | Open Minds



The Northern Way

The new U.S. Customs & Border Protection Facilities at Shannon International Airport

Converting the opportunity into business

The new, full pre-clearance facilities at Shannon Airport, for U.S. bound passengers, is unique in the world, outside of the Americas. Atlantic Way believes the new business opportunities offered by this facility are enormous and must be fully exploited:

Airlines: benefit from being able to fly into less congested and less expensive domestic terminals at major U.S. airports and their smaller provincial airports.

Passengers: benefit from uninterrupted passage through U.S. airports on arrival, saving time and delays.

Corporate Jets: Shannon is now a very attractive proposition for corporate jet traffic.

Atlantic Way is working to have all interests understand the opportunity and to ramp up and accelerate the marketing of the facilities NOW to capitalise on the opportunity.

The new facility provides commercial, corporate, cargo and aviation-related opportunities. It also makes the Region even more attractive as a headquarter location for U.S. and EU organisations. These opportunities need to be pursued vigorously in a cohesive and integrated way, with all relevant regional and national bodies providing full support. The Airport is being encouraged to offer VIP services, facilities and a welcoming environment to ensure the opportunity is maximised.

Marketing — *from a Whisper to a Roar!*

The Atlantic Way will begin to intensify the marketing of the Region from October 2009, through a collaborative programme with its members.

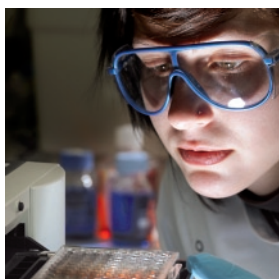
Every member will continue to carry their own individual or corporate message, but each will also be encouraged to carry the message of the Atlantic Way, giving their own message a wider context.

This wider context will emphasise that they are members of a positive force of over one million people, in a region that has a shared vision, collectively working to create a region of international scale and significance — a region of excellence for living, leisure, knowledge and work.

Clustering and Centres of Excellence

Galway shows the way

Atlantic Way supports the concept of the clustering of industry and the creation of centres of excellence. Galway has already shown what is possible. It has emerged as an international centre of excellence for manufacturing and research in the medical and biomedical sectors — and now, for example, it hosts one of the two largest medical devices industry clusters in the world. In NUIG Galway, it has world-class research centres such as the Regenerative Medicine Institute and the National Centre for Biomedical Engineering Science.



Clustering facilitates the development of collaborative links and collaboration between a region's industry and its educational and research establishments. It stimulates networking, attracts skilled and flexible talent and it encourages and supports innovation. This is all achieved in a manner which concentrates on the competitive environment and confers a region with a competitive advantage.

Atlantic Way continues to pursue the potential for greater clustering in the areas of Information Communication Technology (ICT), Life Sciences, Logistics, Aviation/Aerospace, Creative and Cultural Industries and in Green Technologies. The colleges within the Region include the University of Limerick, NUIG Galway, the Limerick Institute of Technology, the Galway-Mayo Institute of Technology and Mary Immaculate College Limerick. These are among the centres that can provide a graduate talent-stream, research and other supports to the clusters.

During October 2009, the Atlantic Way will launch a new website which will positively project the Region. The new website, www.AtlanticWay.com, will include

promotional collateral and presentations which members can download and use to highlight the virtues of the Region to those within their sphere of influence — people and organisations who might like to know more about the Region.

Collaboration means our voice in the international marketplace will be amplified — growing *From a Whisper to a Roar*.



Global Freight Logistics Centre

at Shannon Airport

Atlantic Way believes that Shannon International Airport has the potential to be a major international freight logistics centre and has brought together all the Region's freight-related interests to explore and pursue the opportunity.

An important first step in this ambition, supported by Atlantic Way, is an initiative between the Shannon Airport Authority and the Lynxs Group to build a major cargo port facility, financed by the Lynxs Group, with the airport undertaking supporting infrastructural works.



Freight already underpins significant employment in the Region. The development of a global freight logistics centre has the potential to create and support over 10,000 new jobs in the Region within a five to ten year timeframe.

An International Natural Disaster Relief Centre at Shannon

Shannon is a perfectly located strategic base for an international Natural Disaster Relief Centre.

Shannon could be the coordination base for certain logistical operations including the rapid delivery of relief supplies to stricken areas. Shannon is a 24 hour airport with an unrestricted runway and no curfews.



Ireland's Atlantic Way

Atlantic Way represents the positive force of key public and private sector decision-makers in this region. We have close to 500 members working in indigenous and multinational business, education, chambers of commerce, community organisations, local government and development agencies. We have a shared vision to maximize the synergies of all sectors by driving forward an agreed agenda for co-ordinated and joined-up development, creating a region of international scale and significance, and a region of proven excellence.

www.AtlanticWay.com



An Roinn Cumarsáide,
Fuinnimh agus Acmhainní Nádurtha
Baile Átha Cliath 2.

Department of Communications,
Energy and Natural Resources,
Dublin 2.

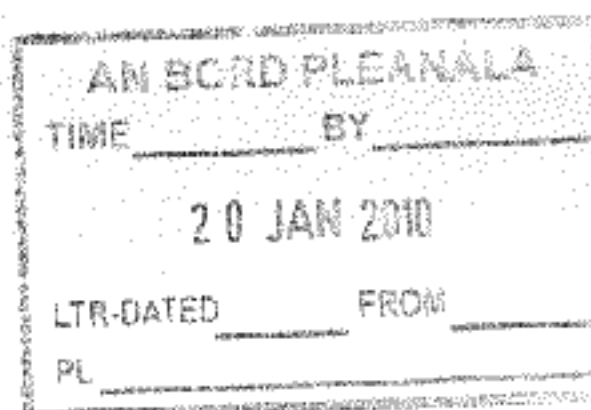
Your ref: 16.GA0004 & 16.DA0004

Mr Alan McArdle
An Bord Pleanála
64 Marlborough Street
Dublin 1

20 January 2010

Re: Corrib Project

Dear Mr McArdle,



I refer to your letter dated 2nd November 2009 to Mr Des Cox of RPS Planning & Environment in respect of the above application, which you have placed in the public domain. In my capacity as Energy Installations Inspector for Ireland, I have observations on some issues raised in this letter.

The risk assessment methodology espoused in the Board's letter is based solely on **consequence**, with no attention given to **likelihood of occurrence or mitigation measures proposed**. This is different from international best practice in this area. Risk, or hazard, assessment is considered to be a function of **both** consequence of occurrence of a specified event and likelihood or probability of that event occurring.

There are very significant potential consequential implications arising from this approach. If it is deemed to establish a precedent, it would have the effect of prohibiting all significant infrastructure developments. To illustrate by way of example, a "consequence only" approach means that one would have to design and build an aircraft which would protect its passengers from harm **when** it crashes.

The Board's letter also implies that no relevant standards apply, and proposes certain UK standards. I confirm that the Technical Advisory Group of the Department of Communications, Energy & Natural Resources ("TAG") did, in 2006, designate the appropriate standards to apply to this project. The evidence given in the written documentation submitted to the Board is that those designated standards are met or exceeded by the project. I now separately warrant that the standards referred to in the Board's letter are also met or exceeded by demonstrated compliance with the standards and codes prescribed by TAG.

The current competent authority for upstream gas safety, TAG, has concluded that the design and proposed construction, installation and commissioning of the onshore section of the Corrib gas pipeline meet or exceed all relevant safety standards and codes.

Yours sincerely,

Bob Hanna
Chief Technical Advisor and Energy Installations Inspector



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County Kerry

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Email: safetybeforelng@hotmail.com
Web: www.safetybeforelng.com

Safety before LNG

Protecting the Shannon Estuary and its people

19 November 2009

Mr. Brendan Smith T.D.
Minister for Agriculture, Fisheries and Food,
Agriculture House,
Kildare Street,
Dublin 2
By email to: minister@agriculture.gov.ie

cc Minister for State Mr. Trevor Sargent T.D. (Trevor.Sargent@agriculture.gov.ie),
Minister for State Mr. Tony Killeen T.D. (Tony.Killeen@agriculture.gov.ie),
Foreshore Section , Coastal Zone Management Division (Gerard.Sheil@agriculture.gov.ie, Sylvester.Murphy@agriculture.gov.ie and Danny.OBrien@agriculture.gov.ie),
Mr. Eamon Ryan T.D. Minister for Communications, Energy and Natural Resources (minister.ryan@dcenr.ie and eamon.ryan@oireachtas.ie),
Mr. Simon Coveney T.D. (simon.coveney@oir.ie),
Ms. Joan Burton T.D. (joan@joanburton.ie),
Ms. Liz McManus T.D. (liz.mcmanus@oireachtas.ie)

Re. Impacts of Corrib Shell pipeline ruling and European Court of Human Rights case concerning safety aspects of Milford Haven LNG project on the Shannon LNG application for Foreshore Licences MS51/9/596-599

Dear Minister,

Before a final decision is made by you on the Foreshore Licence application by Shannon LNG we are informing you that we are of the opinion that you are under an ethical and legal obligation to consider the following issues and precedents raised by the recent An Bord Pleanála decision on the Corrib Shell pipeline and by a case on the Milford Haven LNG terminals currently being considered by the European Court of Human Rights.

The Shell Pipeline Decision:

The precedent of the GA0004 Shell Pipeline decision by An Bord Pleanála¹ of November 2nd 2009 where for the first time the consequences of an accident are being considered and not only the probability of an accident now needs to be equally implemented with this foreshore licence application.

The Bord found as unacceptable in its decision letter in 2(c)

“the impacts on the local community during the construction and operational phases of the development which would seriously injure the residential amenities of the area”.

We also noted in 3(c) with great interest the appropriate standard against which that major hazard pipeline would now be assessed:

“the routing distance for proximity to a dwelling shall not be less than the appropriate hazard distance for the pipeline in the event of a pipeline failure. The appropriate hazard distance shall be calculated for the specific pipeline proposed such that a person at that distance from the pipeline would be safe in the event of a failure of the pipeline”.

The decision letter goes on to state in part (d) on page 3:

“In order to eliminate any doubt please note that all failure modes should be included including the possibility of third party intentional damage”

In part I of page 3 the Bord requests:

“details of the hazard distances, building burn distances and escape distances in contours for the entire pipeline”

LNG expert Dr. Jerry Havens, in his submission to the Shannon LNG application noted:

*“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.”*

In fact, a leak of LNG which is heavier than air will move laterally (along ground or

¹ <http://www.pleanala.ie/casenum/GA0004.htm>

water) until well beyond the distance at which it is still ignitable (12.4 kilometres²);

The conclusion therefore is that allowing a foreshore licence application for a top-tier Seveso II LNG terminal, the most sizeable hazard in Ireland, where at least seventeen thousand people will live in harm's way up to 12.4 Kilometres from the site and route of LNG tankers travelling the Estuary is unacceptable following the precedent created by the Shell pipeline decision by An Bord Pleanla. There has not even been an initial evacuation plan proposed or assessed and we now request that the hazard, burn and escape distances of both accidental and intentional damage be integrated into the assessment of this application as has been done for the Corrib Shell pipeline.

The European Court of Human Rights Case on Milford Haven LNG terminals:

The European Court of Human Rights has asked the British government for key clarifications on aspects of LNG safety at two large import terminals in Milford Haven, West Wales which parallel exactly the same issues raised by us concerning the Shannon LNG project.³

The court has asked the Government to explain who was responsible for assessing all risks posed by the LNG terminals, including marine risks, and what risk assessments were done and were made public and when.

The court has specifically asked the following questions:

- “1. Which bodies had responsibility for assessing the risks associated with the LNG projects and advising the planning authorities and how was responsibility divided among the various bodies concerned?”*
- 2. Have the relevant authorities discharged their positive obligations to protect the applicants’ rights under Article 2 and/or Article 8 of the Convention by ensuring that:*
 - (a) they have complied with their duties in relation to the regulation of hazardous industrial activities and, in particular, have properly assessed the risk and consequences of a collision of LNG vessels or other escape of LNG from a vessel in Milford Haven harbour or while berthed at the jetty?*
 - (b) relevant information on the nature and extent of the risk posed by the*

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 European Court of Human Rights Application Number 31965/07 by Alison Hardy and Rodney Maile against the United Kingdom lodged on 24 July 2007 c.f.
<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=857924&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

hazardous industrial activities has been disclosed to the public in accordance with the principles set out by the Court (see, inter alia, Öneriyildiz v. Turkey [GC], no. 48939/99, ECHR 2004-XII; Guerra and Others v. Italy, 19 February 1998, Reports of Judgments and Decisions 1998-I; and Giacomelli v. Italy, no. 59909/00, ECHR 2006-...)?"

Conclusion:

The Corrib Shell Pipeline decision by An Bord Pleanála and the clarifications requested by the European Court of Human Rights from the UK government on the LNG siting decision in Milford Haven highlight the key ethical and political issue as being the one of acceptability of risk - as opposed to the narrower issue of the probability of accidents - by considering the possible consequences of siting extremely hazardous installations in close proximity to communities without their consent.

If, even within this narrower criteria of probability, the probability of an LNG accident on water has *not* even been assessed in the form of a marine QRA or the assessment of an LNG spill on water, then the Foreshore Licensing process is leaving itself wide open to challenges in the courts.

As already highlighted by us to you on June 4th 2009:

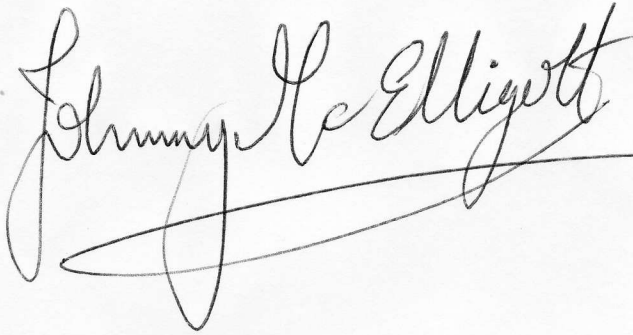
- The remit of the Health and Safety Authority (HSA) stopped at the shoreline and so the HSA did not assess any marine safety aspects of the project or any intentional damage to the terminal or LNG ships;
- the Commission for Energy Regulation (CER) is only assessing safety aspects of the pipeline and not of the terminal itself or any marine safety aspect of the project;
- we now fully intend to audit the work of Shannon LNG, the CER and the Foreshore Section of the Department of Agriculture in assessing the safety aspects of this project. If a court considers that your Department has not assessed this application properly then the foreshore licence may be revoked. The main criteria that must be assessed is whether the project is safe and absolutely necessary - a task you cannot complete without the information we have signalled to you as missing;
- the Department's powers are widespread and as the Foreshore Licence is the last in line of the licensing processes that can deal with the safety aspects of this LNG project then it has a duty to cover any regulatory gaps not covered by the other statutory bodies in dealing with this project to date

The relevant An Bord Pleanála Decision on the Shell Pipeline and the Statement of Facts of the European Court of Human Rights case are attached for your information and we reserve the right to await the outcome of the court case before initiating legal action to protect our rights.

We await your feedback.

Yours sincerely,

Johnny McElligott

A handwritten signature in cursive script that reads "Johnny McElligott". The signature is fluid and stylized, with a long horizontal line extending from the end of the name across the page.

Our Ref: 16.GA0004 & 16.DA0004

Your Ref: SEPIL

Des Cox,
RPS Planning & Environment,
West Pier Business Campus,
Dun Laoghaire,
Co. Dublin.

2nd November 2009

Re: Onshore upstream gas pipeline facility relating to the Corrib Gas Field Project, Co. Mayo.

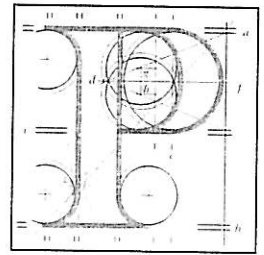
Dear Sir,

I have been asked by An Bord Pleanála to refer to the above mentioned applications.

Having considered the application made under section 182C of the Planning and Development Act 2000 as amended, the submissions received and the report of the Inspector who carried out the oral hearing, the Board considers:-

- (1) The design documentation for the pipeline and the quantified risk analysis (QRA) provided with the application does not present a complete, transparent and adequate demonstration that the pipeline does not pose an unacceptable risk to the public.
- (2) That part of the route between chainages 83+910 and 89+550 (5.64 kilometres between Glengad and Aghoos) is considered unacceptable for the following reasons:-
 - (a) the proposal to route the pipeline at a proximity distance from dwellings which is within the hazard range of the pipeline should a failure occur is unacceptable,
 - (b) the limitations on the road improvement works in the Rosspoint area resulting in a traffic plan and haul route proposal that involves convoys of five heavy goods vehicle (HGV) trucks travelling over narrow bog rampart and bog roads partly through a rural residential area which would constitute a traffic hazard and obstruction of road users, and
 - (c) the impacts on the local community during the construction and operational phases of the development which would seriously injure the residential amenities of the area and the development potential of lands in the designated rural settlement of Rosspoint.
- (3) That part of the route of the pipeline which is onshore (between chainage 83+390 and 83+400) has been omitted from the application i.e. between chainage 83+400 and the high water mark (HWM).

An Bord Pleanála



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Dublin 1.

Furthermore, the Board having examined the detailed proposals submitted and having regard to the fact that Ireland has not adopted a risk-based framework for decision-making on major hazard pipelines (transporting wet gas) and related infrastructure considers that the following standards, when applied to the proposed pipeline, are the appropriate standards against which the proposed development should be assessed and that the Board should, therefore,

- (a) adopt the UK HSE risk thresholds for assessment of the individual risk level associated with the Corrib Gas Pipeline,
individual risk level above 1×10^{-5} – intolerable,
individual risk level between 1×10^{-5} and 1×10^{-6} – tolerable if ALARP (As low as reasonably practicable) is demonstrated,
individual risk level below 1×10^{-6} broadly acceptable, and
- (b) adopt a standard for the Corrib upstream untreated gas pipeline that the routing distance for proximity to a dwelling shall not be less than the appropriate hazard distance for the pipeline in the event of a pipeline failure. The appropriate hazard distance shall be calculated for the specific pipeline proposed such that a person at that distance from the pipeline would be safe in the event of a failure of the pipeline.

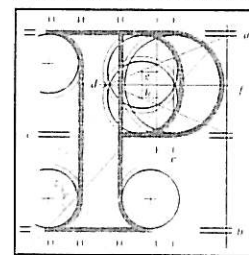
Having regard to the foregoing and to the strategic national importance and current status of the entire Corrib Gas Field development, and as it is provisionally the view of the Board that it would be appropriate to approve the proposed onshore pipeline development should alterations be made to the proposed development, you are invited to make alterations to the proposed development as follows:-

Modify the pipeline route between chainages 83+910 and 89+550 so that the route at this location would be generally in accordance with that indicated as Corridor C (that is, within Sruwaddacon Bay) in the route selection process which formed part of the Environmental Impact Statement (E.I.S.) and planning application. The revised development including this alteration shall be accompanied by a revised E.I.S. including an appropriate assessment of the impact of the development on Natura 2000 sites.

Furthermore, the applicant is requested to furnish the following further information in accordance with section 182C(5) of the Planning and Development Act, 2000 as amended in relation to the entire pipeline route modified as above:-

- (a) Clarify the code requirements and pressure test requirements for the pipeline from chainage 83+390 (HWM) approx. to chainage 83+470 (downstream weld at LVI)
- (b) Provide confirmation that the design of this section of the pipeline meets the requirements set down by the Technical Advisory Group (TAG).
- (c) Provide an integrated set of design documentation in the form of a revised Appendix Q. The documentation should integrate the analysis provided in the incidental and individual documents at the oral hearing. The whole set should provide a transparency of the design for the complete pipeline from the HWM to the terminal. This transparency should relate to the different site and design conditions along the pipeline and should relate to the codes. The design should include the analysis related to ground stability and should provide a system for monitoring movement of the pipeline in those areas of deep peat. Furthermore, the maximum allowable operating pressure (MAOP) for the pipeline should be stated.
- (d) Submit a new QRA that presents the analysis of risk at the different operating conditions and different locations along the pipeline route. The QRA should be site specific. The QRA should include ground movement and incorporate a database that matches the conditions of the proposed development. A sensitivity of the QRA is required which demonstrates the range of risk that relates to any uncertainty (in the database) of failure frequencies for the various potential

An Bord Pleanála



64 Sráid Maoilbhríde,
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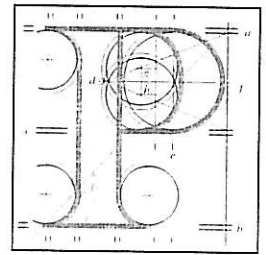
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failure modes of the pipeline. The database should be relevant for an upstream wet gas. In order to eliminate any doubt please note that all failure modes should be included including the possibility of third party intentional damage at Glengad, wet gas in the pipeline, CO2 in the pipeline and potential for Methane Hydrate in the pipeline.

- (e) Provide a qualitative assessment of risk. This should be prepared for the different operating conditions and different locations along the pipeline route and should provide a comprehensive assessment to include those events that cannot be easily defined mathematically.
- (f) Submit an analysis of the condition where the umbilical becomes severed and the control of valves at the wellhead and the subsea manifold is lost. The analysis needs to identify what conditions apply to the onshore pipeline and the risks involved in that circumstance.
- (g) An examination of the potential for pressure in the offshore pipeline to increase to wellhead pressure levels in the event that all wellhead valves had to be shut in over a prolonged period and in that period incremental leakage past the valves occurred. The concept of a vent at Glengad as a measure to protect against pressure at the wellhead side of the pipeline at the landfall rising above the maximum operating pressure should be examined. Information should also be provided on the reliability of the subsea shut down valve system proposed for the wellhead and manifold offshore.
- (h) Provide details of the examination of the potential increase in safety for the population at Glengad by the use of a straight pipe at the landfall and provide full justification for the proposed design as submitted (and any revised design that may result from the modifications requested herein).
- (i) Provide details of the hazard distances, building burn distances and escape distances in contours for the entire pipeline. The applicant should indicate the outer hazard line contour which should show the distance from the pipeline at which a person would be safe. A number of these contours were provided at the oral hearing (copies of which are attached to this letter), however, the set of hazard contours should be complete and should include the entire onshore pipeline as far as the terminal. Please indicate the assumptions made in determining these hazard contours and indicate any limitations that apply to these hazard contours.
- (j) Provide details separately of the inner zone, middle zone and outer zone contour lines for the pipeline. These shall represent the distance from the pipeline at which risk levels of 1×10^{-5} , 1×10^{-6} and 0.3×10^{-6} per kilometre of pipeline per year exist.
- (k) Provide an assessment of the societal risk for Glengad and the societal risk along the revised route. This should be fully documented.
- (l) Submit precise section by section details of the proposals for temporary peat turve storage, which take into account the condition of the existing surface layer of the peat and which specifically identify where peat turves or remoulded peat will be stored on bog mats adjacent to the stone road (or elsewhere).
- (m) Submit details of the specific risk mitigation measures that would be proposed for each of the sections within the peat lands (Sections 1 to 18 were the relevant sections in the route as originally proposed and as set out in the qualitative assessment of relative peat failure potential which was presented as additional information at the oral hearing). These details should identify in particular where there would be limits on the storage of peat on bog mats adjacent to the stone road excavation and where a conservative approach would be proposed to the use of design factors and in the assessment of peat stability.
- (n) Submit an assessment of the potential impact of the estimated stone road settlements on the umbilical pipeline and service ducts that will also be constructed within the stone road, including an assessment of the risks associated with failure due to rupture of these umbilicals or services.

An Bord Pleanála



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Revised drawings should be submitted which fully describe the full extent of the onshore pipeline from the HWM to the terminal site. These alterations to the extent of the site the subject of this planning application shall be accompanied by revised public notices as referred to below.

The site of the proposed development has been incorrectly detailed in the EIS between chainage 91.537 and chainage 92.539, i.e, the existing stone road at the Terminal end of the pipeline. The applicant is invited to amend the details of the proposed development at this location.

The undertaker should consider whether or not the construction of a pipeline along the altered route as referred to in this communication would require the compulsory acquisition of any lands or rights over land not covered in the application to the Board, (file ref. 16.DA0004), under Section 32 of the Gas Act 1976. In the event of an acquisition order being required for any additional land or rights over land an application for such order should be prepared under the provisions of the Gas Act 1976 and submitted to the Board in conjunction with the information requested herein. Any alterations or modifications required to the application already submitted (file ref. 16.DA0004) should be indicated. As an alternative an application for an acquisition order to cover the entire revised route may be submitted.

Please note that upon receipt and examination of any response to its request, the Board can at that stage invoke its powers pursuant to subsection (7) and (8) of Section 182C of the said Act which require the undertaker to publish a newspaper notice of the furnishing of the further information and to make same available for inspection or purchase. Any such newspaper notice would provide that written submissions or observations in relation to the further information may be made to the Board. The undertaker would also be required to send to the local authority and to each prescribed body to which notice was given of the application, a copy of the further information and E.I.S. indicating that submissions / observations may be made to the Board. You will also be requested to erect site notices at specified locations along the route.

A response to this request for further information and revised E.I.S. should be received by the Board on or before 5th February, 2010.

If you have any queries in relation to the matter please contact the undersigned officer of the Board.

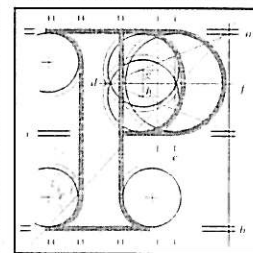
Please quote the above mentioned An Bord Pleanála reference number in any correspondence or telephone contact with the Board.

Yours faithfully,

PP *Manella* *Dof*
Alan McArdle
Executive Officer

Registered Post

An Bord Pleanála



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European Court of Human Rights

28 October 2009

FOURTH SECTION

Application no. 31965/07
by Alison HARDY & Rodney MAILE
against the United Kingdom
lodged on 24 July 2007

STATEMENT OF FACTS

THE FACTS

The applicants, Ms Alison Hardy and Mr Rodney Maile, are British nationals who were born in 1946 and 1935 respectively and live in Milford Haven. They are represented before the Court by Mr R. Buxton, a lawyer practising in Cambridge.

A. The circumstances of the case

1. The Background facts

The facts of the case, as submitted by the applicants, may be summarised as follows.

a. The Dragon site

In around 2002, Petroplus applied to Pembrokeshire County Council for planning permission to develop a liquefied natural gas (LNG) terminal on a site at Milford Haven harbour (“the Dragon terminal” or “the Dragon site”).

On 21 October 2002, Milford Haven Port Authority (“MHPA”) wrote to Pembrokeshire County Council acknowledging receipt of an extensive Environmental Impact Assessment. MHPA noted that:

“As a Port Authority, we have a duty to assess anticipated building works in the waterway in respect of their impact upon navigation, and also of course have a responsibility for maintaining and regulating the use of the waterway in a safe and effective manner.”

MHPA indicated that its marine department had been working closely with marine advisers to Petroplus to assess the feasibility of LNG vessels

transiting the port area and berthing at the proposed jetties. The conclusion was that the identified and agreed means of navigation and operation “more than adequately” contained the risk associated with handling such vessels. MHPA also pointed to the benefit to the marine service community of the increase in traffic which would result from the development and the diversification into new sectors of activity. In short, MHPA was:

“...supportive of [the] proposed development and have no concerns regarding safety or navigation in this respect”.

On 19 March 2003, Pembrokeshire County Council granted planning permission for an LNG terminal at the Dragon site.

On 25 April 2003, an application was made by Petroplus to extend the LNG terminal at the Dragon site. The application, together with an environmental statement, was considered at Pembrokeshire County Council’s Planning and Rights of Way Committee meeting on 21 October 2003. The minutes noted that the Health and Safety Executive (“HSE”) had not advised against the granting of permission for the extension on safety grounds. They also recorded that MHPA strongly supported the proposal and was confident that the port had the capacity to handle the extra shipping traffic and that there would be no negative impacts on the satisfactory risk assessment already undertaken. The environmental statement highlighted safety aspects as a matter for assessment, noting that an HSE safety report would be required before the plant could be operated. It concluded:

“An independent risk assessment of both the currently approved development and the proposed expansion has been carried out by [Petroplus]. This assessment considered adjacent residential property ... The assessment concluded that the level of risk presented by the extended LNG Terminal remains within the levels that the HSE considers tolerable and broadly represents an acceptable level of risk.”

On 11 February 2004, Petroplus made an application, accompanied by an environmental statement, for amendments to the approved LNG terminal.

On 1 March 2004, Petroplus applied for hazardous substances consent for the storage of LNG.

A report prepared by the HSE for consideration on 2 September 2003 demonstrated some initial examination of the modalities and consequences of a major release from a delivery ship whilst moored at the jetty. The relevant section concluded:

“It is clear that such plumes, centred on the jetty, are capable of engulfing the densely populated developments of Milford Haven (town), Neyland or Pembroke Dock. But without PCAG Guidance on the frequency to be assigned to the release, an ignition probability analysis cannot be undertaken to determine the significance in risk terms ...

...

The paper has included some consideration of releases from delivery ships whilst moored at the jetty, but the analyses are incomplete due to shortage of data. A complete methodology could be developed over time.”

On 10 September 2004, planning permission was granted for an extension at the Dragon site and for the amended scheme.

In a report dated 12 October 2004, the Director of Development of Pembrokeshire County Council summarised the views regarding the application by Petroplus for hazardous substances consent in respect of the amendments to the LNG terminal. The report recorded that strong objections had been received from residents of nearby areas calling, in particular, for “all health and safety information concerning the proposed Milford Haven LNG Terminals [to be] made publicly available and openly debated before any further consents are given to build”. It also recorded that the HSE had confirmed that its statutory obligation was complete when all shore-based activities had been assessed and had been taken into account. Such activities, in the present case, would include the transfer of LNG from the ship to the shore and storage and regasification of the LNG. They would not, however, include the risks from ships moored at or approaching the jetty. The assessment of such risks would fall to the Maritime and Coastguard Agency (“MCA”).

The report continued as follows:

“The MCA has confirmed that as the national maritime administration, it would have responsibility for the safety of LNG tankers, transporting the cargo, whilst inside UK territorial waters. Although it would continue to have some general responsibility for the vessel when it passed from UK territorial waters into the Milford Haven Port Authority’s jurisdiction area, the MCA take the view that primary responsibility passes to the competent harbour authority. The MCA has stated that it would be reasonable to assume that there is some, unspecified increase in ‘risk’ by virtue of the explosive nature of LNG as a cargo. The Port Authority would be expected to allow the proposed activity to go ahead only where this risk has been reduced to ‘as low as reasonably practicable’. The mitigating actions initiated by the Port Authority would then be reflected in the Port’s safety management system which they are required to have in place through the Port Maritime Safety Code. The MCA have a range of responsibilities for various ‘operational’ aspects of the code including a general monitoring role for compliance with the Code by Port Authorities.”

The Port Authority’s submissions were recorded in the report as follows:

“The Port Authority has confirmed its jurisdiction including responsibilities (and powers) to regulate the use of the Haven and the overarching views of the MCA on a UK basis ... The MCA’s role in regard to LNG ships specifically would be that of Port State Control Inspectors looking into the condition and standard of shipboard operations of the vessels from a safety standpoint. The Port Authority has confirmed that its marine personnel, including pilots, have participated in risk assessments with teams from both proposed terminals facilitated by independent risk consultants. The Port Authority state that the outcome has been to confirm that Milford Haven has the capability of handling these vessels safely. The Port Authority has also confirmed that the security issue addressed through the International Ship and Port Facility Security Code which sets out detailed security requirements for ships and port facilities based on risk assessments to determine the level of risk and the measures

necessary to meet that risk. Port facilities including Petroplus have been required to produce a security plan before operations start and this plan has been and will continue to be approved by Transec as the UK Government body responsible for security.”

The report recommended that the application be approved.

On 7 December 2004, Pembrokeshire County Council approved the application for hazardous substances consent in respect of the Dragon Site.

b. The South Hook site

On 21 January 2003, Qatar Petroleum and ExxonMobil applied for hazardous substances consent for the storage and gasification of LNG at another site at Milford Haven harbour (“the South Hook terminal” or “the South Hook site”). Unlike the Dragon terminal, the South Hook site fell within the authority of both Pembrokeshire County Council and Pembrokeshire Coast National Park Authority and an application was accordingly made to both bodies.

Qatar Petroleum and ExxonMobil instructed an environmental statement with relation to the proposed development at the South Hook site. Chapter 14 of the statement dealt with major hazards and explained, at 14.12, as follows:

“The COMAH Regulations govern land based industrial hazards. Under these, the proposed terminal will include the jetty, to the point where the loading arms connect to a berthed LNG carrier. The jetty comes within the jurisdiction of the Milford Haven Port Authority, which has responsibility for marine navigational safety and loss prevention issues within the 200 square mile Waterway.”

On 28 April 2003, Qatar Petroleum and ExxonMobil applied to Pembrokeshire County Council and Pembrokeshire Coast National Park Authority for planning permission to develop an LNG terminal at the South Hook site.

On 15 May 2003, MHPA wrote to Pembrokeshire County Council in support of the proposed development in terms similar to their letter of 21 October 2002 in respect of the Dragon site.

The minutes of a meeting of Pembrokeshire County Council’s Planning and Rights of Way Committee on 21 October 2003 recorded that the HSE had not advised against the granting of permission for the development on health and safety grounds and that MHPA supported the proposed development and had no concerns regarding safety or navigation. One letter of objection from a member of the public had been received. The environmental statement accompanying the application highlighted the issue of health and safety and referred to the HSE’s work in examining the proposal for planning permission and the application for hazardous substances consent. No other body was mentioned with regard to the health and safety aspects of the proposal.

On 12 November 2003, planning permission was granted by Pembrokeshire Coast National Park Authority in respect of the South Hook Site.

On 18 December 2003, planning permission was granted by Pembrokeshire County Council in respect of the South Hook Site.

On 8 January 2004, the HSE provided observations in respect of the application for hazardous substances consent at the South Hook terminal. It noted that:

“Our specialist team has assessed the risks to the surrounding areas from the activities likely to result if these Consents are granted. Only the risks from the hazardous substance for which the Consent is being sought have been assessed, together with the risk from these same substances in vehicles that are being loaded or unloaded. Risks that may arise from the presence of other substances have not been taken into account in this assessment.”

On 10 February 2004, the Chief Executive of MHPA wrote to Pembrokeshire Coast National Park Authority with responses to some questions raised. He wrote:

“What we need to ensure is that these large LNG ships are managed in such a way that they are safely and effectively accommodated ...

...

Our approach for accommodating these potential LNG vessels, as it is with managing all ship movements, is by detailed risk assessment taking into account the characteristics of the ships and the terminal to be used, and through a detailed approach making use of simulators and our own pilots and technical teams working with those of the project proposers, together with a wide range of specialist consultants to determine the requirements to meet this objective. The result will take into account, for example, the number of tugs required for a movement; the number of pilots; whether tugs should be escorting the vessel ...; the limits on any weather conditions to allow a movement to take place (e.g. only when the wind is say less than x knots); the timing of any movement related to tidal conditions etc.

...

Similarly, because we have a duty to support and allow all shipping movements, we do not intend to close the Port whilst an LNG ship enters or leaves – it is not necessary and does not improve the assessed situation, indeed would probably make things worse in that other movements would bunch up either before or afterwards and cause operational difficulties and pressures as a consequence. What we will probably be seeking to do (and I say probably because we are still very much involved in the risk assessment of a wide variety of scenarios) is that there will be a restriction on vessels being within a given distance of an LNG ship when transiting the Haven

...

I also understand that some questions have been raised about the distance at which other vessels will be allowed to pass an LNG ship at the South Hook Jetty, given that this stretches some way into the Haven and that the main shipping channel in this vicinity is used by all other commercial ships being that their berths are further upriver. Again, we are researching this, testing on the simulators and undertaking

risk assessments, but it is likely that we will be looking to undertake some dredging to widen the shipping channel to the South so that some vessels, including the ferry, will be able to pass the South Hook Jetty with an LNG ship alongside at a further distance than would be the case otherwise. We are also looking at other ways of controlling shipping passing the South Hook Jetty in such circumstances which could include criteria of speed, tugs in attendance, maybe even a ‘guard’ tug in the vicinity of the LNG ship and restricting any movements to one vessel at a time, certain weather conditions etc”

On 4 March 2004, the Western Telegraph newspaper published a question and answer article with ExxonMobil regarding the LNG terminal. Relevant extracts are quoted below:

“Could LNG explode if there was a collision at sea or in the Haven? Or could it explode for any other reason?

The South Hook sponsors have been working closely with organisations such as Milford Haven Port Authority to ensure that the possibility of a shipping incident is extremely low. Vessels are also designed to withstand significant impact. If an LNG release were to occur from a shipping incident, and if it were ignited, then the effect would be localised to the vessel and its immediate surroundings and unlikely to impact the land. The recent Health and Safety Executive assessment examined the consequence of such an incident and found no cause for local concern.

...

What would happen if there were a spill on sea or on land?

Health and Safety Executive experts have considered potential spill scenarios and have found no areas of concern. An incident at sea is extremely unlikely, and the current design of ship is aimed at minimising the likelihood of release in the event of collision. Milford Haven Port Authority has emphasised its ability to safely handle LNG shipping.

...

Would it not be better if such a terminal was in a more uninhabited area?

The HSE’s review has concluded there are no safety reasons to object to the proposed development. Our plans will be subject to a further safety review by the HSE, Environment Agency and the Coastguard under the Control of Major Hazards (COMAH) requirements. We, as operator, will have to demonstrate that all necessary measures have been taken to prevent major accidents. Any issues raised locally relating to safety systems, operating procedures and emergency response plans will have to be fully addressed.”

On 10 March 2004 Pembrokeshire Coast Park Planning Committee considered the application for hazardous substances consent. Concerns were

raised at the meeting regarding the absence of any quantitative risk assessment on tankers and the need to dredge the channel to increase its depth.

On 2 April 2004, Pembrokeshire County Council approved the application for hazardous substances consent in respect of the South Hook Site.

Pembrokeshire Coast National Park Authority approved the application on 19 August 2004. On the same day, the development planning officer of Pembrokeshire Coast National Park Authority, in a letter to the HSE, MHPA and Pembrokeshire County Council's Emergency Planning Officer, highlighted concerns about the lack of comprehensive structure for assessing the risks of the project, saying:

“Members however were still extremely concerned about safety issues and are hoping that the COMAH process is rigorous and very demanding and addresses all issues.

This concern has arisen partly because of the fact that there does not appear to be one overriding Authority but a number of bodies involved whose responsibility does not overlap – and where the edge of that responsibility may be a bit blurred, and a genuine concern about exactly which body is responsible for what.

The major concern appears to be the possible conflict between ships using the channel whilst an LNG slip is tied up at the jetty. Objectors seem to think that the space available is too narrow and that there is the potential for accidents if the jetty remains where it is ...

I assume that this will be an issue that will be addressed in some detail driving the COMAH process and given my members' concern I would be grateful if you could keep this Authority informed of progress in respect of the COMAH submission.”

ExxonMobil's representatives were also advised of this concern by letter of 19 August 2004 and were asked to “ensure that the issue is fully addressed at the time of the COMAH submission”.

c. The Health and Safety Executive's risk assessment of the two projects

The HSE is a government body responsible for supervision of health and safety matters.

In the context of its assessment, the HSE conducted a preliminary examination of potential marine spill scenarios, including the consequences of a major release from a delivery ship while moored at the jetty. It concluded that this could result in a flammable cloud capable of engulfing, among other towns, the town of Milford Haven. However, it ceased work on this aspect of risk before it was concluded and therefore never completed its assessment of the marine risks.

On 2 February 2006, in a letter to the *Guardian* newspaper, Geoffrey Podger, Chief Executive of the HSE, wrote:

“Re your report on the gas terminals at Milford Haven: I am happy to make clear that the HSE gave independent advice in the public interest and was not swayed by any external pressure... The reason the HSE examined the shore side operation but not the risk of an accident at sea is simply because we have no legal competence to assess risks from ships while at sea or under the direction of the ship’s master. We made this clear to the local authorities and suggested they consult others, including the Maritime and Coastguard Agency, to assess these risks prior to any consent being granted.”

d. Milford Haven Port Authority’s risk assessment of the two projects

MHPA is an independent, commercially run organisation. It is responsible for safety issues at Milford Haven harbour. It has a statutory duty to both Government and its stakeholders.

On 23 February 2004 the Chief Executive of MHPA was asked which body had ultimate responsibility for assessing the risks involved in the movements of LNG tankers in Milford Haven. He replied on 25 February 2004, confirming that;

“The Milford Haven Port Authority is responsible for the conservancy (management, regulation, provision of navigation aids and systems etc) of the Waterway. This includes the regulation and management of all shipping movements. We have a statutory responsibility to support all traffic and indeed, in common with all UK ports, cannot forbid a ship to enter (except in particular circumstances as laid down in appropriate Acts of Parliament). What we can and do lay down are the conditions under which movements will take place – e.g. time of entry, state of tide, number of pilots, number of tugs etc.”

On 27 September 2004, in a letter to Pembrokeshire County Council, the Harbourmaster of MHPA clarified the extent of MHPA’s responsibilities:

“[MHPA] has navigational jurisdiction over the Waterway ...

This jurisdiction includes responsibilities (and powers) to regulate the use of the Haven. Our primary objectives in this regard are to maintain, improve, protect and regulate the navigation and in particular the deep water facilities in the Haven ...

Whilst the HSE have said that the Maritime and Coastguard Agency are the UK competent authority, this is correct inasmuch as they regulate shipping at sea and through legislation. As a competent authority they have an overarching view UK wide. Indeed, they advise on primary legislation which can affect the Port Authority and may act as auditors for the Port Marine Safety Code to which this Authority wholeheartedly subscribes. Their role in regard to LNG ships specifically would be that of Port State Control inspectors looking into the condition and standard of shipboard operations of the vessels from a safety standpoint.

Marine personnel from the [MHPA], including pilots, have participated in risk assessments with teams from both proposed terminals facilitated by independent risk consultants. The outcome has been to confirm that Milford Haven has the capability of handling these vessels safely

...

[Security] is addressed through the International Ship and Port Facility Security Code ... which sets out detailed security requirements for ships and port facilities based on risk assessments to determine the level of risk and the measures necessary to meet that risk.

Port facilities throughout the Haven including Petroplus have been required to produce a security plan, appoint a security officer, provide additional security equipment, monitor and control access of people, cargo and stores as well as ensuring effective security communications. There will be a similar requirement for the South Hook terminal to prepare a security plan before they start operation.”

In a report dated 13 April 2005, Lloyd’s Register Risk Assessment Services, on the instructions of MHPA, examined and summarised high level statistics for worldwide accidents involving ships. Experience of just a fire or explosion on board a ship large enough to potentially injure people nearby was “as likely per year as being struck by lightning”. The report observed that the likelihood of an LNG incident was extremely low and that there had never been a recorded incident of a major release of LNG from a ship to external atmosphere and no member of the public had ever been injured by LNG from a ship. The authors explained that the report carried a moderate level of error in light of the high level statistics used and concluded that more detailed research could be carried out to address the specific risks at Milford Haven.

In a paper of 20 May 2005, the Chief Executive of MHPA summarised the position regarding the LNG terminals. On the matter of risk assessments, the paper noted:

“One of the concerns constantly banded about by Safe Haven [a campaign group which opposed the LNG developments] ... is the lack of quantified risk assessment. This is a fallacy either through genuine misunderstanding or a deliberate refusal to accept what has been told.

We have undertaken a significant amount of risk assessment both ourselves with the terminal operators, their advisers and making use of specialist third parties. The terminal developers themselves have also undertaken quantified risk assessment some of which related to shipping movements and we have made use of these in our own processes.

To assist us in this we recently commissioned a report from Lloyds Register Risk Assessment Services looking specifically at the risk of incidents in Milford Haven large enough to potentially injure people nearby.

Their conclusion was that there is as much risk of being struck by lightning as there is of being injured by any explosion including fire from LNG in the Haven ...”

On 9 June 2005, a journalist contacted the Chief Executive of the MHPA

asking “What risk assessments have Milford Haven Port Authority undertaken in relation to plans to import LNG to South Hook and Waterson sites (with specific regard to the marine-based risk)?”. In an email response dated 15 June 2005, Mr Sangster, Chief Executive of the MHPA indicated that a number of risk assessments had been undertaken as part of the process of determining the way in which LNG ships would be managed. He referred to the commissioning of “studies and reports from experts and consultants”. He indicated that, as a port, the MHPA had a statutory duty to facilitate and support any use of the waterway, noting:

“... as a port authority we have no say in the selection of the sites, our responsibility is managing the ships that will visit the sites chosen.”

Accordingly, he explained, the studies were not designed to determine whether MHPA would handle LNG ships, but rather how it would handle them.

In its summary grounds lodged with the High Court in subsequent judicial review proceedings (see further below), MHPA provided details of the risk assessment work it had carried out. In particular, it stated:

“The Authority has been and continues to be under the Port Marine Safety Code to assess safety. It has worked closely with the developers to ensure that what is proposed will be safe and has undertaken a series of robust risk assessments.

In summary, the Authority has been an active participant in the process of risk assessment undertaken by [Petroplus and ExxonMobil] since Spring 2002. It has undertaken simulation tests and made specific recommendations about navigation and procedures to minimize hazards. The Authority has visited LNG tankers, other Port Authorities and terminals which handle LNG, trained pilots, harbour masters and managers and obtained and commissioned advice from consultants about potential hazards.

...

The Authority’s risk assessment has been open in that it has, for example, explained what has been happening in its annual reports. Moreover, it has taken part in a range of public presentations and responded to any enquiries that it has received from interested members of the public and other stakeholders.”

The grounds continued to set out in paragraph 28, by way of illustration, some of the specific risk assessments undertaken, including: a marine traffic analysis of vessel movements through the port during a 25-day period in November 2002 by a marine and risk consultant, Marico Marine; a concept risk assessment by South Hook LNG Terminal Company Ltd, with the participation of MHPA, dated 9-10 December 2002 identifying hazards, consequences and possible mitigation measures relating to potential use of Milford Haven port for the importation of LNG; a report by the Maritime Research Institute Netherlands (MARIN), dated 14 February 2003, on simulations to check the nautical consequences of future 200,000m³ LNG

carriers; a March 2003 navigational risk assessment by Marico Marine; a MARIN report of 19 May 2003 on fast time simulations for large LNG ships; a technical report dated 13 October 2003 by Det Norske Veritas (USA) Inc., a major classification society, in respect of South Hook LNG Terminal Company Ltd's proposal assessing the marine risk associated with vessel manoeuvres in the channel and around the South Hook terminal for discharging cargo from LNG vessels; a report dated 20 February 2004 by ABS Consulting, an international consulting operation experienced in the analysis of shipping collisions, for South Hook LNG Terminal Company Ltd, dealing with potential damage to LNG tankers due to ship collisions; a report dated March 2005 from Burgoyne Consultants, international consulting engineers and risk consultants, updating a report on the potential consequences of fires and explosions involving ships carrying petroleum products (including LNG); a November 2003 report commission by South Hook LNG Terminal Company Ltd from HR Wallingford, the former research facility for the Ministry of Defence, dealing with mooring safety and the possibility of disturbance caused to moored vessels; and a report by Gordon Milne, senior risk analyst at Lloyd's Register of Shipping, commissioned by MHPA assessing the risk of explosion and gas release from LNG carriers. MHPA refused to disclose any of these reports citing commercial confidentiality.

2. The first judicial review proceedings (planning permission and hazardous substances consent)

On 4 March 2005, the applicants filed an application for leave to apply for judicial review in respect of the grant of planning permissions and hazardous substances consent for the South Hook and Dragon terminals. They alleged a failure to carry out a comprehensive environmental impact assessment of the project as a whole; a failure to have regard to the risk arising from marine traffic and to consider alternative locations for the LNG terminals; and a fundamental misunderstanding as to the characteristics of LNG in the event of an escape.

On 26 July 2005, leave to apply for judicial review was refused on the grounds that the challenge was not made sufficiently promptly and there was undue delay and that quashing the planning and hazardous substances decisions would substantially prejudice the rights of ExxonMobil and Petroplus and cause them substantial hardship and would be very detrimental to good administration.

Mr Justice Sullivan summarised the decisions being challenged in respect of the South Hook site as: (1) planning permission by Pembrokeshire Coast National Park Authority on 12 November 2003; (2) planning permission by Pembrokeshire County Council on 18 December 2003; (3) hazardous substances consent by Pembrokeshire County Council on 2 April 2004; and (4) hazardous substances consent by Pembrokeshire Coast National Park Authority on 19 August 2004. The decisions being challenged in respect of the Dragon site were: (1) planning permission by Pembrokeshire County Council on 19 March 2003; (2) planning permission by Pembrokeshire

County Council for an extension on 10 September 2004; (3) planning permission by Pembrokeshire County Council for an amended scheme on 10 September 2004; and (4) hazardous substances consent by Pembrokeshire County Council on 7 December 2004.

Mr Justice Sullivan noted that, insofar as the applicants complained of the absence of a comprehensive environmental impact assessment or its failure to take account of marine risks, the complaints were directed towards the grant of planning permission itself, rather than hazardous substances consent. In both cases, relevant planning permissions had been granted more than three months before the judicial review proceedings were brought.

Having concluded that there was no good reason why the three month deadline for bringing judicial review proceedings had not been respected as regards all of the decisions except the 7 December 2004 decision and that there was no good reason that the 7 December 2004 decision was not challenged “promptly” as required by the relevant Civil Procedure Rules, Sullivan J went on to consider the extent of any hardship or prejudice to third party rights and detriment to good administration which would be occasioned if permission were nonetheless granted. He concluded that it was clear that the grant of relief to the applicants “would cause really significant damage in terms of hardship and/or prejudice” to the rights of the owners and operators of the South Hook and Dragon terminals. He further considered that it would be detrimental to good administration to allow a challenge to decisions going back as far as March 2003.

Finally, Sullivan J considered whether the public interest required that the application should proceed. In this context, he considered Article 2 of the Convention but concluded that the public interest did not merit the granting of permission out of time, noting (at paragraph 82):

“... It would not be possible to resolve the substantive matters in dispute without examining in considerable detail the decision-making processes that were employed by [Pembrokeshire County Council and Pembrokeshire Coast National Park Authority] in respect of each of the decisions under challenge. In these circumstances it would not be right to start from the premise that it would not be in the interests of good administration to maintain the decisions because they were unlawful, as on occasions the claimants’ submissions appeared to do.”

The applicants appealed.

On 24 January 2006, the applicants indicated their intention, in the event that permission was granted, to apply for a disclosure order seeking disclosure of all the documents referred to in paragraph 28 of MHPA’s summary grounds and any other documents relevant to the proceedings. The application notice specified that the application was made in order to “cover the situation should the Court grant permission to apply for Judicial Review”. They also applied for a protective costs order in respect of the second applicant, who had at that stage not been granted legal aid.

On 17 March 2006, the Court of Appeal handed down its judgment. Lord Justice Keene considered the applicants’ arguments under Article 2 of the Convention. Referring to *Vo v France*, he pointed out that the Court had upheld a four-year limitation period on the right of access to court in a case

where the right to life was invoked. He concluded (at paragraph 26):

“It is obvious that public safety is potentially an issue of importance and that, if there is evidence that it has been overlooked or not properly considered by the decision-maker, then that may justify permission to seek judicial review. Public safety must be a material consideration in the decision-making process carried out by the hazardous substances authority, irrespective of Article 2 considerations.”

However, he considered that Sullivan J had been alive to the Article 2 and public safety issues which arose in the case, noting that:

“The Milford Haven Port Authority is a statutory body required to ensure the safety of waters within its jurisdiction. The evidence before Sullivan J made it clear that the Port Authority was satisfied as to the safety of the terminal proposals, so far as its own sphere of responsibility was concerned, while the Health and Safety Executive had advised that it was content so far as the land-based activities were concerned. Both these bodies had advised the decision-makers, the County Council and the Park Authority, who were entitled to rely on the specialist advice received from those bodies.”

Keene LJ accordingly concluded that it was open to Sullivan J to find that the merits of the applicants’ claim did not outweigh the undue delay and the prejudice which permission to proceed would produce.

Observing that it was “strictly speaking unnecessary to scrutinise in greater depth” the planning decisions in light of his findings on delay, Keene LJ nonetheless addressed briefly the issues raised. He noted that the applicants’ argument was that while MHPA had assessed the likelihood of a collision, this was insufficient in itself and they ought also to have carried out a risk assessment into the consequences of any such collision. Keene LJ disagreed that the risk assessment had been inadequate. He considered that the risk of collision “was undoubtedly dealt with by the Port Authority”, as counsel for the applicants conceded during the hearing. He pointed out that the Port Authority had advised both bodies responsible for granting planning permission and consents that it had the “capability of handling these vessels safely”. As to counsel for the applicants’ argument that an assessment of the risk of collision was insufficient and there had to be an assessment of the consequences for the local population of a vapour cloud, Keene LJ concluded (at paragraphs 32 and 33):

“One has to bear in mind in this connection the very extensive assessments carried out by the Health and Safety Executive, because these provide the context for the Port Authority’s assessment. The Health and Safety Executive did assessments which considered both the consequences and the likelihood of an escape of LNG for all land-based and jetty-based activities. Those included the risk of catastrophic failure of an LNG storage tank at the terminal; the failure of a loading arm at the jetty while LNG was being transferred from ship to shore; and ‘major release from a delivery ship while tied up at a jetty’: see HSE responses to Park Authority, 5 March 2004, and the HSE Summary Grounds of Resistance, paragraphs 10 and 11. Having carried out these assessments, the Health and Safety Executive did not object to the proposal for either terminal on safety grounds. The applicants do not criticise the work done by the Health and Safety Executive.

That body made it clear in its response of 5 March 2004 that it was not responsible for advising on accidents ‘whilst the ship is not attached to the jetty’. But the Port Authority, which is responsible for advising on such accidents, did participate in an assessment process which led to a risk assessment submitted by the South Hook LNG Terminal Company Limited in December 2002 ‘to identify hazards, *consequences* and possible mitigation measures’ relating to the use of the port as proposed: see the Port Authority’s Summary Grounds of Resistance, paragraph 28(b) (emphasis added). It refers in those grounds to a number of other reports and exercises carried out, so that it could fulfil its statutory responsibilities for safety. In any event, once the Health and Safety Executive had concluded that there were no unacceptable risks to the local population arising from either a catastrophic storage tank failure on land or a major release of LNG from a tanker tied up at a jetty, the crucial element in any assessment of risk from a vessel not moored to the jetty must have been the risk of a collision. The risks to the population from a vapour cloud travelling over land or sea had already been considered by the Health and Safety Executive, since the jetties end far out in the Haven. What the Port Authority needed to concentrate on above all else was the risk of a collision, and that it seems to have done.”

Permission to appeal was refused. In a subsequent discussion of the application for disclosure, Lord Justice Keene noted that it was related to the prospect of a substantive hearing had permission to bring judicial review proceedings been granted, and that permission had not been granted. Accordingly, no order as to disclosure was made.

Prior to the judgment being handed down, the applicants had been provided with a copy in draft for comment on typographical errors. The applicants’ legal advisers immediately recognised that the judgment contained an error of fact at paragraph 32, where Keene LJ had made reference to the HSE assessment of the consequences of a “major release from a delivery ship while tied up at a jetty”. The applicants’ solicitor wrote to the court on 15 March 2006 advising that no such assessment had in fact been carried out and requested the court to consider the implications of the factual error before confirming its conclusions in the draft judgment. In the event, no change was made to the relevant paragraph of the draft judgment before it was handed down in its final form.

On 10 April 2006, the solicitor for the applicants made an application to the Court of Appeal under the Civil Procedure Rules (“CPR”) Part 52.17 to have the judgment of 17 March 2006 re-opened. The application was made on the basis, *inter alia*, of an obvious factual error, namely, the court’s finding that there had been an assessment of the marine risks, and the court’s failure to rectify the error before handing down its final judgment despite having been advised of the error by the applicants’ advisers. The solicitor noted in the application that although as a matter of routine such applications go back to the original tribunal, he would imagine that the members would recuse themselves in this case.

On 27 April 2006, solicitors for the Health and Safety Executive advised all parties involved in the proceedings as well as the Court of Appeal of a mistake in the HSE’s Summary Grounds of Resistance. The statement to the effect that the HSE’s comprehensive risk analysis included risks associated with “major release from a delivery ship while tied up a jetty” was incorrect. The correct position was reflected in a previous letter dated 16 August 2004:

“Risks that may arise from the presence of other substances, or from the presence of LNG on a delivery ship, either when sailing or when berthed, have not been taken into account in the assessment.”

On 8 May 2006 the Court of Appeal ordered that there should be an oral hearing on the question of permission in the Part 52.17 proceedings, limited to the question whether the application for permission to appeal should be re-opened in light of the information provided by the HSE.

On 19 May 2006, the applicants’ solicitor requested that the matter go to a freshly constituted tribunal and that the scope of the hearing be widened to allow them to canvass all of their complaints concerning the judgment. On 13 June 2006, the Court of Appeal declined to vary its order of 8 May 2006.

On 12 July 2006, the matter came before the original tribunal. It heard and refused an application that its members recuse themselves.

On 19 July 2006, the Court of Appeal refused permission to re-open the application. Lord Justice Keene highlighted that the error of fact arose in the context of his discussion of a matter which he had indicated was not strictly necessary in light of his other findings. He nonetheless considered the implications of the factual error identified and concluded that although MHPA might well have concentrated on the safety of navigation, it was clear that in light of the work it had done it felt able to advise that it had no concerns regarding safety or navigation in respect of the proposed developments. He concluded (at paragraphs 20 to 23) that:

“... The significance of the error in terms of public safety has to be seen in context.

That context is that both the HSE and the Port Authority had undoubtedly carried out a number of exercises and studies before advising the planning authorities that there was no objection on safety grounds. The HSE for its part had assessed the consequences of an escape of LNG from a land-based storage tank; from the failure of a loading arm at the jetty; and from the guillotine rupture of a thirty inch pipeline between the jetty and the storage tanks ... Those assessments have not been criticised. It is to be observed that the HSE assessments of the failure of a storage tank on land included that of a catastrophic failure, which would take place at a location not obviously more distant from the areas of population than the proposed jetties. Yet the HSE was satisfied that public safety would not be jeopardised, presumably because of the very low likelihood of such an incident.

The Port Authority for its part had carried out a range of studies referred to in its summary Grounds of Resistance at paragraph 28. Those were, as one might expect, largely directed towards an assessment of marine risks. They included a report from a Senior Risk Analyst at Lloyd’s Register of Shipping, commissioned to assess the risk of explosion and gas release from LNG carriers ... There was also evidence before the judge and before this court that there had never been an incident of major release of LNG from a ship to the external atmosphere ...

The Port Authority has statutory responsibilities for safety within the Haven and it advised the decision-makers, the County Council and the Park Authority, that there was no such risk to public safety as to warrant refusal of the applications. It was principally for the Port Authority to decide on what research was necessary for it to

be so satisfied. It is not for this court or any court to try to second guess the Authority's decision on what it needs by way of research in order to advise the decision-makers, unless it is obvious that it has neglected its statutory duties. The evidence falls far short of that. In short, the factual point now seen to be mistaken was of limited significance even on this aspect of the case. Moreover, as Mr Straker on behalf of the Port Authority submits, that Authority has powers, if at any time it should appear to it that the risks are likely to be greater than presently seem to be the case, to prevent the jetties being used for LNG unloading, and of course the planning authorities also have powers to revoke the consents with which these proceedings are concerned."

Having set out the position as regards assessment of marine risk, Keene LJ concluded:

"But in any event, I come back to the fundamental point, which I indicated earlier, namely that the mistake of fact now relied on by the applicants did not occur in an essential part of this court's reasoning when it dismissed this application for permission to appeal."

The applicants' solicitors subsequently wrote to the then Head of Civil Justice asking for advice on what could be done. He replied that a new Part 52.17 application could be made, which would be considered by a Lord Justice who had not been on the original tribunal. The applicants' solicitor duly lodged a new Part 52.17 application. Wall LJ considered the application and, concluding that the members of the tribunal had not erred in refusing to recuse themselves, dismissed the application by order of 2 October 2006.

The applicants sought leave to appeal to the House of Lords the decision of the Court of Appeal tribunal not to recuse itself. The House of Lords refused leave on 13 March 2007 on the grounds that it "discerned no error of law".

In or around May 2007, the second applicant was advised by the Legal Services Commission that his application for legal aid had been granted.

3. The requests for information

On 23 December 2004, the solicitor for the applicants wrote to MHPA requesting access to environmental information. On 5 January 2005, MHPA responded stating that it did not see any benefit in responding.

On 7 January 2005, following the entry into force of the Environmental Information Regulations 2004 ("EIR 2004"), the solicitor for the applicants wrote again to MHPA. On 31 January 2005, he wrote a third time explicitly under the EIR 2004. On 1 February 2005, MHPA responded stating that it did not see any benefit in responding.

On 15 February 2005, the solicitor for the applicants asked MHPA to reconsider its response in accordance with Regulation 11 of EIR 2004. By letter dated 18 March 2005, MHPA responded that it remained to be convinced that EIR 2004 was applicable.

On 22 April 2005, the solicitor for the applicants wrote to the Information

Commissioner asking him to confirm whether MHPA was a “public authority” for the purposes of EIR 2004.

On 22 October 2005, a request was made to MHPA by members of the public under the Freedom of Information Act 2000 to see all formal, documented risk assessments which had informed MHPA’s decision that it could handle LNG vessels safely. MHPA replied on 2 November 2005 advising that it was not subject to the Freedom of Information Act. It indicated that it sought to respond to questions and concerns but that it did “not intend, however, to make the large amounts of information obtained through the planning process publicly available as raw data”, although the information had been made available to regulatory bodies and agencies.

On 10 November 2005, solicitors for the applicant made a further request to the solicitors for MHPA to see copies of risk assessments and reports referred to in their summary grounds of defence lodged in the judicial review proceedings. They also requested copies of any subsequent marine risk assessments undertaken in respect of the LNG terminals.

On 14 November 2005, the Information Commissioner’s Office confirmed that MHPA did constitute a “public authority” for the purposes of EIR 2004. It further advised that MHPA could nonetheless continue to refuse to disclose the information sought if it did not constitute “environmental information” for the purposes of the regulations, or if any of the exceptions to the disclosure obligation applied.

On 17 May 2006, solicitors for the applicant wrote to the Information Commissioner’s Office requesting an update on the investigations into MHPA’s failure to disclose requested documents.

By letter of 26 June 2006, MHPA replied to the applicants’ solicitor’s requests for disclosure under EIR 2004. MHPA indicated that while it had concluded that it did fall within the ambit of those regulations, it was not required to disclose the risk assessments carried out in respect of the LNG terminals at Milford Haven, on the basis that these constituted operational, and not environmental, information. MHPA did, however, provide a copy of an Environmental Assessment undertaken prior to the widening of the channel opposite the two terminals. It also offered to provide such environmental information as could be extracted from operational reports, on the basis that the costs of doing so would have to be met by the applicants. The letter concluded:

“... we have gone to great lengths to explain and describe not only the details of what we are doing but why, and the outcomes in terms of the formation of our plans for handling LNG ships. What we have not done is make freely available large volumes of information, as it is our firm belief, that to do so would be irresponsible and confusing for the public. The information needs to be put into context of not only the purposes for which it was obtained, but also the explanations and conclusions drawn from it. We maintain that the best way to do that is through personal contact, presentations and explanations on given courses of action ...”

On 29 June 2006, the applicants’ solicitor write to MHPA asking it to reconsider its decision and challenging the assertion that information pertaining to risk assessment did not constitute “environmental information”

in terms of regulation 2 of the EIR 2004.

On 14 July 2006, MHPA responded. It advised that many of the risk assessments undertaken were not instructed in order to advise the planning authorities but in order to assess MHPA's own operational requirements for handling LNG ships in Milford Haven. However, the assessments subsequently assisted MHPA in providing the necessary advice to the planning authorities. MHPA offered to extract relevant environmental information for the sum of approximately GBP 400. The solicitor for the applicants subsequently asked for information from two reports only, namely, a report by Gordon Milne, senior risk analyst at Lloyd's Register of Shipping, commissioned by MHPA assessing the risk of explosion and gas release from LNG carriers ("the Milne report"); and (ii) relevant extracts containing environmental information of a report entitled "Qatargas II Project: Milford Haven Marine Concept Risk Assessment" ("the Qatargas report"). He requested a new quote on that basis.

On 28 September 2006, the Chief Executive of MHPA advised the applicants' solicitor that he was unable to disclose any of the material requested as to do so "may seriously jeopardise the fairness of the [judicial review] proceedings ...". He also relied on the refusal of the companies concerned to consent to the disclosure of material from the reports. In weighing up the public interest test, as required by EIR 2004, he noted that notwithstanding the presumption in favour of disclosure, MHPA had concluded that disclosure was not in the public interest as the information requested should not be made publicly available without an explanatory context and where it would cause unnecessary confusion or concern. The applicants' solicitor replied on 29 September 2006 expressing his disappointment and disputing MHPA's reliance on the exceptions set out in regulation 21 of EIR 2004. He referred the matter to the Information Commissioner.

On 16 November, the applicants' solicitor wrote to MHPA advising that in light of this Court's findings in *Giacomelli v. Italy*, no. 59909/00, ECHR 2006-..., it would commence judicial review proceedings regarding the failure of MHPA to disclose documents unless the information was provided within 12 days.

On 12 March 2007 the Information Commissioner issued a Decision Notice under section 50(1) of the Freedom of Information Act 2000 ordering disclosure of the Milne report and the Qatargas report. As regards the public interest test, the notice advised that:

"In this particular case, the Commissioner believes that there is a very strong public interest in the disclosure of environmental information relating to the development of LNG terminals in Milford Haven. The LNG developments are locally controversial ... Disclosure of environmental information of the type requested in this case could add significantly to public knowledge of the risks posed by the development and better inform public debate.

Furthermore, the Commissioner believes that there is a public interest in ensuring that the Port Authority is undertaking its duties effectively and that it adequately

assesses and manages risk within the Haven. In terms of high-profile and potentially hazardous developments such as the LNG terminals, there is a legitimate public interest in demonstrating that public safety has been fully considered by all relevant authorities, including the Port Authority, at each stage of the development process.”

On 25 April 2007 MHPA appealed the ruling to the Information Tribunal. However, on 1 October 2007 it withdrew its appeal and provided copies of the Milne Report and relevant extracts of the Qatargas report to the applicants.

4. The second judicial review proceedings (disclosure of documents)

While the MHPA appeal was outstanding, the first applicant sought leave to bring judicial review proceedings in respect of MHPA’s continuing refusal to disclose documents related to the risk assessments it claimed to have conducted with regard to the LNG terminals.

On 4 July 2007, permission was refused following an oral hearing. As regards information falling within EIR 2004, Beatson J referred to the existence of an alternative remedy, namely an application to the Information Commissioner and the Information Tribunal. To allow judicial review, he said, would be duplication and would risk circumventing the system set out in the regulations.

In respect of information not falling within those regulations, Beatson J concluded that the applicant had failed to demonstrate an arguable case that there was an obligation to provide the information arising from a positive duty on the authority under Articles 2 and 8. He noted that the MHPA had advised the decision-making authorities that the risks were so low as not to warrant the refusal of planning permission or hazardous substances consent and that the Court of Appeal had, in the earlier judicial review proceedings, found that the authorities were entitled to accept that advice. Accordingly, the activities in question could not be considered “dangerous” such as to give rise to an obligation under the Convention to allow the public access to the information. He further considered that insofar as the applicant sought disclosure of assessments required for the previous judicial review proceedings, the claim was an “improper use of judicial review”. He noted that the matter was before Sullivan J in the original judicial review proceedings and found that had it been arguable that the applicant was entitled to this information, then the matter would have been dealt with then. He concluded that the application was either out of time or an attempt to reopen a matter which had already been decided.

The applicant sought leave to appeal the ruling. In a judgment dated 30 November 2007, the Court of Appeal dismissed the application. Toulson LJ indicated that while he did not consider that Beatson J had erred as regards the applicability of Articles 2 and 8, he would have allowed the applicant to argue the matter before the full court. However, he concluded (at paragraph 11):

“As it seems to me, the plain and obvious purpose [of the present proceedings] is to endeavour to elicit material which could have been, and indeed to a point was, asked

for in the earlier proceedings, in order to present continuing argument that those previous consents ought not to have been granted. This is exactly the sort of endeavour which the court ought not to support. This appellant has had the opportunity to seek these documents at the time of the earlier proceedings, and it seems to me that the conclusion arrived at by Beatson J was entirely apposite: that this is indeed a reformulation of what was being sought in those proceedings. Those proceedings have already occupied the time of the Administrative Court for a lengthy leave hearing, followed by two considerations by the Court of Appeal and it would be wholly wrong that permission should now be granted to bring judicial review in the present form.”

B. Industry reports

SIGTTO (The Society of International Gas Tanker and Terminal Operators Limited) is a non profit making company, formed to promote high operating standards and best practices in gas tankers and terminals throughout the world. It provides technical advice and support to its members and represents their collective interests in technical and operational matters. It has published several guidance papers on matters related to LNG.

1. SIGTTO Information Paper No. 14 Site Selection and Design for LNG Ports and Jetties (1997)

The paper emphasises in its introduction that the level of marine risk is determined by the position chosen for the LNG terminal. As to jetty location, section 6 of the paper advises that they be placed “in sheltered locations remote from other port users”. Section 7 highlights the need for ignition controls extending around and beyond the immediate terminal area.

2. SITTCO LNG Operations in Port Areas: Essential best practices for the Industry (2003, Witherbys Publishing)

Section 1.1 notes the following:

“... the hazards arising from [LNG], should it escape to atmosphere are: the eventual prospect of a gas cloud, many times the volume associated LNG with an accompanying risk of fire or explosion ...

...

Release of LNG into the atmosphere of any area having within it low energy ignition agents carries with it a risk of fire or explosion. Such conditions will prevail in any port area where ignition agents are not effectively prohibited, as they are in installations specifically constructed for the handling of hydrocarbons.”

Section 1.3 highlights the risks occasioned upon collision between vessels:

“... it is clear, their inherently robust constructions notwithstanding, that LNG tankers are vulnerable to penetration by collisions with heavy displacement ships at all but the most moderate of speeds. Such incidents ought to be treated as credible within any port where heavy displacement ships share an operating environment with LNG tankers.”

Section 1.4 of the publication observes:

“Since there has never been a catastrophic failure of an LNG tanker’s hull and containment system there are no incident data upon which to construct scenarios following the release of large quantities of LNG into the atmosphere. However the behaviour of released LNG has been carefully studied in the light of certain important experiments involving controlled releases ...

After a release of liquefied gas a cloud will develop and travel horizontally from the spill point under the influence of prevailing winds. The cloud will contain the gaseous components of the LNG ... and air. Mixing with air the cloud will develop flammable properties [through] much of its volume ...

As it travels away from the spill point the cloud will warm, becoming progressively less dense. As it warms to ambient temperature it will become buoyant in air and disperse vertically. Pure methane is lighter than air ... but it is the temperature of the entire cloud, not just its gaseous component, [that] determines its behaviour. Other components too must warm to higher temperatures before vertical dispersal ensues. Meanwhile the cloud will continue to disperse in a generally horizontal direction, developing a shape similar to an elongated plume.

In practice the geometry and behaviour of a gas cloud will be determined by the specific circumstances of the release. The single biggest determinant will always be the volume of LNG released. Thereafter the shape and behaviour of the cloud will be determined by the rate at which liquid gas is released to the atmosphere. Dispersal in specific incidences will also be greatly influenced by wind conditions, atmospheric stability, ambient temperature and relative humidity. The topography and surface roughness of the terrain over which a cloud moves will greatly influence dispersal characteristics ...

When the gas cloud is no longer fed by fresh volumes of gas it will disperse in the atmosphere until its entire volume is diluted below the lower explosive limit for methane. Its flammable properties will then be extinguished and no further risk will remain.”

On assessing the cloud behaviour in a specific situation, section 1.4 provides the following guidance:

“... First there must be established a realistic estimate of the maximum credible release, or spill. Second, the released gas cloud is modelled using realistic values for air temperature, wind forces and atmospheric stability at the location in question. From such analysis it is possible to predict with credible accuracy the likely scenario following a worst probable gas release into the atmosphere.”

Section 1.5 observes:

“There has never been an incident involving the penetration or catastrophic failure of an LNG tanker’s containment system – indeed, the safety record for this class of ship is exemplary. Nevertheless, this safety record notwithstanding, the risk profile of LNG tankers presents a very serious residual hazard in port areas if the vital structure of the tanker is penetrated.”

Section 2 concludes:

“Risk exposures entailed in an LNG port project should therefore be analysed by a Quantitative Risk Assessment (QRA) study. Such a study must involve the operations at the terminal and the transit of tankers through the port.

Risk assessments do not of themselves improve safety, but they should be regarded as decision tools in order to satisfy company safety policy and the Authorities that risk is acceptable.”

The section specifies that quantitative risk assessment results should yield, as a minimum, a high confidence in there being a low risk of the tanker failing to maintain track during the transit; a high confidence of the tanker not encountering other vessels in situations that present risks of collision; no credible scenario leading to a high energy grounding that holds the prospect of the inner hull being penetrated; and no credible scenario that might lead to the tanker encountering a heavy displacement vessel in situations where the resulting collision impact could be sufficient to penetrate the transiting tanker’s inner hull.

Section 4 clarifies that:

“The most important single determinant of risk attached to LNG operations in port areas is the selection of the site for the marine terminal – the location of the tanker berth(s).”

It provides that whatever the prevailing circumstances, no terminal should be sited in a position where it may be approached by heavy displacement ships which have an inherent capability to penetrate the hull of an LNG tanker. It adds that all port traffic must be excluded from the environs of an LNG marine terminal, having regard to the assessment made of the maximum credible spill and likely dispersal of the gas.

C. Relevant domestic law and practice

1. Public access to environmental information

Public access to environmental information is set out in the Environmental Information Regulations 2004. Regulation 5 establishes a duty to make available environmental information on request:

“ (1) Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on

request.

(2) Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.

(3) To the extent that the information requested includes personal data of which the applicant is the data subject, paragraph (1) shall not apply to those personal data.

(4) For the purposes of paragraph (1), where the information made available is compiled by or on behalf of the public authority it shall be up to date, accurate and comparable, so far as the public authority reasonably believes.

(5) Where a public authority makes available information in paragraph (b) of the definition of environmental information, and the applicant so requests, the public authority shall, insofar as it is able to do so, either inform the applicant of the place where information, if available, can be found on the measurement procedures, including methods of analysis, sampling and pre-treatment of samples, used in compiling the information, or refer the applicant to the standardised procedure used.

(6) Any enactment or rule of law that would prevent the disclosure of information in accordance with these Regulations shall not apply.”

Regulation 12 provides for exceptions to the duty to disclose environmental information:

“(1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if –

(a) an exception to disclosure applies under paragraphs (4) or (5); and

(b) in all circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.

(2) A public authority shall apply a presumption in favour of disclosure.

...

(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –

(a) it does not hold that information when an applicant’s request is received;

(b) the request for information is manifestly unreasonable;

(c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;

(d) the request relates to material which is still in course of completion, to unfinished documents or to incomplete data; or

(e) the request involves the disclosure of internal communications.

(5) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that its disclosure would adversely affect –

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

(b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;

(c) intellectual property rights;

(d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;

(e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;

(f) the interests of the person who provided the information where that person –

(i) was not under, and could not have been put under, any legal

obligation to supply it to that or any other public authority;

(ii) did not supply it in circumstances such that that or any other public

authority is entitled apart from the Regulations to disclose it; and

(iii) has not consented to its disclosure; or

(g) the protection of the environment to which the information relates.

...

(9) To the extent that the environmental information to be disclosed relates to information on emissions, a public authority shall not be entitled to refuse to disclose that information under an exception referred to in paragraphs (5)(d) to (g).

...

(11) Nothing in these Regulations shall authorise a refusal to make available any environmental information contained in or otherwise held with other information which is withheld by virtue of these Regulations unless it is not reasonably capable of being separated from the other information for the purpose of making available that information.”

2. Time limits for bringing judicial review proceedings

Section 31 of the Supreme Court Act 1981 provides that the High Court may refuse an application for judicial review where there has been undue delay. The relevant subsections provide as follows:

“(6) Where the High Court considers that there has been undue delay in making an application for judicial review, the court may refuse to grant –

(a) leave for the making of the application ; or

(b) any relief sought on the application,

if it considers that the granting of the relief sought would be likely to cause substantial hardship to, or substantially prejudice the rights of, any person or would be detrimental to good administration.

(7) Subsection (6) is without prejudice to any enactment or rule of court which has the effect of limiting the time within which an application for judicial review may be made.”

Rule 54.5 of the CPR sets out specific time limits for filing a claim form in judicial review proceedings:

“(1) The claim form must be filed –

(a) promptly; and

(b) in any event not later than 3 months after the grounds to make the claim first arose.

(2) The time limit in this rule may not be extended by agreement between the parties.

(3) This rule does not apply when any other enactment specifies a shorter time limit for making the claim for judicial review.”

In *Caswell v. Dairy Produce Quota Tribunal for England and Wales* [1990] 2 AC 738, the House of Lords held that, where the application for permission to seek judicial review was not made in compliance with the Civil Procedure Rules, the delay was to be regarded as “undue delay” within section 31(6) of the Supreme Court Act 1981.

3. Re-opening of final appeals under Part 52.17 of the Civil Procedure Rules

CPR Part 52.17 permits the re-opening of final appeals in the Court of Appeal in exceptional circumstances. It provides as follows:

“(1) The Court of Appeal or the High Court will not reopen a final determination of any appeal unless –

(a) it is necessary to do so in order to avoid real injustice;

(b) the circumstances are exceptional and make it appropriate to reopen the appeal;
and

(c) there is no alternative effective remedy.

(2) ... ‘appeal’ includes an application for permission to appeal.”

There is no further appeal from the decision of the judge on the application for permission.

COMPLAINTS

The applicants complain under Articles 2 and 8 of the Convention that the United Kingdom failed in its duties relating to the regulation of hazardous industrial activities. They also complain under these articles about the lack of information disclosed regarding the risks associated with the siting of the LNG terminals in Milford Haven.

The applicants further complain under Article 6 § 1 of the Convention about: (i) the domestic courts’ failure to make a disclosure order in the judicial review proceedings concerning the grant of planning permission and hazardous substances consent; (ii) the Court of Appeal’s failure to hear arguments relating to an application for a protective costs order; and (iii) the Court of Appeal panel’s failure to recuse itself in the proceedings on whether to reopen its judgment in light of an error of fact.

The applicants complain under Article 13 of the Convention that the

implementation by the Court of Appeal of the procedure under Part 52.17 of the Civil Procedure Rules denied them an effective remedy in respect of their Convention complaints.

QUESTIONS TO THE PARTIES

1. Which bodies had responsibility for assessing the risks associated with the LNG projects and advising the planning authorities and how was responsibility divided among the various bodies concerned?

2. Have the relevant authorities discharged their positive obligations to protect the applicants' rights under Article 2 and/or Article 8 of the Convention by ensuring that:

- (a) they have complied with their duties in relation to the regulation of hazardous industrial activities and, in particular, have properly assessed the risk and consequences of a collision of LNG vessels or other escape of LNG from a vessel in Milford Haven harbour or while berthed at the jetty?
- (b) relevant information on the nature and extent of the risk posed by the hazardous industrial activities has been disclosed to the public in accordance with the principles set out by the Court (see, *inter alia*, *Öneryıldız v. Turkey* [GC], no. 48939/99, ECHR 2004-XII; *Guerra and Others v. Italy*, 19 February 1998, *Reports of Judgments and Decisions* 1998-I; and *Giacomelli v. Italy*, no. 59909/00, ECHR 2006-...)?

3. Have the applicants exhausted all effective domestic remedies in respect of their complaints under Articles 2 and 8, as required by Article 35 § 1 of the Convention (see *Lam and Others v. the United Kingdom* (dec.), 41671/98, 5 July 2001; and *Vo v. France* [GC], no. 53924/00, §§ 92-93, ECHR 2004-VIII)?



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By email to: minister@agriculture.gov.ie

cc Minister for State Mr. Trevor Sargent T.D (Trevor.Sargent@agriculture.gov.ie),
Minister for State Mr. Tony Killeen T.D. (Tony.Killeen@agriculture.gov.ie),
Foreshore Section , Coastal Zone Management Division (Gerard.Sheil@agriculture.gov.ie ,
Sylvester.Murphy@agriculture.gov.ie and Danny.OBrien@agriculture.gov.ie),
Mr. John Gormley T.D. Minister for the Environment, Heritage and Local Government
(minister@environ.ie and John.gormley@oireachtas.ie),
Mr. Eamon Ryan T.D. Minister for Communications, Energy and Natural Resources (minister.ryan@dcenr.ie and eamon.ryan@oireachtas.ie),
Mr. Simon Coveney T.D (simon.coveney@oir.ie),
Ms. Joan Burton T.D. (joan@joanburton.ie),
Ms. Liz McManus T.D. (liz.mcmanus@oireachtas.ie)

Ref. Shannon LNG application for licences MS51/9/596-599

Dear Minister,

On May 19th 2009, in a written reply to North Kerry Deputy Jimmy Deenihan T.D. regarding the Foreshore Licence application by Shannon LNG, you stated:

“The applications were circulated to my Department’s specialist advisors in the normal way and have also been subject to the usual public consultation process. Draft specific conditions to be included in the foreshore consents if granted have been issued to the applicant, Shannon LNG Ltd. In addition, a valuation of the area of foreshore on which it is proposed construct the facilities referred to is underway.

I expect to be able to make a final determination on the applications shortly.”¹

Having already made a detailed submission on this application we would like you to note the following:

1. The tone of your reply seems to indicate a willingness by your department to accord a licence by default and we are now seriously concerned that your assessment is nothing more than a rubber-stamping exercise of the most sizeable hazard in Ireland awaiting only the outcome of a valuation;
2. We would appreciate a copy of the draft specific conditions submitted by you to Shannon LNG in order that we may comment on their suitability in a timely and meaningful way given our interest in this project.
3. There has still been no strategic environmental assessment (SEA) undertaken of the development of an energy hub on the Southern Shores of the Shannon Estuary;
4. There has still been no Marine-based QRA undertaken to assess the risks, dangers and issues surrounding a possible LNG spill on water;
5. The Commission for Energy Regulation (CER) held a one-day oral hearing in Tralee on May 26th 2009 to assess the criteria for a pipeline licence from the proposed LNG terminal under the Gas (Interim)(Regulation) Act 2002 (Criteria for Determination of Consents) Regulations 2002. At this oral hearing the following points were heard:
 - a) Shannon LNG is currently insolvent and could not pay its bills if it had to do so in the morning, while all the shares in the company have been transferred to Hess LNG, a company registered in the offshore tax haven of the Cayman Islands and which has invested in Shannon LNG in the form of loans instead of equity. This reorganisation into a single-member company is currently being investigated by the Office of the Director of Corporate Enforcement which also confirmed to us that the Shannon LNG accounts had to be modified and re-submitted to the Companies Registration Office. In any case, it is now highly questionable how the “public interest” can be served by according a foreshore licence for a major infrastructure fossil-fuel project in SAC waters to an offshore company. The scandal of the National Aquatic Centre, where a company registered offshore in the British Virgin Isles with only nominal share capital got its hands on an important public asset, had similar problems where the tab was eventually picked up by the State;
 - b) The remit of the Health and Safety Authority (HSA) stopped at the shoreline and so the HSA did not assess any marine safety aspects of the project or any intentional damage to the terminal or LNG ships;

¹ <http://www.kildarestreet.com/wrans/?id=2009-05-19.1601.0&s=LNG#g1603.0.r>

- c) the CER is only assessing safety aspects of the pipeline and not of the terminal itself or any marine safety aspect of the project;
 - d) it was proven that the applicant has already lied when it stated in May 2006 that in the case of a tanker leak “This gas would quickly dissipate because it is lighter than air”. In fact, a leak of LNG which is heavier than air will move laterally (along ground or water) until well beyond the distance at which it is still ignitable (12.4 kilometres); this therefore throws doubts on claims made by Shannon LNG in all other areas;
 - e) the strategic need for the project was seriously questioned by Elizabeth Muldowney, Energy Officer with An Taisce given the changing world situation since even planning permission was given for the terminal;
 - f) it is our contention that Shannon LNG inaccurately presented the authors of the QRA on the pipeline (ERM) as LNG experts.
6. We now fully intend to audit the work of Shannon LNG, the CER and the Foreshore Section of the Department of Agriculture in assessing the safety aspects of this project. If a court considers that your Department has not assessed this application properly then the foreshore licence may be revoked. The main criteria that must be assessed is whether the project is safe and absolutely necessary - a task you cannot complete without the information we have signalled to you as missing.
 7. As the Foreshore Section of the Department of Agriculture has a duty to assess whether this project is in the public interest we are once again requesting that your department does not bow to political pressure in according a licence without a full public oral hearing.
 8. The Department’s powers are widespread and as the Foreshore Licence is the last in line of the licensing processes that can deal with the safety aspects of this LNG project then it has a duty to cover any regulatory gaps not covered by the other statutory bodies in dealing with this project to date.
 9. Unless an independent review is taken by you of the entire LNG project then a serious question mark will hang over the legitimacy of the consent process for this dangerous, dirty and unnecessary LNG project.

We await your feedback,

Yours sincerely,

Johnny McElligott

Safety Before LNG



Our Ref: MS51/9/596 – 5MS51/9/99
(Please quote on all correspondence)

Mr. Johnny McElligott
Kilcolgan Residents Association
C/o Island View
Convent Street
Listowel
Co. Kerry

12 January 2009

Re: Foreshore Lease/Licence Applications for Shannon LNG

Dear Mr. McElligott,

I acknowledge receipt of your submission regarding the above four (4) applications.

I wish to inform you that copies of your submission have been referred to the applicant for comment and to our consultees for consideration.

Yours sincerely,

Patrick O'Neill
Foreshore Section
Coastal Zone Management Division



Safety Before LNG
Island View
Convent Street
Listowel
County Kerry

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Safety before LNG

*Protecting the Shannon Estuary and
its people*

31 December 2008

Gerard Sheil,
Foreshore Section,
Coastal Zone Management Division,
Department of Agriculture, Fisheries and Food,
Johnstown Castle Estate,
County Wexford.

Ref. Shannon LNG application for licences MS51/9/596-599

By email to: Gerard.Sheil@agriculture.gov.ie
CC: Sylvester.Murphy@agriculture.gov.ie; Danny.OBrien@agriculture.gov.ie

Dear Mr. Sheil,

We are hereby formally objecting to the Foreshore applications for the construction of a liquefied natural gas (LNG) Regasification terminal at lands near Ballylongford and Tarbert, County Kerry referenced above.

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. Ms. Kathy Sinnott M.E.P and Mr. Tony Lowes for "Friends of the Irish Environment" have already signed our written submissions to An Bord Pleanála on the pipeline and Above-ground installations.

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 of an LNG accident from ships

travelling in the Shannon Estuary. The Health & Safety Authority confirmed at the recent oral hearing in Listowel on December 1st 2008 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. Would it not be very stupid and illegal to allow a terminal to be built to find out then that an adequate emergency plan could not be implemented as required per the Seveso II directive? On January 23rd 2008 the oral hearing into the LNG terminal heard 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 stated on record at the same An Bord Pleanála oral hearing in Tralee in January 2008¹:

“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.”

We now state that we are of the opinion that the Minister responsible for the foreshore licensing process is legally obliged to assess the issues of the consequences of an LNG accident before making any decision

4. This is the first LNG project in Ireland.
5. There has been no Strategic Environmental Assessment of the creation of an Energy Hub on the Southern Shores of the Shannon Estuary (oil storage facility in Foynes for 15% of the country's oil needs, the SemEuro facility proposed adjacent to the proposed LNG terminal) which will see an increase of 610 oil and gas tanker movements per year alone for this small area of the Shannon Estuary alone. The consequences of an accident are therefore enormous and we request that this be assessed in your licensing process.
6. 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*”², jointly commissioned by the Department of Communications, Energy and

¹ <http://www.safetybeforelng.com/docs/DAY%203%20012308%20TRALEE%20LNG.PDF> page 49

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

Natural Resources and the Department of Enterprise, Trade and Investment, Northern Ireland, representing an official government policy document has been ignored by An Bord Pleanála in addressing the question of alternative sites despite requests to consider it in the decision making process for the LNG terminal. The document was completed in November 2007 but was not released to the public until a few days after planning permission was given for the LNG terminal in April 2008. The report contained valuable information on high potential alternative storage sites and strategies which could be ignored in the planning decision because it was not made available to, or requested by, An Bord Pleanála. This document could not be reasonably ignored in any Strategic Environmental Assessment. We now request your department to assess this official government policy document.

7. 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. 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.** This is now the subject of a separate section 5 referral to Kerry County Council³ which we also request the Foreshore Section now takes into consideration.
8. 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 Bowdoin 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

³ See 'Pipeline Oral Hearing – Appendix 2' Section 5 referral to Kerry County Council.

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 more risk than submitted by Leon Baudoin.

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 the all 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

9. We request that the Minister holds a public inquiry in regard to making of a lease, as is within his powers under Article 2(8) of the Foreshore Act 1933.:

"Whenever an application is made to the Minister for a lease under this section, the Minister may, if he thinks fit, hold a public inquiry in regard to the making of such lease."
10. Under Articles 2 and 3 of the Foreshore Act, 1933, the minister may accord a foreshore lease or license if is in the "public interest". We are arguing that it is **currently impossible to assess if the project is in the "public interest"** without first undertaking a strategic environmental assessment and a QRA of an LNG spill on water. No other statutory body has requested these and in the public interest the Minister, we believe, should request them - which he is allowed to request under Articles 2(6) and 3(7) of the Foreshore Act, 1933.

11. We request that the Foreshore Section obtains independent LNG expertise in evaluating this project.
12. The foreshore lease application by Shannon LNG for the LNG Jetty states in section 5 that:

“No adjacent property will be affected by the proposed jetty. Neighbouring landowners to the west, Shannon Development (who are the current owners of the proposed development site), and to the east, Michael O’Connor, have been consulted on the project”.

This is factually incorrect because the lands of Stevie Lynch which go to the foreshore, are not owned by Shannon Development and there is an existing right of way to Stevie Lynchs lands through the proposed LNG terminal site. These lands are surrounded on land by the site of the proposed terminal and will now be sterilised completely by the grant of a foreshore lease. His family, represented by John and Eileen O’Connor of Lislaughtin, objected strenuously to the proposed terminal at the planning application stage.

Michael O’Connor of Ardmore signed a detailed objection to the Shannon LNG planning application also.

The construction of the LNG terminal will have negative effects on the development of lands and waters further to the west and east due to the exclusion zones which should be implemented on safety grounds. We have attached arguments raised on the Jordan Cove draft EIS from LNG expert Dr. Jerry Havens on December 22nd 2008 on what he considers a faulty Federal LNG facility siting policy. He notes that **Vapor Cloud Explosion Hazards Have Been Dismissed Without Proper Justification , Design spill changes , Ship cargo tank safety issues, Incorrect methods for determining vapor cloud exclusion zones continue to be applied.** Since this is the first proposed LNG terminal in Ireland and your department does not have LNG expertise, we request that you take these comments on board.

13. 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".

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.

14. 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 the Foreshore Secion, 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).
15. The following supporting submissions are included with this submission and we request that you assess the issues they raise in the foreshore licensing process.
 - a. Comments by Dr. Jerry Havens on Jordan Cove DEIS. These comments were filed on December 22nd 2008 by LNG Expert Dr. Jerry Havens with the FERC regarding a proposed LNG terminal in Oregon (Jordan Cove) highlighting faulty US Federal LNG Facility Siting policies.
 - b. Submission to An Bord Pleanála on the proposed LNG terminal on November 14th 2007.
 - c. Submission to the European Parliament Petitions Committee of August 1st 2008 outlining perceived breaches by the proposed LNG terminal project of nine EU Directives - the *WATER FRAMEWORK DIRECTIVE (2000/60/EC)*, the *EMISSIONS TRADING DIRECTIVE (2003/87/EC)*, the *ENVIRONMENTAL LIABILITY DIRECTIVE (2004/35/EC)*, the *SEVESO II DIRECTIVE (96/82/EC)*, the *GAS DIRECTIVE (2003/55/EC)*, the *EIA DIRECTIVE*, the *SEA DIRECTIVE (2001/42/EC)*, the *HABITATS DIRECTIVE* and the *IPPC DIRECTIVE (96/61/EC)*.
 - d. Submission by Safety Before LNG to the Bord Pleanála Oral Hearing on the proposed AGI and pipeline of December 1st 2008. This submission includes the following appendices
 - i. Pipeline Oral Hearing Appendix 1: Submission to CER on Shannon LNG pipeline
 - I. CER APPENDIX 1: Safety Before LNG submission to An Bord Pleanála on Shannon LNG pipeline and compulsory acquisition order reference GA0003 and DA0003 – October 7th 2008
 - II. CER APPENDIX 2: submission on the Draft Heads of Petroleum Exploration and Extraction (Safety) Bill, 2007 – April 28th, 2008
 - III. CER APPENDIX 3: Complaint to the Office of the Director of Corporate Enforcement on possible failure by the Auditor to comply with statutory obligations.
 - IV. CER APPENDIX 4: Shannon LNG submission on “A Natural Gas Safety

Regulatory Framework for Ireland – Proposed Vision” – September 13, 2007

- ii. Pipeline Oral Hearing Appendix 2: Section 5 Submission to Kerry County Council
 - I) Section 5 Appendix 1. Signed Submission by MEP Ms. Kathy Sinnott.
 - II) Section 5 Appendix 2. Signed Submission by ‘Friends of the Irish Environment’.
 - III) Section 5 Appendix 3. Shannon LNG Information booklet, Issue 5 November 2008.
 - IV) Section 5 Kealy and Pierce Brosnan Submission
 - V) Section 5 Susan Jordan of the California Coastal Protection Network Submission
 - VI) Section 5 Pobal Chill Chomain, County Mayo, submission
 - VII) Section 5 Steve Goldthorpe, Energy Analyst, submission
- iii. Pipeline Oral Hearing Appendix 3: Green Light for Endessa move on ESB plants’ (Kerryman – Wednesday November 19th 2008)
- c. Safety Before LNG submission to An Bord Pleanála on Shannon LNG pipeline and compulsory acquisition order reference GA0003 and DA0003 – October 7th 2008 which includes the following appendices:
 - i. 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).
 - ii. PIPELINE APPENDIX B Irish Times, September 16, 2008 You don't build trust through gunboat diplomacy
 - iii. PIPELINE APPENDIX C Planning application notice of direct planning application to An Bord Pleanála
 - iv. PIPELINE APPENDIX D KRA Submission on Draft Kerry County Development Plan 2009-2015
 - v. PIPELINE APPENDIX E Statements by Minister Gormley (T.D.) on alternative pipeline routes.
 - vi. Pipeline Appendix F: Unavailability of Pipeline EIS.
 - vii. 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.
 - viii. PIPELINE APPENDIX H: Planning decisions may be invalidated by ECJ
 - ix. PIPELINE APPENDIX I: Signed submission by Ms. KATHY SINNOTT M.E.P.
 - x. PIPELINE APPENDIX J: Shannon LNG pipeline Contract, Consent forms, Code of Practice, Deed of Easements
 - xi. 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

16. To put the issue in perspective, an LNG tanker carrying a full load lost propulsion outside Boston as recently as December 29th 2008.⁴ The incident was reported as follows:

"BOSTON - The Coast Guard is monitoring and assisting a Liquefied Natural Gas tanker that temporarily lost propulsion about 45 miles east of Boston today, according to a press release. The 920-foot tanker Suez Matthew, carrying 31 people and a full load of LNG from Trinidad to Boston, lost propulsion just before 12 a.m. Propulsion was restored within the hour and the tank-ship executed a successful test of propulsion by 8:45 a.m. The Coast Guard Cutter Jefferson Island and the commercial tugs Liberty and Freedom are escorting the carrier to an anchorage in Broad Sound.

There, Coast Guard marine inspectors and investigators, along with the vessel's classification society surveyor, will inspect the ship to determine why it lost propulsion. The tugs will also remain in the area to assist as needed.

The ship's crew is making hourly situation reports to Sector Boston. The Coast Guard Cutter Escanaba is enroute to the anchorage to assume on-scene command from the Jefferson Island.

"The Coast Guard and its port partners are taking steps to ensure the vessel, crew and cargo remain safe," said Cmdr. William Kelly, the acting commander of Sector Boston. "However, as a precaution, the Coast Guard will monitor the situation until I am satisfied all repairs are made and it can return to full international service."

Current weather is 12-to-15-knot winds with 2-foot seas"

It would seem that Cmdr W. Kelly from Boston Firefighters is taking his job very seriously as he is obviously aware of the consequences of an incident involving an LNG Carrier in Boston Harbour.

We are of the opinion that it would be prudent of the department to call for revised sense-checked Risk Assessments in light of the fact that the LNG Carriers entering the Shannon Estuary (Q-Max's) will carry 80% more cargo than the above Carrier. We also request that the department also takes into account the shortly-to-be-announced results from Sandia National Laboratories of New Mexico Tests of Lng Pool Fire spills that were ordered by the US Congress Governmental Accountability Office (GAO).

Yours sincerely,

Johnny McElligott and Raymond O'Mahony

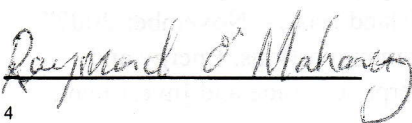
Safety Before LNG

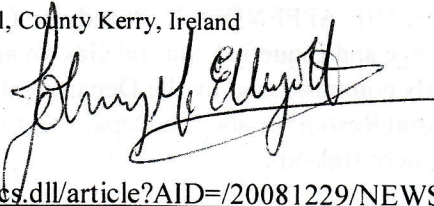
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<http://www.capecodonline.com/apps/pbcs.dll/article?AID=/20081229/NEWS11/8122901>

**Additional Comments Submitted by Jerry Havens on
Jordan Cove Draft Environmental Impact Statement
Docket No. CP07-441-000 et al.**

December 22, 2008

URGENT - FEDERAL LNG FACILITY SITING POLICY IS FAULTY

As stated repeatedly in previous comments to FERC regarding LNG terminal siting¹, I believe that FERC has approved and continues to approve modifications/variances to the regulatory requirements of 49 CFR 193, *Liquefied Natural Gas Facilities: Federal Safety Standards*, that have not been subjected to a science-based review and approval process, that do not meet good engineering practice requirements, and have the effect of approving unjustifiably small exclusion (separation) zones to keep the public out of harm's way of credible hazardous events. Furthermore, the Jordan Cove DEIS, and the applicants responses² thereto, pertinent parts of which have been designated "Critical Energy Infrastructure Information – Do Not Release" raise additional serious concerns about the potential hazards of unconfined vapor cloud explosions (UVCE) which have not appeared (explicitly) before now.

Vapor Cloud Explosion Hazards Have Been Dismissed Without Proper Justification

The Jordan Cove DEIS allowed the applicant to use a CFD modeling method (FDS) which is not approved by 49 CFR 193 for such use. DEGADIS (approved in the early nineties) and FEM3A (approved in 2000) are the only vapor dispersion models which have been approved for such use since 49 CFR 193 was promulgated in 1980. DEGADIS and FEM3A were approved by the DOT Administrator following the required public notice procedure. FEM3A was approved as a method applicable to the determination of vapor cloud exclusion zones when vapor cloud travel could be affected by obstacles or terrain features. The Jordan Cove DEIS, in allowing the use of the FDS model to determine the effect of impermeable vapor fences placed on the liquid spill impoundments to keep the calculated vapor cloud travel within the facility boundaries (required by 49 CFR 193), is in clear violation of 49 CFR 193. This violation is critically important because FERC's (implicit) approval of a computational fluid dynamic (CFD) model for calculating vapor cloud exclusion zone effects associated with vapor fences in the Jordan Cove DEIS raises critically important questions about the potential for unconfined vapor cloud explosions (UVCE) at the facility.

In the Jordan Cove DEIS FERC summarily dismisses the potential for vapor cloud explosions with the following statement (page 4.12-4):

The potential for unconfined LNG vapor cloud detonations was investigated by the Coast Guard in the late 1970s at the Naval Weapons Center at China Lake, California. These experiments, as well as other subsequent tests, are mentioned in Appendix C of the Sandia National Laboratories report entitled, Guidance on Risk Analysis and Safety Implications of a Large Liquefied Natural

¹ Jerry Havens Comments on Jordan Cove DEIS, November 21, 2008, FERC Docket CP07-441

² http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20081205-5122

Gas (LNG) Spill Over Water, December 2004 (2004 Sandia Report). Using methane, the primary component of natural gas, several experiments were conducted to determine if unconfined vapor clouds would detonate. The tests indicated unconfined methane-air mixtures could be ignited, but no test produced unconfined detonation. There is no evidence suggesting that methane-air mixtures will detonate in unconfined open areas. ... Further tests were conducted ... to examine the level of sensitivity of an unconfined cloud to the presence of heavier hydrocarbons such as ethane and propane. ... the addition of heavier hydrocarbons influenced the tendency of an unconfined vapor cloud to detonate (emphasis added).

FERC's statement "there is no evidence suggesting that methane-air mixtures (in the USCG tests) will detonate in unconfined open areas" appears to be true. Nor am I aware of any other experimental evidence of detonation of pure methane-air mixtures in the absence of confinement of the cloud. But in the Jordan Cove DEIS, FERC has failed to consider the potential for detonation of "hot-gas" (methane with heavy components such as ethane or propane added) LNG vapor clouds, and has failed to consider the potential for detonation (or damaging deflagration pressures) that could result from partial confinement of an LNG vapor cloud. FERC is obliged in the interests of public safety to consider the potential for explosion hazards associated with vapor clouds as they could be affected by the presence of "hot gas" components or confinement due to the proposed vapor holdup facilities (fences) proposed, or, more importantly, both factors which could occur in combination.

An important scientific paper detailing the Coast Guard sponsored tests at China Lake³, which appears to be the source of the Sandia Report statements referred to by FERC, contains the following (page 13):

The second group of tests was designed to test a postulated accident scenario in which the vapor formed during a LNG spill is mixed with air to form a flammable mixture and then diffuses into a culvert system. The mixture in the culvert ignites and the combustion wave accelerates and transitions to a detonation. This detonation wave then exits the culvert and detonates the remaining unconfined vapor cloud. ... a 6 m long culvert, 2.4 m in diameter, was buried vertically in the ground in the center of the polyethylene hemisphere. A stoichiometric mixture of methane/propane and air was introduced into the hemisphere and a detonation was initiated at the bottom of the culvert using a 3.2 mm thick layer of datasheet explosive (13 kg). In tests 1 and 3 (reported to be 85% methane and 94% methane), a strong shock wave was felt at the bunker and also in the town of Ridgecrest, 22 km from the test site. ... Based on the test data, it appears that in tests 1 and 3 a detonation was produced within the unconfined cloud (emphasis added).

As vapor fences at the Jordan Cove Facility, could (in addition to the trenches themselves) provide some confinement to the cloud if ignited while contained therein, there appears to be real potential for run up to detonation, especially if the cloud contains more than a few percent propane or equivalent heavy components.

FERC has also failed to consider recent critically important evidence regarding the potential for unconfined vapor cloud explosions involving hydrocarbons. The summary of the Buncefield Major Incident Investigation Board's "Explosion Mechanism Advisory Group Report"⁴ on the catastrophic explosion of an unconfined hydrocarbon vapor cloud at Buncefield, UK, on 11

³ Parnarouskis, M., et.al., "Vapor Cloud Explosion Study", Sixth International Congress on Liquefied Natural Gas, 1980.

⁴ <http://www.buncefieldinvestigation.gov.uk/index.htm>

December 2005 contains the following statement:

The Buncefield Major Incident Investigation Board (MIIB) has been overseeing a comprehensive investigation of the incident and has published a number of reports on its findings. One important aspect of the incident was that a severe explosion took place, **which would not have been anticipated in any major hazard assessment of the oil storage depot before the incident (emphasis added).** ...

Therefore, based on the USCG sponsored test results carried out at the Naval Weapons Center, China Lake (which appear to have received little attention) and the additional questions raised regarding the potential for unconfined vapor cloud explosions so tragically evidenced at Buncefield, UK, in December 2005, the potential for damaging overpressures following ignition of “hot gas” LNG vapor clouds, especially when partial confinement can occur, must be considered carefully before dismissing this potential as FERC has done in the Jordan Cove DEIS.

Additional concerns re the Jordan Cove DEIS, described repeatedly in previous comments to FERC, are stated again below for completeness.

Design spill changes

The design spill specified for the ship's cargo unloading line for the Jordan Cove LNG facility has been arbitrarily specified (by FERC staff) as the breakage of a 6-inch line attached to the 36-inch diameter cargo unloading header, with a ten-minute duration spill of 80,880 gallons, while the impoundment volume into which the spill would occur has been sized (and therefore deemed credible) to account for a ten-minute duration spill of 528,400 gallons resulting from full rupture of the 36-inch diameter line. My 2005 review, submitted to FERC and available in the Weavers Cove Proceedings⁵, of eleven LNG import terminal environmental impact statements shows approval for design spills from the ship unloading line ranging from 28,900 gallons (Keyspan) to 812,000 gallons (Trunkline). FERC has provided no justification for approving such a large variation in the design spills, which can and did result in large variations in the extent of the vapor cloud exclusion zones, nor have they provided any quantitative justification for the selection of the different sizes of lines that were assumed to fail (defining the design spill). Since the vapor cloud zone determinations are directly related to the amount of LNG spilled, this lack of consistency in the design spills selected for analysis by the various applicants has the appearance of simply determining the size of the spill that the property line distance allows, and in any case has not been supported by science-based analysis.

Ship cargo tank safety issues

Current LNG facility siting regulations do not directly address hazards to the public which could result from accidental or intentionally caused releases of LNG from the ships serving the facility. That responsibility is stated in the Jordan Cove DEIS to lie with the U.S. Coast Guard. There are no mandated exclusion zones where the public is prohibited in order to keep them out of harm's

⁵ Havens, Jerry, "Vapor Cloud Exclusion Zones for Spills from LNG Import Terminal Transfer Systems - Analysis of Eleven Environment Assessment and Environmental Impact Statements for LNG Import Terminals", April 2005 (available in FERC Docket CP04-36).

way. This oversight has resulted in failure to sufficiently consider the hazards to the public that could be posed by unintended releases of LNG from the ships as well as from ship-to-shore transfer lines during offloading.

Most applications for LNG facility siting (all since 2004) refer for consideration of ship-borne releases to the Sandia report⁶, which deemed credible the rapid spillage of 12,500 cubic meters (~3,000,000 gallons) LNG onto water. This spill volume (half of one typical ship tank) has been widely interpreted as the worst case event warranting consideration.

The Government Accountability Office report of 2007⁷ identified the high priority need for additional research to identify worst case consequences that consider the potential for cascading failures, meaning sequential failures of the other containments on an LNG carrier that could result from the severe fire exposure to the ship following the 12,500 cubic meter spill. There have been identified at least two failure modes that could cause such cascading failures to occur, either one potentially capable of causing total loss of the ship and burning of its contents:

- brittle fracture due to contact of LNG with structural steel in the ship, and
- failure by overpressure (burst) due to failure of non-heat resistant foam-plastic insulation used on some LNG ships. A paper describing in detail these concerns about the use of unprotected (against heat) foam plastic insulation has recently appeared in the peer reviewed literature⁸.

As a result of the GAO Report recommendations, nominal one hundred meter diameter LNG test fires in early 2009⁹ will address questions bearing importantly on these concerns:

- Measurements of surface emissive (radiative) power of large LNG fires are designed to reduce a large uncertainty in the values appropriate for use in the regulatory process.
- Potential for cascading damage resulting from brittle fracture of steel by spilled LNG.
- Potential for loss of insulation due to exposure of a ship containment system to a large tank-enveloping fire on water.

As these questions bear directly on decisions regarding LNG facilities in populated areas or in areas with strategic infrastructure or sensitive environments, current evaluation by FERC for siting approval of the Jordan Cove Facility should await answers from these tests designed to address these uncertainties.

⁶ Hightower, M., et. al., "Guidance on Risk Analysis and Safety Implications of a Large Liquefied Natural Gas (LNG) Spill Over Water, Sandia Report SAND2004-6258, December 2004.

⁷ U.S. Government Accountability Office, "MARITIME SECURITY- Federal Efforts Needed to Address Challenges in Preventing and Responding to Terrorist Attacks on Energy Commodity Tankers", GAO-08-141, December 2007.

⁸ Havens, Jerry and James Venart, "Fire performance of LNG carriers insulated with polystyrene foam", Journal of Hazardous Materials, 158 (2008).

⁹ www.narucmeetings.org/Presentations/NARUC_Committee_July_22_08.pdf

Incorrect methods for determining vapor cloud exclusion zones continue to be applied

Vapor cloud exclusion zones determined using the SOURCE5 model to determine the input LNG vapor rate to DEGADIS are in error, as SOURCE5 does not provide for mixing of air with LNG vapor evolved inside the impoundment or the dike/vapor fence system. It is now well known, and widely reported in the peer reviewed literature, that the methodology currently approved by FERC can result in under-prediction of safe vapor cloud dispersion zones, resulting in failure to protect the public as intended by 49 CFR 193. A paper addressing this issue has been published in AIChE's peer reviewed journal Process Safety Progress¹⁰.

SOURCE5 assumes that vapor is only produced by heat transfer from the ground surface to spilled LNG, and its application by FERC consistently assumes, as in the Jordan Cove DEIS, complete capture of the spilled LNG in liquid impoundments provided in strategic locations. There is no provision for consideration of flashing of the LNG upon release, or of jet-directional effects that could prevent (parts of) the spill from being "captured/contained" in an impoundment. Either of these effects could defeat the purpose of the impoundment, which is to decrease the rate at which LNG vapor evolves from the spill. In order to estimate the potential importance of flashing in such releases, we considered a design spill specified in the Bradwood Landing FEIS¹¹. For a line pressure of 1 bar g, the flash fraction would be approximately 0.3 %, and the release of 374 kg/s LNG would generate (by flashing) approximately 260 m³/s of vapor. This (flash) vapor, even if all collected in the impoundment along with the liquid spilled (highly unlikely), would overflow the impoundment in roughly 8 seconds. In contrast, the overflow time predicted by SOURCE5 (with no flashing) is 888 seconds. The much earlier overflow time (8 seconds vs. 888 seconds) would cause the overflow rate to be correspondingly higher. As the flash vapor component could add appreciably to the magnitude (and possibly the density, due to aerosol formation) of the LNG vapor source term, provision for consideration of the effects of flashing upon release, as well as associated questions of whether the jetting release will be effectively captured in an impoundment, should be considered. These conclusions should be applicable to the spills analyzed in the Jordan Cove DEIS as well.

Allowing low wind speed stable atmospheric conditions as worst case is also in error. The FEM3A computational fluid dynamics model was approved by DOT in 2000 for use under 49 CFR 193 as an alternate method (to DEGADIS) to determine LNG vapor cloud exclusion zones. Based on research conducted for the Gas Research Institute to validate the FEM3A and DEGADIS models for LNG applications, it is clear that simulations of time-limited LNG releases dispersing downwind of impoundment and dike systems cannot be assumed to always give maximum distance for the low wind speed, stable atmospheric conditions allowed (optionally) by 49 CFR 193 and NFPA 59A. As demonstrated in wind tunnel and field test programs, the "scooping" action of wind in entraining LNG vapor/air mixtures from impoundment/dike systems increases with higher wind speeds, thus tending to lengthen the exclusion zone by increasing the amount and rate at which LNG vapor moves downwind (the vapor source strength). At the same time, the dispersion downwind of the dike is enhanced by

¹⁰ Havens, J., and T. Spicer, "LNG Vapor Cloud Exclusion Zones for Spills Into Impoundments", Process Safety Progress, 24 (3), 2005.

¹¹ Havens, J., T. Spicer, and H. Walker, " LNG Vapor Cloud Exclusion Zone Requirements Need Review", AIChE Spring National Meeting, New Orleans, April 2008.

greater wind speeds, thus tending to decrease the length of the exclusion zone. It is expected generally that these competing effects will result in the maximum distances to the limiting safe gas concentration occurring at a wind speed greater than the 2 m/s value optionally allowed by FERC. Thus reliance on simulations at low wind speed stable conditions can cause underestimation of the requirements for vapor cloud exclusion zones and endangering the public to greater distances. As thermal radiation exclusion zones are presently required to be determined at the wind speed that would give the maximum exclusion zone, a similar requirement for the determination of vapor cloud exclusion zones is clearly indicated and needed. A paper addressing this issue has been published in the peer-reviewed *Journal of Hazardous Materials*¹².

¹² Havens, J., and T. Spicer, "United States Regulations for Siting LNG Terminals: Problems and Potential", *Journal of Hazardous Materials*, 140 (3), 2007.

Kilcolgan Residents Association
c/o Johnny McElligott
Island View,
5 Convent Street,
Listowel,
County Kerry
johnmcelligott@hotmail.com
Tel: (087) 2804474

14th November 2007

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Submission to An Bord Pleanála 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,

Further to our submission dated 14th November we wish to add the following points:

1. The site layout plan submitted by Shannon LNG (drawing C013) it is noted
“AREA DESIGNATED FOR GAS EXPORT A.G.I. (to be subject of separate planning application) “
“AREA DESIGNATED FOR EIRGRID 110KV SWITCHYARD (to be subject of separate planning application) “

We object that this is not all submitted as part of the main planning application because it is another example of project slicing (raised in point 14 of our submission yesterday) and because of the dangers they pose for creating another source of static electricity, an ignition source, in the QRA.

2. We do not understand why the existing buildings closest to the main road have to be demolished, because there are no other plans for that area disclosed.

3. We urge An Bord Pleanála to view the RTE “Prime Time” program of November 15th, 2007 on the RTE website www.rte.ie/news/primetime/index.html, entitled “Safety Concerns over safety gas terminal: : Katie Hannon reports from the North Kerry Village of Kilcolgan where it is proposed to build a liquefied natural gas terminal despite some local opposition” and bring to the Bord’s attention that it was clearly proved that:

- i. Shannon LNG lied when it told the public that vapours from a leak would harmlessly evaporate – “a myth”, the LNG industry Mr. Cox described it as
 - ii. The barrister clearly raised serious questions about the legitimacy of this fast-track planning process, which are depriving us for fair application of justice and which bring seriously in to question the manner in which this application is being dealt with..

For these reasons we recommend rejection of the planning application.

4. Adam Kearney has uncovered even more serious questions on the rezoning of the landbank

to Industrial from rural general in March of this year as follows in an email to Kerry County Council today:

From: Adam Kearney Associates [<mailto:info@akassociates.ie>]

Sent: 16 November 2007 11:40

To: Kena Felle

Cc: McElligott, John

Subject: SEA Screening Report

16/11/07

Dear Kena,

I would like to know if a SEA (Strategic Environmental Assessment) screening report was compiled by Kerry County Council for Variation No. 7 of the County Development (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). If so I would like a copy of same It was stated in the County Managers report on Variation No. 7 in response to a submission by Clare County Council that a copy of the SEA screening report would be sent to them. Yesterday I spoke with the Senior Executive Planner John Bradley who made the submission on behalf of Clare County Council, he informed me that they had not received a screening report. I also contacted the EPA who cannot confirm receipt of the report either. As the deadline for public submissions to An Bord Pleanala for the proposed Regasification Terminal in Tarbert is this evening at 5 pm I am extremely restricted on time and need clarification on this issue. If it is the case that an SEA screening report was not conducted for a variation to a development plan then the validity of the rezoning has to be questioned. Under Statutory Instrument No 436 Article 7 section 13K and article 12 Schedule 2A of the same Statutory Instrument 2004 legislation it is quite clear on the procedures required for making a variation to a plan.

Yours Sincerely,

Adam Kearney

Tom Sheehy, of Kerry County Council sent the report today (see attachment 33).

The copy of the screening report was not sent to any of the statutory bodies as it was felt there was no need for an SEA as there was no environmental impact, in spite of the serious reservations raised by Clare County Council.

We object that since this planning application is going to have a serious effect on the environment an SEA must be undertaken before the land is rezoned and that planning permission should be refused as this will have a huge impact on the strategic development of the region. Furthermore, we intend to raise this question with the Department of the Environment, and both the Ombudsmans Office and the Standards in Public Office because we feel that this land was rezoned solely for Shannon LNG, when it was known that a huge environmental impact was going to happen – all this done in the interests of avoiding an SEA and rushing this Seveso II site through planning.

We request therefore, that until these matters are concluded that planning be refused.

Yours faithfully,

Johnny McElligott

Attachment 33 – Ballylongford screening Report

An Bord Pleanala,
64 Marlborough Street,
Dublin 1.

Direct Planning Application to An Bord Pleanala in Respect of a Strategic Infrastructure Development

Case reference: PL08 .PA0002 (liquefied natural gas regasification terminal proposed for Ralappane and Kilcolgan Lower, Co. Kerry)

Name of Person (or agent) making submission/observation: Johnny McElligott (Group submission for the 'Kilcolgan Residents Association')

Address to which Correspondence should be sent: Island View, 5 Convent Street, Listowel, Co. Kerry

Subject matter of submission or observation: Proposed LNG Terminal: Recommending complete Rejection of the Planning application

Reasons/Considerations/Arguments:

We are objecting to the submitted planning application due to, among other things, the safety, environmental, economic and residential amenity grounds supported in detail in the attached letter

(Please use additional pages if necessary & attach supporting documentation if applicable)

Fee: There is no fee applicable in this instance

Signed:

Date:

Johnny McElligott

Name

Address

Johnny McElligott	Island View, 5 Convent Street, Listowel, Co. Kerry
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
Catriona 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)
Catherine Heaphy
Tom O'Connor
Kathleen O'Connor

Kilcolgan, Tarbert, Co. Kerry
Glencullare, Tarbert, Co. Kerry
Ardmore, Tarbert, Co. Kerry
Ardmore, Tarbert, Co. Kerry.

Kilcolgan Residents Association
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14th November 2007

An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

Submission to An Bord Pleanála 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,

This submission is being made by nearby residents of the proposed LNG regasification terminal and by people with close family and economic ties to the area. We are totally opposed to the planning application in its present form and ask that An Bord Pleanála refuse planning permission to Shannon LNG.

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 at all to date. These concerns may be overlooked by the general public until it is too late as the decision by An Bord Pleanála on whether or not to grant planning permission will already have been made. This is because the new fast-track planning process allowed for this application means that all environmental, safety and development issues are being examined in parallel and by different government bodies without the right of appeal in the planning process that would exist if the application was first submitted to Kerry County Council. 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 both the Planning and Development Act 2000 and the EU EIA directive. For this reason we hereby insist on being allowed to make more submissions once this information has been obtained.

The primary concern is the lack of safety for nearby residents due to the fact that they live too close to the proposed site. Conservative scientific evidence provided below shows that it is unsafe to live within 3 miles of the site. This area covers the villages of Ballylongford, Tarbert and Killimer in County Clare. More seriously, the limited QRA undertaken by Shannon LNG itself admits categorically that a vapour cloud from a leaked tank could travel as far away as **12.4 kilometers** before being ignited (page 32). This will mean that the Kerry towns and districts of Asdee, Moyvane and Beal, the Limerick town of Glin and the Clare towns of Kilrush, Moyasta, Killimer, Knock and Kilmurry McMahon, as well as surrounding countryside, are in the possible fallout zone. This is from Shannon LNG's own

research.

This will therefore also prevent further use being made of the rest of the land bank due to the danger posed to people working nearby, if safety standards are in fact implemented.

The most serious environmental concern is that up to 100 million gallons of chlorinated seawater will be pumped into the estuary daily, causing serious environmental damage to the eco-system of this SAC area. 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.

The most serious economic concern is that the gas-industry's own standard-recommended exclusion zone of 2 miles around an LNG tanker will stop shipping – including the Tarbert-Killimer car ferry - in the estuary every time an LNG tanker is in the area (and Shannon LNG plan up to 125 tankers a year) and prevent marine use of the rest of the land bank – if those safety standards are implemented.

Finally, whereas the developer emphasises that it is in the national strategic interest to have an LNG terminal in Ireland, we are of the opinion that only a strategic interest in LNG as another strategic alternative source of gas in Ireland has been accepted and that there has been no acceptance of the strategic need for an LNG terminal if no suitable site in Ireland is found. This distinction is very important because this need for LNG is already being met with the construction of the LNG terminals in the UK which can then provide LNG to Ireland via the existing gas pipeline from the UK. It must also be noted that the developer, in any case, does not guarantee supply of LNG via Tarbert. What is proposed is no more than a private storage and transshipment facility albeit on a very large scale. It does not purport to offer any strategic benefit to the country, nor in reality does the country gain any strategic benefit from it. On the contrary, it undermines the stated government policy. It does so in a number of respects - in particular by entirely prejudging the outcome of the all-Island study and the strategic goal No. 2 in the government's white paper on delivering a sustainable energy solution for Ireland.(See 17 below). On that basis alone the application is clearly premature and should be refused.

The methodology used in this submission is to support each topic with data from published scientific reports, governmental reports, decisions and strategy documents, statutory regulations (both Irish and European) and from standards produced by the Gas industry itself. Any reference to non-scientific based claims will be clearly stated. Data was collected initially by various members of the association individually. This was then followed on by a visit to the Dragon LNG plant at Milford Haven in Wales on October 13th 2007 where the views of concerned residents were noted. Information was raised since then in contacts with Shannon LNG at their office in Listowel on October 15th, with other local residents in Tarbert in meetings with Shannon LNG representatives on October 18th and October 29th, and with various governmental, scientific, academic and voluntary organisations in Ireland and abroad. Our concerns were taken seriously by one and all but many questions were left unanswered. The overwhelming feedback has been that a submission of these concerns needs to be made to An Bord Pleanála,

For the reasons given below we submit that the Bord is obliged to refuse the application. We accept that the Bord may of course take a different view. While we reserve our rights to challenge such a view if necessary we make any comments on conditions that could be

applied by the board if it grants permission to the developer entirely without prejudice to our over-riding contention that this application should be refused.

STATUTORY REGULATIONS:

Planning and Development Acts 2000 – 2006. This includes the Planning and Development (Strategic Infrastructure) Act 2006

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

EU Water Framework directive 2000/60/EC

Kyoto Protocol

County Clare and County Kerry Development Plans

European Convention on Human Rights Act 2003

Planning and Development (Strategic Environmental Assessment) Regulations 2004

INVALID APPLICATION

The developers in their planning application describe the 10 hectares to be developed offshore as zoned industrial. This is false as it is zoned Special Area of Conservation. We therefore object to this invalid and misleading application and want the whole application to be declared invalid – as would be the case if an individual made such a serious and misleading mistake in a planning application.

SAFETY ZONE

The evidence obtained from the Dr. Jerry Havens' Report (see. attachment 1), prepared by the Public Utilities Commission of the State of California for the Federal Energy Regulatory Commission, highlights worrying scientific evidence. Dr. Havens, Distinguished Professor of Chemical Engineering at the University of Arkansas and Director of the University's Chemical Hazard's Research Center, concluded that people living within 3 miles of the proposed site would be in harm's way (this radius covers the Kerry villages of Tarbert and Ballylongford and the Clare village of Killimer). "Dr. Havens is extremely qualified and has studied LNG safety issues for more than 30 years. His primary specialisation is in the analysis and quantification of the consequences of releases of hazardous materials into the environment, with emphasis on the consequences that can occur as a result of toxic and/or flammable gas releases into the atmosphere". "He has provided detailed analysis supporting his conclusion that there should be a minimum of 3 miles between an LNG terminal and a densely populated area. Anything closer than 3 miles could put the public in harm's way." This is based on a spillage of 3,000,000 gallons of LNG, which he claims is widely accepted as credible.

However, he also examines the consequences of a vapour cloud fire which could result if the LNG spill vapours were not immediately ignited and a vapour cloud formed. The cloud thus formed would drift downwind until it reached an ignition source or became

diluted below the flammable concentration level - after which time it would not constitute a hazard. In his opinion, the maximum distance downwind to which portions of a cloud (sufficiently large to constitute a severe fire hazard) formed from the rapid spillage onto water of 3,000,000 gallons of LNG could be ignited is approximately 3 miles. If the vapour cloud were ignited as it drifted downwind, those persons in that area or immediately adjacent (thermal exposure could occur at some distance beyond the edge of the fire) who could not gain protection could be killed or seriously injured.

In any case, he states that such fires cannot be extinguished and would just have to burn themselves out.

Havens also deals with the explosion hazards of confined vapour cloud explosions, unconfined vapour cloud explosions, boiling liquid expanding vapour explosions, Toxicity hazards, Cryogenic ("cold" burn) hazards and Rapid phase transition (flameless explosion) hazards. Their importance in the public safety context lies in the potential for RPT's to cause secondary damage which could lead to cascading failures and further releases of LNG.

Dr. Havens' report is based on a spill of 3 million gallons. The EIS submitted by Shannon LNG proposes (volume 1 page 3) to design a jetty capable of taking ships with a capacity of up to 265,000 m3 of LNG. This is equivalent to 58 million gallons approximately.

The distance of the proposed site from vulnerable residential areas must therefore be taken into account by An Bord Pleanála.

The limited QRA implemented by Shannon LNG goes even further than the Havens' report when it admits that a vapour cloud could travel up to 12.4 kilometres before being ignited:

"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 [lower flammable limit] of 12.4 km." (they do not state how far the cloud could travel beyond this distance before it meets the upper flammable limit – the level at which the oxygen mix with the gas is so high that the gas can no longer be ignited).

LNG FIRE HAZARDS

A report by the IoMosaic Corporation – "Understand LNG Fire Hazards" (see attachment 19 page 15) found that the maximum impact hazard footprint of a 200,000 m3 LNG tanker will result from a pool fire leading to a fatality limit of 50 percent at a distance of 3.7 kilometres from the leak.

The safety zone of 3 miles conservatively required by the Havens' report has implications for further residential development in the area surrounding the gas terminal. It will potentially have the effect of sterilising residential areas (stopping any new houses from being built on safety grounds) and it will also prevent other areas of the landbank from being developed as the levels of risk increase with more complex developments side by side. Shannon LNG proposes in the EIS (volume 1 page 5) that the remainder of the site may be used for a gas-fired power station, but the exclusion zone of 3 miles will make this proposal untenable. The Bord is asked to take these issues into

consideration and issue an opinion on them as they will have serious social and economic long-term consequences on the area. In any case, Article 12 of the EU Seveso II 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".

SIGTTO (The Society of International Gas Tanker and Terminal Operators Ltd) is a non profit making company, formed to promote high operating standards and best practices in gas tankers and terminals throughout the world. It provides technical advice and support to its members and represents their collective interests in technical and operational matters. To become a full Member of SIGTTO it is necessary for a company to have equity interest in or to operate a gas tanker or terminal. Two of the company's published works are

- **"LNG Operations in Port Areas : Essential best practices for the industry"** (see. attachment 2) which SIGTTO describe as follows: "This document draws on this collective experience in setting out guidance to best practice for managing gas shipping operations within ports. It also illuminates the profile of risks attaching to gas operations, for the information of those who administer", and

"Site Selection & Design (IP no.14) for LNG Ports & Jetties" (see. attachment 3) which SIGTTO describe as follows: "Information Paper No.14: Bearing in mind the high consequential risks of a serious accident in the LNG trade, this publication has been prepared for port developers as a guide to the minimum design criteria considered necessary when a port is to be built or altered to accommodate LNG carriers." Although HESS is not a member of SIGTTO, in the absence of direct Irish or EU regulation on the matter, it is only reasonable to expect that HESS would follow the standards set by its own industry.

In the public meeting held at the "Lanterns Hotel" in Tarbert on October 29th 2007, Shannon LNG stated that the SIGTTO standards were "a wish list for the ideal site, which was not, in any case, binding on Shannon LNG". We object extremely strongly to this claim because the Gas industry's own standards should be a minimum that the Kilcolgan Residents Association would expect to be applied. The Bord is fully entitled to regard that response from Shannon LNG as an admission that the present application does not match what they accept is "a wish list for an ideal site". There is no objective reason why the Bord should depart from that standard when assessing this application. The Bord has the opportunity, as well as the Statutory obligation to maintain the highest possible standard and the Company's statement eloquently describes exactly what that standard is

RISK ASSESSMENT

a) SIGTTO clearly state in "LNG Operations in Port Areas: Essential best practices for the industry" that risk exposures entailed in an LNG port project should be analysed by a Quantitative Risk Assessment (QRA) study which "must involve the operations at the terminal and the transit of tankers through the port" (Section 2 page 5). Shannon LNG have only undertaken a QRA for the storage tanks on the shore, but no QRA has been done on the marine side of the operation. This is not in line with the industry's own best practice guidelines. The QRA includes a tanker on the jetty but it does not consider ship collision between two ocean-going vessels. It should be bourn in mind that tug boats themselves can also be a cause of collision

b) The SIGTTO standards also clearly state (page 7) that any risk-mitigating factors introduced - such as traffic control, exclusion zones around transiting tankers, tug escorts and specified limiting operating conditions of wind speed and visibility – should also be used in the QRA. This has not been done.

c) No QRA of intrusive risk exposures has been undertaken either. There are two categories of intrusive risk; that arising from intrusions threatening the physical integrity of the terminal and berthed tankers (e.g. heavy displacement ships), and that arising from the introduction of uncontrolled ignition sources.

d) Shannon LNG (in EIS Volume 2, section 3.10.2.3) states that “Shannon LNG understands that a more detailed Quantitative Risk Assessment (QRA) covering all navigational aspects of shipping will be undertaken by Shannon Foynes Port Company during development of the project”. This splitting of risk assessment responsibility is not acceptable and indeed dangerous. Furthermore this is contrary to the EU 1998 Aarhus Convention Directives, Directive 2003/4/EC and Directive 2003/35/EC which declare the right of the public to be informed on environmental impact and to be provided with the opportunity to make comments and have access to justice.

e) The Quantitative Risk Assessment is based on “Land-use Planning Advice for Kilkenny County Council in relation to Grassland Fertilisers (Kilkenny) Ltd at Palmerstown”. This is completely inadequate for a risk assessment of an LNG installation because the chemicals are different and the manner in which they leak is completely unique to LNG because it is at such a low temperature (-160 degrees).

f) One obvious and questionable claim in the QRA undertaken by the developer can be seen where only one of the four LNG storage tanks is covered by the inner zone contour in Figure 6.2 of the QRA on page 59. This means (using the criteria of table 5.1 on page 49) that it would be acceptable to build residential houses up against the remaining 3 LNG storage tanks even if the first tank leaks. This does not make sense and can only lead to the conclusion that the contours have been unrealistically tightened so as not to encompass current residential areas. We therefore object to this QRA which has not been made available to the general public.

h) We request more time from An Bord Pleanála to get our own independent technical assessment of the QRA undertaken by the developer because it has only been made available to us a very short time ago and is still not available to the general public.

i) Misapplication of Risk Assessment: Recently it has become popular on the international front to apply risk assessment to justify otherwise poor decisions not necessarily in the best interest of the public or the country. RA can be a very unwise tool to force the will of a powerful few on the uninformed public. One factor signalling some very poor applications of RA is the comparison to other risks that in a technical reality are not really related, especially as to consequences. Some consequences are so great that no matter what the probability the risks cannot be justified, especially if economic benefit to the decision makers is actually driving the poor application of this tool. A reality test in such poor applications is to ask what the real liability of the organisation is, if their risk call (aka their key technical “facts” assumptions) should prove wrong. Are their liabilities, both economic and criminal, for reckless decisions shall we say, limited by layers of attorneys citing loopholes, are the real assets moved off shore or to another country? What are the real corporate

risks here if the RA is incomplete, inaccurate, or poor?

SITE SELECTION

SIGTTO clearly state criteria which must be followed in “Site Selection and Design for LNG Ports and Jetties”. These include (page 12):

Find a location suitably distant from centres of population

Provide a safe position, removed from other traffic and wave action. For an “LNG carrier of about 135,000 m³ capacity, the waves likely to have such effects are those approaching from directly ahead or astern, having significant heights exceeding 1.5 metres and periods greater than 9 seconds” (page 7). The EIS submitted by Shannon LNG proposes (volume 1 page 3) to design a jetty capable of taking ships with a capacity of up to 265,000 m³ of LNG so the port criteria must satisfy this capacity of ship

These criteria seem to be unobtainable given the proximity of the villages of Ballylongford, Tarbert and Killimer (all 3 miles from the proposed gas terminal) and the huge amount of ships using the estuary already. Also, windage has to be accounted for because the specific gravity of LNG is a lot lower than oil and so the ship runs a lot higher on the water.

MOVING SAFETY ZONE

SIGTTO clearly state in “Site Selection and LNG Operations in Port Areas: Essential best practices for the industry”, that it is sound practice to establish a cordon sanitaire or exclusion zone around a transiting gas tanker. “Where traffic is proceeding in the same direction as the tanker the zone may extend some 1 to 2 miles ahead of the gas carrier, a distance determined by the distance required to bring the following gas carrier safely to a stop. Traffic following the gas carrier should be excluded for a similar distance, allowing scope for the gas carrier to slow down to manoeuvre without it being impeded by the approach of following ships. In general, traffic should not cross closer than 1.5 miles ahead or 0.5 miles astern of a gas carrier” (page 15).

a) These conditions have therefore an effect on the traffic moving through the estuary towards Tarbert, Moneypoint, Foynes, Aghinish and Limerick, especially since Shannon LNG have plans for 125 ships a year coming to the gas terminal

b) This also has an effect on the Tarbert-Killimer car ferry.

c) This also has an effect on all leisure boats using the estuary, including dolphin watchers in this SAC area of the Lower Shannon and the boats from Saleen Pier.

d) Furthermore, the exclusion zone will prevent other sea-based industries setting up in the land bank as they will not be able to access the site when LNG tankers are at port.

ENVIRONMENTAL POLLUTION: SEAWATER USE POLLUTING THE SHANNON ESTUARY:

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 EIS (volume 2 page 63, section 3.6.3.2), 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. 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 area (see attachment 4) . 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 seawater (see attachment 7, section 3.5.2.3). 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 (see attachment 6) – therefore constituting waters that must be protected under the EU habitats directive.

The waters of the Shannon can be protected using an alternative heating solution e.g. a **closed-loop vaporiser** but this will prove more costly for Shannon LNG.

Concern also has to be expressed on the effect of the additional surface water runoff from the site and water supply to and from the proposed new pond (EIS volume 1 page 21) as well as the chemically-modified cooler seawater discharged from the vaporising process on the wetland habitats to the north-west of the site.

THE EU HABITATS DIRECTIVE

The Bord is bound to uphold the provisions of Art. 6 of the Habitats Directive and of the Irish implementing measures. It is plain that the provisions of Art 6(3) apply to this development. It is also plain that the development will by definition have negative implications for the lower Shannon Estuary candidate SAC. The Bord therefore has no basis for finding that the development will in the words of the Directive, “ not adversely affect the integrity of the site”.

The applicant itself does not purport to claim that the development comes within the provisions of Art. 6 (4) of the Directive and in our view they are quite correct not to attempt to make any such claim.

It is therefore not open to the Bord to grant permission.

We also rely on the protection afforded under European and Domestic law to the Ballylongford Bay proposed Natural Heritage Area and the Shannon-Fergus Special Protection Area in submitting to the Bord that the impacts of the development also mandate the Bord to issue a refusal.

The ecological sensitivity of the area has been recognised in the Kerry County Development Plan (see appendix 22) in declaring both Ballylongford Bay and Tarbert

Bay as areas of Ecological Importance. For this reason we object to any environmental damage to this area.

The Environmental Protection Agency, in its 2006 report on water quality in Ireland (see attachment 23) emphasised the need to have, under the Water Framework Directive (WFD)(2000/60/EC) all waters, both surface and groundwater in good or higher status by 2015. We therefore object that the use of the Shannon waters as proposed in this planning application directly ignore or obligations under the Water Framework Directive.

PROJECT SLICING

Shannon LNG is artificially cutting 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 (Environmental Impact Assessment) directive, which requires that “projects” likely to have significant effect on the environment – not parts of projects – are subject to the assessment.

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.**

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” (EIS volume 1 page5).

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”.

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”.

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, 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.

LIMITED GAS SUPPLY

The justification for the project being that the supply of gas to Ireland is not assured must be questioned and it cannot be assumed that the proposed gas terminal is of overriding national interest. Reference has been made to the threat from the Russian pipeline. It must be pointed out that

A gas pipeline also exists from Norway to the UK (see attachment 8). After the

start up of the Langeled pipeline from Norway's Sleipner platform to the UK in the autumn of 2006, shockwaves were sent through the market. "History was made when over-the-counter prices fell to negative territory for the first time".

LNG terminals in the rest of Europe provide an indirect source of gas through the European network.

Gas has been discovered off the coast of Ireland

Shannon LNG is giving no guarantees of supply whatsoever. It is assumed that the intention of the gas industry is to make LNG a commodity product where more gasification terminals increases liquidity in the market and the LNG tankers can change routes more easily if the spot price of LNG changes. From the Poten & Partners report (see attachment 8) Ofgem, the UK regulator, had to invoke use-it-or-lose-it provisions to stop BP and Sonatrach from diverting cargoes elsewhere to take advantage of price movements. Shannon LNG do not want the same types of provisions as can clearly be seen from the pre-planning consultation documents from An Bord Pleanála.

Gas is still a fossil fuel and when the whole supply chain of LNG is considered from the extraction, liquefaction, transport and gasification stages it is thought that LNG is no cleaner than coal. This contradicts our national commitments signed up to in the Kyoto Protocol

LNG: UK Gas Sellers Face Looming Supply Glut

Poten and Partners have issued a report on their website of a looming glut of LNG in the UK market which should guarantee the supply of LNG to Ireland (see attachment 8). They state that a rapidly expanding import infrastructure in the UK threatens to outstrip requirement by a large margin. "In addition to Langeled, operation of the BBL and Tampen pipelines from the Netherlands and Norway will add 100 Bcm/y of new import capacity by 2010, equivalent to half the country's demand." The report also claims that "LNG import capacity will grow ten-fold during the same period". "This is thanks to the new dockside regasification facility at Teesside in northeast England and two grassroots terminals under construction at Milford Haven in Wales, known as Dragon LNG and South Hook", they add.

The Government White Paper, "Delivering a Sustainable Energy Solution for Ireland", the Energy Policy Framework from 2007 -2020 (see attachment 9 section 3.3.2), states that in implementing strategic goal 2 (ensuring the security and reliability of gas supplies):

"The UK is now the source of some 87% of our natural gas and the UK's own demand for imports is growing strongly. Norway will remain a significant supplier of gas to UK in the medium term. Ireland's location in Europe from the view-point of gas supply sources is becoming less peripheral. In the last 12 months the UK has achieved a significant increase in gas import capacity through accelerated infrastructure developments with resultant benefits for Ireland. Both pipeline and LNG capacity has increased significantly. These include the Langeled pipeline from Norway, the new pipeline from the Netherlands and new LNG terminals at Milford Haven. Further expansion of LNG capacity and gas interconnection is underway in the UK and Europe which will benefit Ireland in terms of security of wholesale gas supplies within this regional market... the prognosis for gas supplies is relatively secure as a result".

The White paper goes on to state:

“We will put in place an all-island strategy by 2008 for gas storage and LNG facilities in light of the outcome of the all-island study”. This would represent an independent strategic view of LNG facilities, rather than depending on the non-independent representation by Shannon LNG. “He who pays the piper, calls the tune”.

Therefore, while awaiting the government’s all-island strategy for LNG facilities and while noting that “the prognosis for gas supplies is relatively secure”, we strongly bring to An Bord Pleanála’s attention that there is no over-riding urgent, strategic imperative or immediate need for an LNG terminal in Tarbert and that therefore, the “National Interest” cannot be used as an excuse to prime over and ignore the dangers being posed to the safety of the nearby populations in Clare and Kerry and the environmental damage that will be suffered on the SAC waters of the Lower Shannon which must be protected under the EU Habitats Directive if the development is given the go-ahead.

ALTERNATIVE LOCATION FOR AN LNG TERMINAL

The Second International Conference of Renewable Energy in Maritime Island Climates held in University College Cork in April 2006 suggested that Cork, close to the Kinsale Gas Field, would be an ideal site for an LNG terminal (see attachment 10):

“In the longer term it is important to fully explore and maximize geographical diversification in gas supply. One potentially promising option is through LNG (liquid natural gas) trade. This would provide give possibility to transfer gas from remote countries (Algeria, Nigeria, Malaysia, Trinidad and Tobago, United Arab Emirates and Qatar), without using pipelines, which are not economically viable. An LNG terminal in Ireland could be constructed near Kinsale Gas Field, connected to the gas platform, thus the existing gas pipeline from the gas field to Inch can be used. In this way, LNG could be used provide at least a quarter of national gas demand or be sufficient entirely for the Cork area. LNG can also be used as seasonable gas storage at the LNG plant (liquefaction and storage during warm season and vaporisation and injection into local pipelines during cold period). This service can increase the volume of storage in Ireland, which is currently limited to what is contained within the pipelines and remaining reserves at the Kinsale Gas Field.”

The Second International Conference of Renewable Energy in Maritime Island Climates held in University College Cork in April 2006 also noted (see attachment 10) that:

“Germany has already started the construction of a gas pipeline from St-Petersburg to Germany under the Baltic Sea, avoiding borders. This is expected to provide more reliable supply from Russia to the West by 2010”.

In 2006, a natural gas storage licence was granted to Marathon Oil Ireland Limited at parts of the Kinsale facilities (including the Southwest Kinsale Reservoir and wells, offshore platforms, pipelines, compression, processing plant and the shore terminal) used from time to time to inject, store and withdraw natural gas (see attachment 21, schedule 1 page 19) . This would seem to suggest that the Kinsale Reservoir would be a more ideal site for strategic gas storage than Kilcolgan.

PUBLIC ACCESS TO INFORMATION, PUBLIC PARTICIPATION AND ENVIRONMENTAL IMPACT ASSESSMENT

Shannon LNG submitted a risk assessment to the Health and Safety Authority 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.

However, the risk assessment has never been made available to the general public and neither has it been submitted to An Bord Pleanála. This means that the public will not have access to vital environmental information (e.g. the environmental impact of an LNG leak) before the deadline of November 16th and people who would make 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.

This issue can be solved by an order that the HSA or Shannon LNG produces both the Risk Assessment submitted and the HSA assessment to an Bord Pleanála and that this information be disclosed to the general public. **Further submissions will have to be allowed from the general public – not only oral (for example in an oral hearing) but more importantly in written submissions.** This is to take into consideration people who would be unable to speak at an oral hearing but who would have serious concerns they could put in writing. These written submissions will therefore have to be allowed from all members of the public who have not made a submission before November 16th in order to maintain transparency in the planning process.

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.

We as members of the public concerned have been given 7 weeks to prepare this submission to the bord. 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 the Bord in turn will rely on that opinion in the context of the Seveso II Directive. By the time we are eventually able to access the material to examine it further the Bord may have already dealt with the application on an erroneous assumption about the contaminants in the LNG. The Bord 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 Bord to apply fair procedures. There are several other aspects which are in breach of our rights including:

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 so that it can be advised on how to present the application. The Bord 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 the Bord 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.

The Applicants have been granted ample time to liaise privately with the Bord, 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 12 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.

ORA NOT DOWNLOADABLE

In a public meeting held by Shannon LNG on October 29th 2007, it was stated that the QRA would be available to the general public over the Shannon lng website. However, this has never been downloadable and has therefore never been available to the general public. This was reported by Catriona Griffin to An Bord Pleanála and was noted by the Bord.

BUILDINGS TO BE DEMOLISHED

We object to old buildings being demolished as they represent a history of all the people that lived there over the centuries. The old stone buildings also represent our national heritage as they are built in the style of the region. As these houses are also used by bats, we object that the homes of the bats will be destroyed, contrary to the Wildlife Act 1976/2000 and the EU Habitats Directive.

RESIDENTIAL AMENITY

We object to the detrimental affect of the proposed development on the lives of the nearby residents and general public.

The Environmental Impact Statement anticipates (EIS volume 1 page 17) that construction work will take up to 4 years

The Environmental Impact Statement anticipates (EIS volume 1 page 17) that construction activities will require 24-hour working at the site.

Added to this are the enormous changes to the visual landscape proposed (EIS volume 1 page 11).

The noise and vibration impacts from construction traffic and blasting (EIS volume 1 page 17 and 18) are expected to be within the EPA limits. However, this does not take account of the fact that this area currently has hardly any noise whatsoever as it is on a lonely coastal country road and that the changed level of noise over many years is unacceptable.

In addition, Ballylongford village is not designed to take the huge increase in construction traffic expected.

Trucks will come from Tarbert to the site but workers cannot be prevented from approaching the site from Ballylongford and no upgrade of the road between Kilcolgan and Ballylongford is proposed. This very winding road is therefore

going to prove to be a death trap for the many people that currently walk on this road as a leisure activity.

We are afraid that children might cut themselves on the barbed wire fencing proposed around the site.

We object to the storage tanks proposed at 50 metres height and want them put underground on visual impact and safety grounds

We object to the blight on the landscape from the water.

Tourists visiting the County of Kerry after crossing over the Shannon on the Ferry from Killimer to Shannon will not want to pass a dangerous industrial zone as proposed and this will have a hugely negative impact on the tourism sector in the north Kerry coastal regions beyond Ballylongford (Asdee, Beale, Ballybunnion). Furthermore, the site will not be in keeping with the county's reputation as one of outstanding beauty and will destroy our image.

The environmental damage to the water caused by 100 million gallons of cooled, chlorinated water being daily discharged into the estuary will have a negative impact on the oyster farming on Carrig Island at the other side of Ballylongford Bay as well as the reputation of Ballylongford as it hosts the Ballylongford Oyster Festival every year (see attachment 18).

The residents in the area surrounding this proposed development will have to live with the constant fear that an accident may happen at any time and this will be a constant source of worry and fear, no matter how long the terminal works without an accident. This is unfair to burden an innocent population with this threat and residual risk.

The EIS does not include the 2.9 metre barbed wire fencing in the photo montages and this is giving a misleading image of the full visual impact of the proposed development

The EIS does not include the proposed gas power station in the photo montage and this is also giving an extremely misleading image of the full visual impact of the proposed development.

We object that the photo montages in the EIS do not represent the true size of the tanks and ask that this be confirmed independently.

We object that the huge construction traffic will effect the safety of the children on the school bus routes

RIGHT OF WAY

The EIS (volume 2 section 15.5.2) states that the right-of-way on the farm track at the western boundary of the LNG terminal site used by anglers to access the shore "will not be accessible to anglers when the LNG terminal is operational". We object to this.

The EIS (volume 2 section 16.14) claims that there are no registered rights of way or wayleaves on the site. We object to this because the site has always been used to access the shore for swimming, for angling etc by all the Kilcolgan residents, and to access the site owned by Stevie Lynch and John O'Connor of Lislaughtin.

HESS LNG's OTHER LNG TERMINAL REFUSED PERMISSION IN THE USA

The Weaver's Cove site (see <http://www.weaverscove.com/aboutus.html>)describes Hess LNG as follows:

"Weaver's Cove Energy, LLC, is owned by Hess LNG, LLC, which is a joint venture owned equally by Poten & Partners and Amerada Hess Corporation. A team of professionals that are among the most experienced and reputable executives in the global LNG and energy industry manages Weaver's Cove

Energy. The project team members have decades of experience in the design, development and operation of large energy projects around the world, as well as right here in Massachusetts.”

One newspaper article described it as follows:

“The river that runs past a proposed liquefied natural gas terminal in Fall River isn't safe for frequent traffic by massive LNG tankers, the Coast Guard ruled Wednesday in what could be a fatal blow to the controversial project (see attachment 11)”

And another paper said:

“BOSTON --A proposed liquefied natural gas terminal in Fall River may have been dealt a fatal blow.

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The Coast Guard has ruled the river approaching the Weavers Cove Energy project is unsafe for navigation by massive LNG tankers.

The decision affirms concerns the Coast Guard expressed last year. The agency has since done an extensive review of the project.

A major problem is the relatively short distance between two bridges on the Taunton River. The Coast Guard found the safety risks of the 700 foot long, 80 foot wide tankers navigating the 1,100 foot gap were too great.

A Coast Guard spokesman says the ruling "kills the project, as proposed."

Weavers Cove officials did not immediately return calls for comment on the ruling” (see attachment 12 and 13).

The real lesson to be learned from the debacle at Weaver’s Cove is that Hess LNG were stopped from building an LNG terminal on safety grounds even though they claimed that what they were proposing to do was safe. Our interpretation of this is that, no matter what the obstacle, Hess LNG will claim that they can make it work and ignore their own standards of Best Practice and put people’s lives at risk in order to “clinch the deal”. This further proves that Hess LNG is not capable of self-regulation and the independence of their own risk and environmental assessments have now to be seriously questioned. Furthermore, the increase in LNG traffic all over the world will only increase the risk of an accident and this only accentuates the need for the implementation of the strictest safety standards. We therefore implore An Bord Pleanála to refuse planning on safety grounds.

ACCOUNTABILITY

Shannon LNG is described as a wholly-owned subsidiary of Hess LNG Limited in the Environmental Impact Statement submitted by Shannon LNG to An Bord Pleanála (Volume 1 page 1). However, it has not been pointed out to An Bord Pleanála that Hess LNG is an offshore company incorporated in the Cayman Islands (see attachments 15 and 16). 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 life. However, Shannon LNG has no assets of note. 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 shell 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.

Hess Corporation itself has never proposed that it could accept from the outset all responsibility for any environmental or human losses at the site for which Shannon LNG itself (or any other related companies) could be held liable as if it still owned the site and operations and that this liability would not be given away or sold without the express permission of the local planning authority in Ireland (Kerry County Council). This would have had the added advantage of creating an incentive for Shannon LNG to maintain the highest environmental and safety standards.

However, we object to the fact that an offshore company controls the private company that is applying for planning permission to construct this dangerous LNG terminal in Tarbert.

LNG CONTRIBUTING TO GLOBAL WARMING

In its report on LNG (see attachment 17), Greenpeace found that the use of natural gas that has been liquefied and transferred across the Pacific reduces the difference between natural gas power plant CO2 emissions and coal power plant emissions by nearly half. However, it also found that the development of LNG terminals would open up nearly limitless quantities of natural gas to the energy markets and that this shift threatens to turn natural gas, previously viewed as a “transitional” fuel, into a permanent source of global warming gases. This surely goes against the spirit of the Kyoto Protocol and we therefore ask An Bord Pleanála to note this and refuse planning permission for the project. Furthermore, this trend towards an increased dependence on LNG increases reliance on environmentally destructive fossil fuels and significantly delays the possibility of moving towards renewable energy sources by creating a costly infrastructure for LNG.

Furthermore, the idea of building a Gas Power station on the site (EIS volume 1, page 5) will increase the dependency on LNG as a permanent fuel rather than a transitional fuel and we object to this result.

DISAGREEMENT AMONG EXPERTS ON THE DANGERS OF LNG

A report for the US Congress was undertaken by the United States Government Accountability Office (see attachment 14) with advice from 19 of the world’s top international LNG experts. The startling findings from this report was that even they seem unable to agree, hence the reports conclusion that the US DOE should carry out further tests on spills of LNG. We therefore also feel that due to the uncertainty in judging the risk to people’s safety, An Bord Pleanála should apply prudence and rule against this planning application.

In The GAO Report for Congress (see attachment 14) the section on Cascading Tank failure is illuminating as it states that the worst case scenario is a small hole in an LNG carrier’s containment; this is because the LNG Pool Fire will last longer close to the ship; so giving more time to heat the adjacent tank. A big hole allows the LNG to empty quickly from the tank in question so limiting the time any fire has to heat the adjacent tank. For this danger posed to the nearby residents we ask once again that An Bord Pleanála should apply prudence and rule against this planning application.

HOUSES NOT DISPLAYED ON SITE MAP

On the site map made available to the public, there are 6 houses missing – namely those of Raymond O'Mahony, Adam Kearney, Geraldine Carmody, Mrs. Kathleen Finnucane and two other houses belonging to the Finnucane family. We object that this is distorting the number of homes immediately adjacent to the site and question if this is also distorting the QRA.

NO BENEFIT TO KERRY

There is no plan to send any of the gas imported to Kerry. The only monetary benefit to Kerry shall be the rates that will be charged to the terminal and we object that this should influence the submission from Kerry County Council.

COMMUNITY ENGAGEMENT IN PLANNING

The final Report from the APaNGO project entitled 'community engagement in planning exploring the way forward' (see attachment 20) was launched at the international APaNGO closing conference in Brussels at the end of October 2007. The APaNGO project is one of the first studies of community engagement and involvement at the European level, covering findings from the seven Member States in North West Europe (Belgium, France, Germany, Luxembourg, the Netherlands, the Republic of Ireland, and the UK). It noted that the "legitimacy of any planning decision will vitally depend on the quality of democratic input to the process; without that input, decision-making itself will be discredited.

For this reason, and from the Aarhus Convention Directives on the right of the public to be informed on the environmental impact and being provided with the opportunity to make timely comments and have affordable access to justice, we therefore object that we do not have the financial means to challenge the EIS and QRA presented by the developer who has access to unlimited resources through Hess Corporation. This EIS and QRA are not independent. We need funds to challenge this with our own safety and environmental experts and therefore request that An Bord Pleanála puts those funds at our disposal in order to maintain transparency and equality in the planning process, given that this is for a complex chemical installation in a SEVESO II site.

QUESTIONABLE REZONING BY KERRY COUNTY COUNCIL

We object that the development is proposed on a green field site – even if it has recently been zoned industrial (EIS volume 2, section 4.6.3). In march 2007, the LNG site was rezoned from "Rural General" to Industrial (see attachment 29)

"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.'

If the LNG terminal goes ahead then the landbank will not be a deep-water

port as all other ships will be forbidden and unable to use the port. The creation of 50 long-term jobs does not constitute “major employment creation”.

The LNG terminal is in actual fact a hazardous chemicals installation, defined as the most dangerous of sites in EU legislation – a Seveso II site. This does not fall under the type of installation to be considered for the rezoned site because if it was the intention of Kerry County Development Plan to include hazardous sites within the landbank then Kerry County Council would never have given planning permission for the new houses currently being built (such as that of Jayne Kearney) less than 900 metres from the LNG tanks. Any new houses built after the LNG terminal is constructed would constitute “inappropriate development” which means that hazardous sites were never to be considered as appropriate development within the landbank.

This Seveso II site will sterilise the remainder of the site which means that the aim in the Kerry County Development Plan of “major industrial development and employment creation” cannot be fulfilled.

The County Manager stated that sufficient natural amenity lands had been reserved to the west of the site which included a walking route to Carrig Island. However, Carrig Island is at the other side of Ballylongford Bay and takes several miles by car to reach by driving through Ballylongford.

The County Manager went on to state that “the impact of development on the residential amenity of houses in the vicinity of zoned industrial land will be dealt with at the planning stage”. This clearly shows that the site is not intended for a SEVESO II development.

More importantly 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.”

This is reprehensible. **There is no evidence of an SEA having been undertaken** as required for a variation to a 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>). Without any information in the public domain regarding the scoping or the actual execution of an SEA (see attachment 32), this rezoning is fundamentally

unsound and invalid. Clare County Council does not even know that this is a SEVESO II development. This rezoning process is also being brought to the attention of the relevant authorities as we object that the variation and rezoning of this site has been undertaken in a highly questionable and indeed invalid manner. We therefore object to the planning application because we maintain that this land is not zoned industrial.

These points mean that An Bord Pleanála should rule that the proposed development does not conform to the Kerry County Development Plan for the site, nor to the Planning and Development Act and should therefore be refused planning permission.

OTHER ISSUES

We object to any possible movement by road of LNG, due to the dangers and want this to be confirmed by An Bord Pleanála.

We need An Bord Pleanála to rule clearly on the use that may be made of the rest of the landbank if planning permission is given to the developer. We object that the rest of the landbank will be sterilised. It must be remembered that if the Bord allows other installations be built on the site near the gas terminal then they will have an influence on the risk of an accident at the regasification terminal. A clear ruling on this matter must be made.

We need An Bord Pleanála to rule clearly on how close residential property may be constructed to the site. We object that people will not be allowed to build on their own property close to the site due to the dangers.

We need An Bord Pleanála to rule clearly on the exclusion zone it recommends for boat users on the Shannon Estuary and object that use of the Shannon will be hindered by LNG tankers.

We object that most of the statutory bodies informed of the planning application will not have time to make detailed submissions to An Bord Pleanála due to the minimum time scale of 6 weeks from the date of planning application. This is such a serious installation that considered opinions cannot be given in this short timescale.

Under Seveso II regulations, we insist that An Bord Pleanála, if it decides to accord Planning permission to the developer, gives a detailed ruling on the type of emergency plan to be put in place, both onsite and offsite, and insist on the implementation of an early-warning system to all residents within 12.4 kilometers, including (but not limited to) a form of public siren and information to be given to the same residents on how to react to this siren.

The Tarbert Development Association and The Ballylongford Development Association do not speak for the residents surrounding the Kilcolgan site and we object to any attempt to claim anything to the contrary as this does not represent local consultation as far as we are concerned.

Morgan Heapfy, Glencullare, asked Shannon LNG to elaborate on the exclusion zone in a written comment on one of the information days (see EIS Volume 4 , Appendix 1F) and this has never been answered in any format (other than the words “limited exclusion zone” (EIS volume 4 appendix 3c)) and therefore this does not represent consultation with the nearby residents. We object that the developer has always

maintained that the site is safe and has kept such a low profile in discussing safety issues that the general public has been completely unaware of the issues in the euphoria of having new industry and jobs coming to the area. This is completely against the spirit of the planning process and we object to this serious misrepresentation of the installation to our detriment and the developer's economic advantage.

We object to the application of the Strategic Infrastructure Act 2006 as it applies to this application as we are extremely worried about the possibility of "agency capture". By this, we mean that we are extremely worried that An Bord Pleanála may inadvertently become compromised by having too close an interaction with the developer during the decision making process. We expect An Bord Pleanála to maintain a professional distance from the developer and to inform us of all negotiations it has with the developer and to give us a right of reply to all correspondence between the developer and the Board. In the interest of public safety in this Seveso II development we require that all new information be disclosed to the public and that the public be allowed sufficient time to analyse the data and make further submissions, both written and oral.

A report on the LNG blast in Algeria (see attachment 24) mentions the contaminant gases that Lng is made up of. Note that when HSE, Sandia and other regulators do tests with LNG, it is with 100% pure Methane. We object that the level of contaminant gases to be shipped by Shannon LNG have not been disclosed and request that An Bord Pleanála ask the developer to state the level of contaminant gases they expect to have in the LNG shipments and whether they will vary depending on the origin of the LNG in order that a QRA be undertaken and analysed with this information in mind:

"A 1980 Coast Guard study titled "LNG Research at China Lake," states that LNG imported into this country is often far from pure, and it reveals that vapour clouds made from "impure" LNG actually explode as readily as the highly volatile LPG. When natural gas is super-cooled and turned into a liquid, as much as 14 % of the total cargo shipped as LNG may actually be LPG or other hydrocarbon fuels, according to the Coast Guard report. Natural gas contains these other fuels when it is pumped from the ground. LNG containing these so-called "higher hydrocarbons" is known as "hot gas" and has a higher energy content than pure methane. The Coast Guard report reveals that vapour clouds of LNG containing at least 13.6 % of these other fuels can detonate just like pure propane gas. The agency concluded in its report that this deserves "special consideration, as the commercial LNG being imported into the US East Coast has about 14 % higher hydrocarbons." "

Is the limited exclusion zone proposed by Shannon LNG around the LNG tankers taking into account the risk of an ignition source as well as the risk of a collision?

Lloyds Casualty Week dated September 16 2005 (see attachment 25, page 11/12) noted an LNG fire from a pipeline leak in Kalakama, Nigeria started a wild fire covering 27 square kilometres. We object that the developer has not included pipeline incidents in the QRA because the pipeline EIS has not even been completed. This shows the dangers in slicing a project into several separate projects for planning purposes.

What is the thermal flux that An Bord Pleanála would determine as acceptable? Is it 1.5 kw/m2.?

We object that the State does not determine the most suitable site in Ireland for an LNG terminal, rather than a biased private-sector company applying for planning permission.

We ask that An Bord Pleanála take account of the Buncefield Reports (<http://www.buncefieldinvestigation.gov.uk/index.htm>).

From speaking to people in Milford Haven it was noted:

Jobs increased initially but the unemployment rate increased when the jobs finished as some of the workers had settled down in the area

Rental costs were high during construction which made life more expensive for locals

Skilled labour (such as welders) were attracted away from local industry so some local business suffered as a result

There are other construction works on top of one of the tanks equivalent in size to a five-storey building. Will that be the same in Tarbert?

Dolphins used to be resident in the Haven but left and never came back

We object that this LNG terminal would increase or dependency on the Opec nations – contradicting Energy independence objectives (e.g. windfarms where we have best windspeeds in Europe)

We object that the permanent jobs to be created will not be for unskilled labour (see attachment 27), which means that it is likely that many will not be filled by locals.

We object that since the government is still giving licences for exploration that must mean more gas exists in the country

We want all archaeological sites protected (including the one near the jetty)

We object that the bird and sea life will be seriously impacted by the lights and the sounds

We object that the gas tanks will be visible from county Clare as that county will be expected to get all the disadvantages and none of the advantages (rates) from this development.

We object that we do not know if Shannon LNG has options to buy more land but need to know this as it would be an indication of their real intentions.

We object to the idea of dumping soil and stone from the site near to Scatterry Island.

The Climate Protection bill on the 3rd October was in the senate and it refers to a 3 % decrease per annum. Facilitating the importation and dependence on more fossil fuels like LNG goes against the spirit of the Climate Protection bill.

We object that an offshore location for a terminal would be safer than the onshore one proposed.

We object that the terminal could hit house prices. An article in the Kerryman newspaper dated October 17th 2007, page 5 predicts a 29% drop (see attachment 28).

No Material Safety Data Sheets (MSDS) have been supplied with the EIS and we object

that these have not been provided. We ask that An Bord Pleanála obliges the developer to provide these and allow us sufficient time to analyse them.

While all chemistry is dangerous, we agree that it is also feasible if the hazards can be contained. However, we object to the real problem here which is one of scale. 4 tanks of LNG represent 2400 tanks of gas.

We object that the HAZOP study is not available to enable us and the general public participate fully in the planning process as required by the EU EIA Directive. We ask that An Bord Pleanála obliges the developer to put it at our disposition.

“A HazOp study identifies hazards and operability problems. The concept involves investigating how the plant might deviate from the design intent. If, in the process of identifying problems during a HazOp study, a solution becomes apparent, it is recorded as part of the HazOp result; however, care must be taken to avoid trying to find solutions which are not so apparent, because the prime objective for the HazOp is problem identification. Although the HazOp study was developed to supplement experience-based practices when a new design or technology is involved, its use has expanded to almost all phases of a plant's life. HazOp is based on the principle that several experts with different backgrounds can interact and identify more problems when working together than when working separately and combining their results. “

The risks we are especially interested in examining in closer detail include (but not limited to);

Static electricity and how to control it.

Catastrophic damage in the pressurisation process.

Catastrophic damage at the stage where odours are added to the gas with mercaptans.

Catastrophic damage at the stage where the glycol reheats the LNG

We object that no trucks should be travelling to or from the site for 5 minutes before and after a ferry boat lands because it has been noticed that the existing road network in Tarbert cannot take ferryboat traffic as it is at the moment.

We object that the full height of the storage tanks was lied about. The EIS (volume 1 page 4) clearly states: “The tanks will be a low-profile design and will be approximately 96m in diameter and approximately 50.5m high”. This is extremely misleading as this EIS volume 1 – the non-technical summary – was widely distributed to the general public. From the drawings submitted to An Bord Pleanála (see attachment 31) it can be clearly seen that only the top of the concrete is 50.5 metres in height; the top of the tank elevation is 60.5 metres and the top of the pressure relief valve vent stack elevation is 71.5 metres in height. This means that **the tanks are 40% higher than stated** in the non-technical summary. This is highly misleading to the general public and therefore this has surely to lead, on its own, to this application being declared invalid. To add to that, Figure 3.14 (EIS Volume 3 part a) states that the height of the dome of the LNG tank is 10 metres lower at 50.5 metres. Which is it?

A clear example of the misrepresentation on the safety and environmental risks of the proposed LNG terminal that has taken place can be seen in the following wording in the brochure that was distributed by Shannon LNG in May 2006 which lead the general public to trust and believe (and because of no statements to the contrary from any of the statutory bodies) that this project was completely safe until now: (see attachment 26 page 7)

“Could the tankers leak?

In the unlikely event that there is a release from a tanker, the LNG will evaporate. That means the liquid will warm up and change back into a gas. This gas would quickly dissipate because it is lighter than air. Because the LNG is not transported under pressure any leak would evaporate more slowly and cover a much smaller area than a pressurised gas such as propane or butane. Compared to petrol or home heating oil, LNG is far less flammable and will not pollute the environment if it spilled”

Will there be an environmental impact?

Once it is in operation, the plant would have very few impacts – LNG import terminals are quiet, there is no smell, no smoke, no steam, and no noise that can be heard beyond the site boundary”

Such reassurance must be capable of objective verification. That is impossible as matters stand with this application. In addition the public concerned, of which we form part, have a legal and human right to participate effectively in any such verification process. We are being very effectively shut out from that process at present in all but name.

This is one of the first significant applications to come before the Bord under the Strategic Infrastructure Act. How the Bord deals with it can be expected to set a bench mark for the future. We ask the Bord to refuse the application.

The Flight path of flights from Shannon Airport and the dangers they pose have not been assessed at all in the risk assessment. We object that this has not been done because of the potential of disasters occurring from plane crashes – accidental or otherwise as was apparent in the tragic 9-11 disaster in New York. It should also be noted that Hess Corporation is an American company and therefore represents a possible future target given the current political situation in the world.

FUNDING

Finally, we wish once more to flag the issue of requiring funding to be provided for our further participation if the process continues beyond this point. Funding would be essential to enable us to retain the necessary expert assistance in order to defend our personal, family, property, and public participation rights.

SIGTTO MEMBERS

SIGTTO members include (source <http://sigtto.re-invent.net/dnn/Members/tabid/70/Default.aspx>) :ABS Europe Ltd, Abu Dhabi Gas Industries Ltd, Abu Dhabi Gas Liquefaction Co Ltd, Adriatic LNG, Aegis Logistics Ltd, AES Andres, Alloccean Ltd, Anglo-Eastern Ship Management (Singapore) PTE Ltd, Antwerp Gas Terminal N.V., Atlantic LNG Co. of Trinidad & Tobago, Bahia de Bizkaia Gas, S.L., Barber Ship Management AS, Bergesen Worldwide Gas ASA, BG Lng Services LLC, BGT Limited, BHP Billiton International Inc, Bibby Line Ltd, BP Group, Brunei LNG Sdn Bhd, Bureau Veritas, Calor Gas Limited, Carbofin Energia Trasporti S.p.A., Ceres Hellenic Shipping Enterprises Ltd, Chemikalien Seetransport GmbH, Cheniere LNG INC, Chevron Shipping Company LLC, China LNG Shipping (International) Company Ltd, Chinese Petroleum Corporation, Chubu Electric Power

Co Inc, Chugoku Electric Power Co Inc, CLP Power Hong Kong Limited, Cometco Shipping Co, ConocoPhillips Marine, Depa Gas Corporation of Greece, Det Norske Veritas, Dominion Cove point LNG, Dorchester Maritime Ltd, Dorian (Hellas) S.A., Dragon LNG Ltd, Dynagas Ltd, Eagle Sun Company Ltd, ECO ELECTRICA, Egyptian LNG, Eitzen Gas A/S, El Paso Corporation, Empresa Naviera Elcano S.A., Energy Transportation Corporation, ESKOM Holdings Ltd, Excelerate Energy LP, Exmar N.V., Exxonmobil Development Company, Fleet Management Limited, Freeport LNG Development, L.P., Gaz de France, Gazocean Armement, Germanischer Lloyd AG, Golar LNG Limited, Grain LNG LTD, Guangdong Dapeng LNG Company Ltd, Hazira Port Private Limited, Hyundai Merchant Marine Co. Ltd, IINO Kaiun Kaisha Ltd, International Gas Transportation Co Ltd, Iwatani International Corporation, Kansai Electric Power Co Inc, Kawasaki Kisen Kaisha Ltd, Knutsen Oas Shipping, Korea Gas Corporation, Kuwait Oil Tanker Co S.A.K., Kyushu Electric Power Co Inc, Lauritzen Kosan A/S, Leif Höegh & Co ASA, Liquefied Natural Gas Limited, Lloyds Register, LNG Japan Corporation, Louis Dreyfus Armateurs S.N.C., Malaysia Int Shipping Corp Berhd, Malaysia LNG Sdn Bhd, Maran Gas Maritime Inc, Marine Service GmbH, Marubeni Corporation, Medway Ports, Milford Haven Port Authority, Mitsubishi Corporation, Mitsui & Co Ltd, Mitsui OSK Lines Ltd, Möller, A.P., Naftomar Shipping & Trading Co, National Gas Shipping Co. Ltd, Nigeria LNG Limited, NIPPON Oil Corporation, Norgas Carriers A/S, North Atlantic Pipeline Partners, L.P., Northern Marine Management Ltd, NYK Line (Nippon Yusen Kaisha), Oman Liquefied Natural Gas, Osaka Gas Co Ltd, OSG Ship Management Ltd, Pertamina Transportation LNG-JMG, Petredec Limited, Petrobras Transporte S.A. – Transpetro, Petronas Gas Berhad, Petronet LNG Limited, Phoenix Park Gas Processors LTD, Pronav Ship Management Inc, PT Arun NGL Co, PT Badak NGL Co, Qatar Gas Transport Company Limited, Qatar General Petroleum Corporation, Qatar Shipping Company Q.S.C., Qatargas Operating Company Limited, Ras Laffan Liquefied Gas Co. Ltd, Rompetrol Petrochemicals, Sakhalin Energy Investment Co Ltd, Santos Ltd, Saudi Arabian Oil Co (Saudi Aramco), Seariver Maritime Inc, Sempra Lng, Shell International Trading and Shipping Co Ltd, Shipping Corporation of India, Shizuoka Gas Co Ltd, Single Buoy Moorings Inc, SK Shipping, SNTM-HYPROC, South Hook LNG Terminal Co Ltd, Statoil A/S, Suez Global LNG Limited, Suez LNG NA LLC, Talisman Energy, Tamananeftegas, Teekay Shipping, Terminal de LNG de Altamira S. de R.L. de C.V., Texaco Angola Natural Gas Inc, The Bahrain Petroleum Co B.S.C., The Egyptian Operating Company (elng), Thome Ship Management Pte. Ltd, Toho Gas Co Ltd, Tohoku Electric Power Co Inc, Tokyo Electric Power Co Inc, Tokyo Gas Co Ltd, Total Indonesie, Total S.A., Trunkline LNG Company, LLC, Unicom Management Services, United Gas Derivatives Company, V. Ships Limited, Varun Shipping Company Ltd, Weavers Cove Energy, Wesfarmers LPG Pty Ltd, Woodside Energy Ltd,

ATTACHMENTS

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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>

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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.sfpca.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.



***Safety before LNG &
Kilcolgan Residents Association***

Protecting the Shannon Estuary and its people

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1 December 2008

KILCOLGAN RESIDENTS ASSOCIATION & SAFETY BEFORE LNG

Oral Hearing Submission

**on proposed Shannon LNG Natural Gas Pipeline and proposed compulsory
acquisition of lands thereon from Kilcolgan, County Kerry to Foynes, County
Limerick**



Listowel Arms Hotel
December 1st 2008

1 December 2008

Opening Submission to An Bord Pleanála Oral hearing into proposed Shannon LNG pipeline.

Mr Inspector, ladies and gentlemen,

My name is Johnny McElligott and I am speaking on behalf of myself, the 'Kilcolgan Residents Association' (KRA) and the 'Safety Before LNG' group (SBLNG).

After the previous An Bord Pleanála oral hearing into the LNG terminal (reference PA0002) and prior to the High Court challenge to that decision by KRA member Raymond O'Mahony and 'Friends of the Irish Environment' (FIE), I was elected PRO of the Kilcolgan Residents Association at the most recent meeting of the Association in October 2008. A vote of confidence in our strategy of complete opposition to this LNG project in its entirety was carried at this meeting with only one vote opposing this strategy. I therefore have a mandate to speak for the KRA.

The 'Kilcolgan 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. Ms. Kathy Sinnott M.E.P and Mr. Tony Lowes for "Friends of the Irish Environment" have already signed our written submissions on the pipeline and all submissions by 'Safety Before LNG' therefore represents their views too and are to be construed as such in any legal proceedings that may ensue following these proceedings.

SBLNG and the KRA are hereby once more formally objecting to the proposed Shannon LNG Natural Gas pipeline and compulsory acquisition order, referenced GA0003 and DA0003, in their entirety, on health, safety, environmental and strategic planning grounds.

We submitted a detailed written opposition to this current application and I do not propose to read that submission out in its entirety as it is already part of the officially submitted documentation.

There are five main problems with this planning application which can no longer be ignored by An Bord Pleanála if it is to comply with its statutory duties in assessing this planning application and which we are now claiming is illegal for them not to do so:

1. There has still been no LNG Marine Risk Assessment because the HSA's remit stops at the water's edge;
2. No strategic environmental assessment (SEA) has been undertaken;
3. No consideration has been given to the consequences of an LNG accident or the consideration of an emergency plan;

4. 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*”¹, representing an official government policy document has been ignored by An Bord Pleanála in addressing the question of alternative sites; and
5. It is our contention that the interactions between the decision-making bodies (such as 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 Bord Pleanála still managed to make a decision on the LNG terminal without any of these main issues being considered. We therefore object that An Bord Pleanála is cutting corners in this planning application because it based its decision on the limited remit of the HSA that does not consider all risks of the LNG project such as an LNG spill on water beyond the shoreline, nor deliberate damage being caused such as from a terrorist action. In our opinion, An Bord Pleanála is motivated primarily by its objective of giving a speedy planning decision under the new powers it obtained under the fast-track planning process of the Strategic Infrastructure Act 2006. We believe that for An Bord Pleanála to ignore these main issues in its decision-making process and to make such decisions without independent relevant expert advice is cavalier, negligent, inadequate, inappropriate, illegal and criminal.

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.

New Issues now being raised by the KRA and SBLNG since its written submission on the pipeline:

1. We have no legal support as we cannot afford it. We requested legal aid from An Bord Pleanála for this oral hearing on November 18th 2008 but this was refused by the Board on November 20th. We therefore now expect An Bord Pleanála to ensure that our legal interests are represented to the maximum as we are already taking part in this process at a disadvantage and therefore under protest in this regard.
2. We have engaged the services of Dr. Peter North to examine the technical and safety issues surrounding this application and he will speak separately on his findings. We expect that An Bord Pleanála will cover his costs as his intervention is of great importance in understanding the technical and safety issues at stake.
3. On November 19th 2007, a formal complaint was lodged with the Office of the Ombudsman concerning the refusal of Kerry County Council to carry out a Strategic Environmental Assessment 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

¹ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf>

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). **A decision is still awaited on this complaint** . We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the outcome of this issue before making any decision.

4. On January 6th 2008 the Kilcolgan Residents Association exercised its 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. It is 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. It is also 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. **A result is still awaited on this petition**. We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the outcome of this issue before making any decision.
5. On January 23rd 2008 the KRA highlighted 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 stated on record at the An Bord Pleanála oral hearing in Tralee in January 2008²:

“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.”

We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the issues of the consequences of an LNG accident before making any decision.

6. In April 2008, 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 –

² <http://www.safetybeforelng.com/docs/DAY%203%20012308%20TRALEE%20LNG.PDF> page 49

November 2007”³ jointly commissioned by the Department of Communications, Energy and Natural Resources and the Department of Enterprise, Trade and Investment, Northern Ireland, which was published in November 2007 was finally only released in Executive Summary format to the general public. This was AFTER planning permission was given for the LNG terminal and this delay was, we believe, also politically motivated because the report contained valuable information on high potential alternative storage sites and strategies which could be ignored in the planning decision but which could not be reasonably ignored in any Strategic Environmental Assessment.

7. On September 20th 2008, ‘Radio Kerry’ quoted the Minister for the Environment, Dr. John Gormley T.D, as stating that the best route for the pipeline has already been chosen as follows:⁴

“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.”

On September 22nd 2008 the Kilcolgan Residents Association wrote to the Minister to ask him if there is any point in the Kilcolgan Residents Association lodging a submission on the pipeline if, as he has 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”? **A reply to this question is still awaited.** We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the outcome of this issue before making any decision.

8. On September 30th 2008 a formal complaint was lodged with the Standards in Public Office Commission (SIPO) on a possible breach of ethics and conflict of interest by two Kerry County Councillors – that they both effectively prejudiced a Strategic Environmental Assessment Screening Report on the proposed Shannon LNG terminal. **A decision is still awaited on this complaint.** We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the outcome of this issue before making any decision.
9. 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, 2008, stated:

³ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf>

⁴ <http://www.radiokerry.ie/news/search.php> - Radio Kerry News September 20th 2008

*“In addition, Strategic Environmental Assessments (SEAs) would have to be imposed on all major projects, while the State must comply with EU environmental legislation”.*⁵

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.

A reply is still awaited from the Director of the EPA. We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the outcome of this issue before making any decision.

10. On October 15th, 2008 the Kilcolgan Resident Association’s lodged a complaint to the Office of the Director of Corporate Enforcement on a possible failure by the Auditor of Shannon LNG’s accounts to comply with statutory obligations⁶. The auditor did not sign or date the accounts and our complaint is that, in our opinion, the accounts of Shannon LNG Limited do not give a true and fair view of the state of affairs of the company. **A decision on this complaint is still awaited.** We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the outcome of this issue before making any decision.
11. On October 17th 2008 the Kilcolgan Residents Association and the ‘Safety Before LNG’ group lodged a detailed submission against the application by Shannon LNG for consent from the Commission for Energy Regulation (CER) to construct a natural gas pipeline under Section 39A of the Gas Act, 1976, as amended, from Kilcolgan, County Kerry to Foynes, County Limerick⁷. **A decision is still awaited on this application by the CER.** We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the outcome of this issue before making any decision.
12. On November 2nd 2008, at the Green Party Convention held in Clonmel, County Tipperary, Mr John Gormley T.D. Minister for the Environment, Heritage and Local Government, informs Thomas O’Donovan of the Green Party in North Kerry, that the Shannon LNG project would require a Strategic Environmental Assessment. On November 12th 2008, Safety Before LNG writes to the Minister and asking him if he can confirm if this is the case. The letter included the following statement:

“Could you please confirm that it is indeed your position that an SEA is required of the energy development projects on the Shannon Estuary? We note that one Green Party principle is that it is “against pollution of air, sea and land” and that planning, environment and education were the three core principles of the Green Party’s programme for government. We now believe

⁵ See “Irish Times” Thursday October 9, 2008 page 7

⁶ See ‘Pipeline Oral Hearing – Appendix 1’ Submission to CER on Shannon LNG pipeline

⁷ See ‘Pipeline Oral Hearing – Appendix 1’ Submission to CER on Shannon LNG pipeline

that the impact of the proposed LNG terminal, pipeline, SemEuro oil storage facility adjacent to the LNG terminal at Tarbert and another huge oil storage facility in Foynes supplying 15% of the country's oil leading to 610 extra oil and LNG tanker movements per year in these 2 areas alone warrant an SEA at the very least. This is such a serious issue going to the core of what the Green Party stands for (and is highly respected for) that you, as a Green Party Minister for the Environment, should be able to take a principled stand on it as the consequences of inaction are irreversible. We respectfully beg of you to address this issue as soon as possible."

We still await a reply to this request from the Minister. We now state that we are of the opinion that An Bord Pleanála is legally obliged to await the outcome of this issue before making any decision.

13. On October 2008, Finance minister Brian Lenihan announced details of a tax incentive to promote the relocation of Seveso-listed industrial facilities which hinder the residential and commercial regeneration of Cork docklands.⁸ Goulding Fertilizers has an exclusion zone of 400 meters in a radius surrounding the plant there. Why therefore can it be argued that the establishment of a Seveso II LNG site will encourage development when this is the opposite in Cork Docklands.
14. Rallappane House is only 300 metres from the Above-ground installation on the site. This proximity has not been considered in any risk contours as defined by the HSA. All the risk contours in the original planning application emanate from the LNG storage tanks.
15. 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. 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.** This is now the subject of a separate section 5 referral to Kerry County Council⁹ which we also request the Bord now takes into consideration.
16. Following the recent hijacking of oil tankers by pirates off the coast of Somalia, there has been no assessment of the risk of hijacking of an LNG tanker – as this has now moved into the realm of credible risk. This must now be assessed.
17. The need for an SEA is now more obvious than ever before given the following new information;

⁸ Sunday Business Post, October 19th 2008 - <http://archives.tcm.ie/businesspost/2008/10/19/story36870.asp>

⁹ See 'Pipeline Oral Hearing – Appendix 2' Section 5 referral to Kerry County Council.

- a. Kerry Deputy Jimmy Deenihan T.D, in the ‘Kerryman’ newspaper on November 19th 2008, has called for the establishment of an Energy Park status for the landbank¹⁰ as follows:
‘North Kerry TD, Jimmy Deenihan also welcomed the news calling for Shannon Development and the IDA to establish ‘energy park’ status for the landbank. “Synergy between the ESB and the LNG development should lead to an emphasis now on the landbank tapping into the vast opportunities that are being presented by green energy at present”’
 - b. The Department of Agriculture has confirmed that Shannon Development has made enquiries about a tree-felling licence in order to destroy the 200 acres of trees on the landbank. The previous oral hearing heard how residents could hide behind trees if there was an accident, so the removal of these trees must now be assessed for their impact on the current project
 - c. ESB employee John Fox announced in the ‘Kerryman’ newspaper on November 19th 2008 that Endessa plans to build a separate gas-powered power station adjacent to the current power station – not a replacement as follows:
“The Spanish company’s undertaking to build a gas-fired power plant alongside the existing plant within the next four years could mean even more jobs.”
This will still be 2 miles from the proposed pipeline route
 - d. The SemEuro proposal for a Whiddy Island-like oil tank farm adjacent to the LNG site is still active
 - e. A large oil storage facility catering for up to 15% of the country’s oil is being built in Foynes and the impact and risks of this, and corresponding tanker movements, was not assessed in the planning application for the terminal
 - f. In issue 5 of the November 2008 newsletter, Shannon LNG announced that a new company has been formed for the proposed Gas-powered power station that it plans to build on the landbank on the LNG site. This has not been considered in this application.
 - g. The high-powered electricity cables from the LNG plant and power station to Tarbert and their effect on the residents of the area and future development possibilities has not yet been assessed.
18. The latest studies by Carnegie Mellon University researchers show that imported LNG could have 35% higher life cycle greenhouse gas emissions than coal used in advanced carbon capture storage (CCS) power plants.¹¹ However, this will only be assessed by the EPA which will be too late for the consent process of An Bord Pleanála.
19. We have also questioned the solvency of Shannon LNG in our submission to the Commission for Energy Regulation (CER)¹². The CER does not plan to have an oral hearing in this matter. We still do not know how much the site is costing the

¹⁰ ‘Kerryman’ Newspaper, November 19th 2008 – ‘Green Light for Endessa move on ESB plants’ <http://www.kerryman.ie/news/green-light-for-endessa-move-on-esb-plants-1545486.html> and see ‘Pipeline Oral Hearing Appendix 3 - Green Light for Endessa move on ESB plants’

¹¹ <http://www.sciencedaily.com/releases/2007/08/070822132122.htm>

¹² See ‘Pipeline Oral Hearing – Appendix 1’ Submission to CER on Shannon LNG pipeline

developer and if they have the money to pay for it given the current world financial situation. This information has now therefore to be made available and we now formally request that An Bord Pleanála oblige the developer and CER to respond to these issues at this oral hearing.

20. No account has been taken of how and if an emergency plan can be implemented for the given site and project. Would it not be very stupid and illegal to allow a terminal to be built to find out then that an adequate emergency plan could not be implemented as required per the Seveso II directive?
21. The Tarbert Chamber of Commerce that supported the original planning application for the LNG terminal now no longer exists.
22. We object to the selective application by An Bord Pleanála of the EU Habitats Directive. Dredging for mussel seeds in Castlemaine Harbour was forbidden earlier this year due to the designated status of the area, putting the livelihoods of 70 families in Cromane alone at risk. How could this LNG project not be affected by the Habitats Directive given that it is on a much greater scale than mussel seed dredging?

Finally, it has to be noted that MEP Ms. Kathy Sinnott is the only public representative to have publically defended the people of North Kerry from the threats faced by this LNG project. She is the only local politician to have respected and fought for our constitutional rights.

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 and the HSA, 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).

Thank you.

Pipeline Oral Hearing Appendix 1: Submission to CER on Shannon LNG pipeline



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

17 October 2008

KILCOLGAN RESIDENTS ASSOCIATION

&

SAFETY BEFORE LNG

Submission on application by Shannon LNG for consent from the Commission for Energy Regulation to construct a natural gas pipeline under Section 39A of the Gas Act, 1976, as amended, from Kilcolgan, County Kerry to Foynes, County Limerick

17 October 2008

The Commission for Energy Regulation
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.

By Email only to: info@cer.ie

Re: Application by Shannon LNG for consent to construct a pipeline under Section 39A of the Gas Act, 1976, as amended.

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.

We are hereby formally objecting to any consent being given by the CER to Shannon LNG to construct a pipeline under Section 39A of the Gas Act, 1976, as amended, in its entirety, on health, safety, environmental and strategic planning grounds. We believe that the statutory bodies have dealt illegally and inadequately with the issues we have raised to date and believe that it would also, therefore, be inappropriate and illegal for the CER to accord any permits until our issues have been dealt with in an acceptable and adequate manner.

Please consider the following issues we are now raising:

1. Please consider all the issues we raised in our submission to An Bord Pleanála on October 7th 2008¹³ against the Shannon LNG pipeline.
2. Doctor Mary Kelly, director of the Environmental Protection Agency, speaking at the launch of the agency's fourth report – "2008 Ireland's Environment" - in Dublin, on October 8th, 2008, 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".¹⁴

We are now requesting that an SEA be therefore completed before any consents are even considered by the CER.

¹³ See CER Appendix 1: KRA and Safety Before LNG submission to An Bord Pleanála on Shannon LNG pipeline and compulsory acquisition order reference GA0003 and DA0003 – October 7th 2008

¹⁴ See "Irish Times" Thursday October 9, 2008 page 7

3. Please consider the KRA submission on the Draft Heads of Petroleum Exploration and Extraction (safety) Bill, 2007¹⁵.
4. Please consider the Kilcolgan Resident Association's complaint to the Office of the Director of Corporate Enforcement on October 15, 2008 on a possible failure by the Auditor to comply with statutory obligations.¹⁶ In summary, our complaint is that, in our opinion, the accounts of Shannon LNG Limited do not give a true and fair view of the state of affairs of the company.
5. We believe that the statutory criteria for the determination of consents under Section 39A of the Gas Act 1976, as amended¹⁷ are not complied with:
 - a. Section 2(a) states:

“if it grants the consent, no activity carried out under it will adversely affect the safety and security of the natural gas systems”.

The developer is a foreign operator owned by a company registered in the Cayman Islands. We are of the opinion that the CER should impose a “use it or lose it” condition on any consent given. Furthermore, as highlighted by us in the case 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”, the Health and Safety Authority have not dealt with all the safety aspects of this project and no one statutory body has given an overall safety view of this project e.g. no Marine Risk Assessment of an LNG spill on water was completed before the HSA gave its advice to An Bord Pleanála that it did not advise against the project. In addition, no independent safety assessment has been carried out on the proposed pipeline. We believe that failure by the CER to address these concerns would amount to an illegal and inadequate consent being given by the CER.

- b. Section 2(b) states:

“the applicant will comply with any code of operations in so far as it is applicable to the applicant and, at the relevant times, will have the capability of doing so”

In our opinion, the developer does not seem willing to comply with all current codes of operations as can be seen in its submission to the CER Consultation on “A Natural

¹⁵ See CER Appendix 2: KRA submission on the Draft Heads of Petroleum Exploration and Extraction (Safety) Bill, 2007 – April 28th, 2008

¹⁶ See CER Appendix 3: Kilcolgan Resident Association's complaint to the Office of the Director of Corporate Enforcement on October 15, 2008 on a possible failure by the Auditor to comply with statutory obligations

¹⁷ See STATUTORY INSTRUMENT No. 264 of 2002 “**REGULATIONS Entitled** Gas (Interim)(Regulation) Act 2002 (Criteria for Determination of Consents) Regulations 2002”

¹⁸ <http://highcourtsearch.courts.ie/hcslive/cslogin>

Gas Safety Regulatory Framework for Ireland – Proposed Vision” (Framework) on September 13, 2007.¹⁹

c. Section 2(c) states:

“the applicant has complied with the requirements of section 40A (as amended by section 12(1)(c) of the Gas (Interim)(Regulation) Act 2001) of the Gas Act 1976 in relation to the proposed construction of the pipeline to which the application relates”

We disagree strongly that this section is complied with. Article 40 (1)(c) states:

“An environmental impact statement shall contain the information for the time being specified under Article 25 of the European Communities (Environmental Impact Assessment) Regulations, 1989, or under any provision amending or replacing the said Article 25”.

Article 25 states:

“An environmental impact statement for the purposes of these Regulations or of any enactment as amended or adapted by these Regulations shall contain the information specified in paragraph 2 of the Second Schedule and may also contain the information specified in paragraph 3 of that Schedule.”

The second schedule states:

“INFORMATION TO BE CONTAINED IN AN ENVIRONMENTAL IMPACT STATEMENT

- 1. An environmental impact statement shall contain the information specified in paragraph 2 (referred to in this Schedule as "the specified information").*
- 2. The specified information is—*
 - a. a description of the development proposed, comprising information about the site and the design and size or scale of the development;*
 - b. the data necessary to identify and assess the main effects which that development is likely to have on the environment;*
 - c. a description of the likely significant effects, direct and indirect, on the environment of the development, explained by reference to its possible impact on—*
 - human beings;*
 - flora;*
 - fauna;*
 - soil;*
 - water;*
 - air;*
 - climate;*

¹⁹ See CER Appendix 4 – Shannon LNG submission on “A Natural Gas Safety Regulatory Framework for Ireland – Proposed Vision” – September 13, 2007

- the landscape;*
 - the inter-action between any of the foregoing;*
 - material assets;*
 - the cultural heritage;*
 - d. *where significant adverse effects are identified with respect to any of the foregoing, a description of the measures envisaged in order to avoid, reduce or remedy those effects; and*
 - e. *a summary in non-technical language of the information specified above.*
3. *An environmental impact statement may include, by way of explanation or amplification of any specified information, further information on any of the following matters—*
- a. *the physical characteristics of the proposed development, and the land-use requirements during the construction and operational phases;*
 - b. *the main characteristics of the production processes proposed, including the nature and quantity of the materials to be used;*
 - c. *the estimated type and quantity of expected residues and emissions (including pollutants of surface water and groundwater, air, soil and substrata, noise, vibration, light, heat and radiation) resulting from the proposed development when in operation;*
 - d. *(in outline) the main alternatives (if any) studied by the applicant, appellant or authority and an indication of the main reasons for choosing the development proposed, taking into account the environmental effects;*
 - e. *the likely significant direct and indirect effects on the environment of the development proposed which may result from—*
 - i. *the use of natural resources;*
 - ii. *the emission of pollutants, the creation of nuisances, and the elimination of waste;*
 - f. *the forecasting methods used to assess any effects on the environment about which information is given under subparagraph (e); and*
 - g. *any difficulties, such as technical deficiencies or lack of knowledge, encountered in compiling any specified information.*
- In paragraph (e), "effects" includes secondary, cumulative, short, medium and long term, permanent, temporary, positive and negative effects."*

Second Schedule 2(d) is not complied with because the EIS did not consider any Marine QRA taking into account the risks and consequences of an LNG spill on water. The EIS of the pipeline cannot be considered in isolation from that of the LNG terminal. The HSA is not giving any technical advice to An Bord Pleanála on the part of the pipeline within the Seveso II establishment because it considers that it has already done this for the EIS of the LNG terminal. However, at that stage the pipeline route was not known. We also believe that it is illegal for the CER to accord consent

while no Strategic Environmental Assessment has been undertaken of the entire project as this is obliged by Second Schedule 2(b) and 2(c). A project-specific EIS cannot address the issues which are obliged of 2(b) and 2(c), which an SEA can.

d. Section 2(d) states:

“the pipeline to which the application relates will be constructed and commissioned within a period which the Commission shall specify in relation to the application”

The Pipeline, in our opinion, represents project splitting and an attempt to obtain implicit retention for planning permissions already obtained by the developer. Following the recent European Court of Justice ruling on July 3rd, 2008 in case C-215/06 (Commission of the European Communities v Ireland)²⁰, we believe that a refusal by the CER to address the questions raised by this ECJ ruling would amount to an illegal and inadequate consent process by it.

e. Section 2(e) states:

“the pipeline to which the application relates will be capable of interoperating in a secure, safe and efficient manner with the natural gas system”

We are concerned about the different origins of the LNG that will enter the system and question if the varying composition of the LNG will have a safety impact. Also, as outlined in point (a) above, no single statutory body has given an overall view of the safety aspect of this project and no independent safety assessment has been carried out on the proposed pipeline.

f. Section 2(f) states:

“the applicant is a fit and proper person to be granted a consent and has the financial capacity and technical skills to carry out the activities to which the application relates and to comply with the consent, if granted”

We have submitted a complaint to the Office of the Director of Corporate Enforcement outlining our fears that the accounts of Shannon LNG Limited do not give a true and fair view of the state of affairs of the company²¹ which could mean that the applicant may not have the financial capacity required of it by this section 2(f)

²⁰See [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) and See CER Appendix 1: KRA and Safety Before LNG submission to An Bord Pleanála on Shannon LNG pipeline and compulsory acquisition order reference GA0003 and DA0003 – October 7th 2008

²¹ See CER Appendix 3: Kilcolgan Resident Association’s complaint to the Office of the Director of Corporate Enforcement on October 15, 2008 on a possible failure by the Auditor to comply with statutory obligations

g. Section 2(g) states:

“the applicant will be capable of paying any levy charged by the Commission”

We have submitted a complaint to the Office of the Director of Corporate Enforcement outlining our fears that the accounts of Shannon LNG Limited do not give a true and fair view of the state of affairs of the company²² which could mean that the applicant may not have the financial capacity required of it by this section 2(g).

6. According to media reports, an internal CER memo has stated that gas prices will soar by about 15% if Corrib and Shannon LNG start production. The Sunday Independent reported it as follows on August 24th, 2008²³:

That's gas -- bills up 15% after Corrib field opens

Less fuel imported but higher costs mean prices will soar again

By MAEVE SHEEHAN

Sunday August 24 2008

ONCE gas production comes on stream from the Corrib Gas fields off Belmullet, Co Mayo, next year the price of gas to Irish users is set to shoot up by 15 per cent.

Consumers are already facing a 20 per cent increase in gas bills from September.

However, an internal memo from the energy regulator warns that the price will soar even higher once production starts at the Corrib gas fields next winter.

The memo attributes the rising cost of gas to the declining use of two inter-connectors linking the UK's gas supplies with Ireland.

At the moment, Ireland gets 90 per cent of its gas from the UK. Once production starts at Corrib and a second producer, Shannon LNG, starts distributing gas from 2012, less gas will be imported.

The inter-connectors, which must meet fixed costs, will consequently become more expensive.

The energy regulator is currently considering whether the consumer shoulder the burden of that extra cost -- which is estimated to represent a 15 per cent rise in the price of gas. Consumers currently foot the bill for the inter-connectors, with the price built into the twice-monthly gas bills. Bord Gais invested in two inter-connectors in Scotland to import gas from the UK when Irish gas supplies started running out. The company passed the cost on to its customers.

A memo, circulated in July, sets out several options under consideration.

²² See CER Appendix 3: Kilcolgan Resident Association's complaint to the Office of the Director of Corporate Enforcement on October 15, 2008 on a possible failure by the Auditor to comply with statutory obligations

²³ See Sunday Independent August 24th 2008 c.f. <http://www.independent.ie/national-news/thats-gas--bills-up-15-after-corrib-field-opens-1462172.html>

The first is a "do nothing" scenario, in which the price of gas would increase dramatically and consumers would shoulder the increased gas prices. A second option is for the Government to cover the additional cost to Bord Gais, thereby protecting the consumer from an immediate price rise.

Analysis and comment PAGES 20, 21, 23

A third is to allow the gas suppliers to share the extra cost between them. Gas suppliers are likely to resist this option, however.

Ireland is anxious to decrease dependence on UK gas supplies by generating its own supply. That means encouraging production in the Irish market. Charging gas suppliers for the cost of the inter-connector could be seen as a deterrent.

The supply of indigenous gas is unlikely to mean cheaper prices for consumers. Shell and Statoil are scheduled to begin producing gas from the Corrib field off the west coast in 2009. Shannon LNG is due to come on stream in 2012. That company will ship liquefied gas to Ireland and restore to its gaseous state for distribution on the Irish network.

According to the memo, Corrib and Shannon will not provide enough gas to supply the Irish market so gas will still be imported from the UK and priced at world market levels. The indigenous gas producers are likely to set their prices at those market level, even though their costs may be lower.

Simon Coveney, the Fine Gael spokesman on energy, said the regulator's job is ultimately to protect the consumer and businesses by ensuring that gas is provided as cheaply as possible.

"The onus is on the regulator to ensure there is a pricing structure in place so that Ireland's consumers benefit from Ireland producing its own gas and not having the extra costs associated with importing gas," he said.

"What is required is a new formula for regulating gas prices in Ireland that can differentiate between imported gas and gas produced off the coast of Ireland."

We await your feedback.

Yours faithfully,

Johnny McElligott
PRO Kilcolgan Residents Association.

CER APPENDIX 1:

KRA and Safety Before LNG submission to An Bord Pleanála on Shannon LNG pipeline and compulsory acquisition order reference GA0003 and DA0003 – October 7th 2008

Attached in a separate file.

CER APPENDIX 2:

KRA submission on the Draft Heads of Petroleum Exploration and Extraction (Safety) Bill, 2007 – April 28th, 2008

Attached in a separate file.

CER APPENDIX 3:

KRA Complaint to the Office of the Director of Corporate Enforcement on possible failure by the Auditor to comply with statutory obligations.



Kilcolgan Residents Association
Safety before LNG

Protecting the Shannon Estuary and its people

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15 October 2008

Office of the Director of Corporate Enforcement,
16 Parnell Square,
Dublin 1.
By Email only to: info@odce.ie

Re: Complaint on possible failure by Auditor to comply with statutory obligations.

Dear Sir /Madam

We are hereby formally complaining about the auditing of the accounts of Shannon LNG Limited, submitted to the Companies Registration Office on October 6th 2008 for year ended 31 December 2007.

The auditors are Ernst and Young, Chartered Accountants, Barrington House, Barrington Street, Limerick.

We ask you to examine the following points:

1. The Director's Report is signed by directors Patrick Power and Gordon Shearer, but it is not dated. The approval date of the financial statements in point 15 is not entered either. These accounts cannot therefore be reviewed properly as there is information material to the understanding of the accounts omitted.
2. The Auditor's Report is neither signed nor dated. These accounts cannot therefore be reviewed properly.

3. The accounts state in the notes²⁴ that the continuation as a going concern is dependent on, among other factors, obtaining funding from Hess LNG. However, no mention has been made of any foreign currency exposure and the fact that the value of the same loan agreement is 10 million Euros for year ended 31 December 2006, whereas it is 30 million Euros the following year. This is a material loan in the context of the accounts. Is this the same loan agreement?
4. No mention has been made anywhere in the accounts of the actual cost of the land that will accrue if the option to purchase is actually exercised. Our view is that these 281 acres are worth between 100,000 to 300,000 Euros an acre because it is now zoned Industrial – giving the site a value, in our opinion of between 28.1 million and 84.3 million Euros. This would mean that the 30 million Euros of a loan would not even cover the purchase price of the land and this information is material to the accounts but has not been mentioned anywhere. This is material to the understanding of the accounts.
5. Note 1 (c) states that the project site is in “Shannon” but our understanding is that it is in Tarbert, County Kerry. Is this a mistake?
6. The fact that Shannon LNG Limited became a single-member company on June 24, 2008, the owner being HESS LNG LIMITED, a company registered in the Cayman Islands is not mentioned in the accounts.
7. The standard note for contingencies reads the same for year ended 31 December 2007 as it did for the previous year ended 31 December 2006. However,
 - a. No reference is made to the rights and responsibilities attaching to the option agreement of April 19th, 2006 (to purchase 281 acres of land at Kilcolgan, Tarbert, County Kerry for the purpose of attempting to build an LNG terminal) of which the auditors at the time of preparing their report must have been aware; The Shannon Foynes Port Company 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.”*²⁵ This four-year option and requirement to obtain planning within 2 years are material facts never mentioned in the accounts.
 - b. The accounts do not give a true and fair view of the contingencies that the company has and therefore of the state of the company’s affairs. The accounts do not state if there are any further payments payable under the option agreement. Up to 31 December 2006, the company had paid

²⁴ Shannon LNG Limited, Directors Report and Financial Statements for year ended 31 December 2007 submitted to the CRO on 6 October 2008 page 9

²⁵ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

493,000 euros under the term of the option agreement²⁶. Up to 31 December 2007, the company had paid 1,233,000 euros under the term of the same option agreement²⁷. No mention was made of this 740,000 euros creditor in the accounts of year ended 31 December 2006, even though they were a definitely-known creditor at that time.

- c. The accounts mention that on 28 March, 2008 An Bord Pleanála granted the company planning permission to construct an LNG terminal in County Kerry²⁸. However, they do not mention the equally important fact that less than 8 weeks later, this decision was being challenged in a highly-publicised judicial review to the High Court. This challenge will subject the company to not insignificant legal costs which have not been mentioned in the accounts either and which will have a definite material effect on whether the company will ever operate in the foreseeable future. We ask if the fact that the accounts are not dated is an attempt to hide information.
- d. The planning permission has also been referred to the petitions committee of the European parliament and this fact has also not been mentioned in the accounts.

The Irish Times noted the following on June 17th 2008:²⁹

“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 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.

²⁶ Shannon LNG Limited, Directors Report and Financial Statements for year ended 31 December 2006 submitted to the CRO on 28 September 2007 page 3

²⁷ Shannon LNG Limited, Directors Report and Financial Statements for year ended 31 December 2007 submitted to the CRO on 6 October 2008 page 3

²⁸ Shannon LNG Limited, Directors Report and Financial Statements for year ended 31 December 2007 submitted to the CRO on 6 October 2008 page 3

²⁹ <http://www.ireland.com/newspaper/ireland/2008/0617/1213646602803.html>

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”

The question we ask now is: did Ernst and Young audit these accounts at all as this information was in the public media and they must have been aware of it?

Our fear is that the submission of these accounts was impacted by the deadline for public submissions on the planning application for a 26 kilometre pipeline from the proposed LNG terminal of October 7th, 2008, the date of the commencement of the high court challenge of October 14th 2008 and the deadline for a submission to the Commission for Energy Regulation for consent to construct a pipeline of October 17th 2008.

Our fear is also that the aim in these accounts has been to hide the purchase price of the site from public scrutiny.

If these accounts are relied upon by third parties it is clear that the omission of material information could present a view that may not be a true and fair view of the company's affairs.

In summary, our complaint is that the accounts do not give a true and fair view of the state of affairs of the company. Our complaint, if accepted as valid, conflicts entirely with the auditor's report which states:

"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".³⁰

We await your feedback.

Yours sincerely,

Johnny McElligott.
P.R.O. Kilcolgan Residents Association.

³⁰ Shannon LNG Limited, Directors Report and Financial Statements for year ended 31 December 2007 submitted to the CRO on 6 October 2008 page 5

CER APPENDIX 4:

Shannon LNG submission on “A Natural Gas Safety Regulatory Framework for Ireland – Proposed Vision” – September 13, 2007
Attached in a separate file.

Pipeline Oral Hearing Appendix 2: Section 5 Submission to Kerry County Council



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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.³¹ and Mr. Tony Lowes for "Friends of the Irish Environment"³² 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

³¹ See 'Section 5 Appendix 1' – Signed submission by Ms. Kathy Sinnott M.E.P.

³² See 'Section 5 Appendix 2' – Signed submission by "Friends of the Irish Environment".

LNG terminal under planning reference GA0003. Please consider the following issues in making your decision:

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 Derrybrien³³ 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.

³³ 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)

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 the original project is or is not exempted development. In response to a question³⁴ 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.”³⁵

- 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”.³⁶*
- 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

³⁴ Question to the EU Commission raised by MEP Ms. Kathy Sinnott: reference E-4740/08EN
<http://www.europarl.europa.eu/sides/getDoc.do?jsessionid=ADB262D6911C8729563B6D432D65463B.no de1?type=WQ&language=BG&reference=E-2008-4740&secondRef=0>

³⁵ See ‘Section 5 Appendix 3’ below: Shannon LNG Information Booklet, Issue 5, November 2008

³⁶ See ‘Section 5 Appendix 3’ below: Shannon LNG Information Booklet, Issue 5, November 2008

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 Parliament (M.E.P.) Ms. Kathy Sinnott³⁷, the EU Commission responded on this issue as follows on November 7th, 2008:

“Directive 85/337/EEC³⁸ 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 Rossa³⁹, 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.”

³⁷ 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?sessionId=ADB262D6911C8729563B6D432D65463B.no de1?type=WQ&language=BG&reference=E-2008-4740&secondRef=0>

³⁸ Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment.

³⁹ 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>

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 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

Pipeline Oral Hearing Appendix 3: Green Light for Endessa move on ESB plants'
(Kerryman – Wednesday November 19th 2008) <http://www.kerryman.ie/news/green-light-for-endessa-move-on-esb-plants-1545486.html>

Green light for Endessa move on ESB plants

By DÓNAL NOLAN

Wednesday November 19 2008

TARBERT Island's transition to new Spanish owners Endesa will begin next month following the support of its workforce who voted in favour of the sale on Friday.

The deal - which was also supported by workers at the Great Island plant in Wexford by a ballot on Friday - sees the Spanish company paying €450 million for both plants.

Following the deal it is expected that up to 100 of the existing 130 workers in Tarbert Island will remain in the Kerry plant for the foreseeable future, with the remainder transferring to other ESB sites in the region.

Sixty-six Tarbert Island workers voted in favour of the sale with 59 voting against. In contrast the sale was carried in Great Island by a majority of 55 for and eight against - it is understood that concerns were sharper in Tarbert given the age profile of the workforce. With many young employees in Tarbert Island, workers feared the transition deal - where the ESB undertook to make no compulsory redundancies - might have proved unworkable. Three options were given the staff following the announcement of the sale in August - take early retirement, retire from the ESB to a new position with Endesa or transfer to another ESB site.

Those who choose to take jobs with the Spanish operator are to receive a payment of €5,000 each, with a further payment of €12,000 next year - all part of the ESB's incentive package of €2.8 million for agreeing to transfer to the new owner. Workers in Tarbert have until Thursday to decide which of the three options to take, but it is thought at this stage between 90 and 100 workers might opt to remain on site.

The sale of both plants came about under a deal between the ESB and the Commission for Energy Regulation to reduce the State-owned company's share of the power-generation market to 40 per cent - in a bid to increase competition.

Meanwhile, the agreement has been greeted with relief by the community who feared the plant was going to close for good until details of the new ownership began to emerge earlier this year. Tarbert Development Association's John Fox said it would lead to the retention of invaluable jobs in the area. "[The Spanish company's undertaking to build a gas-fired power plant alongside the existing plant within the next four years could mean even more jobs.](#)

"With the proposed LNG plant nearby supplying gas it could guarantee economic success for north Kerry and west Limerick in a time of recession. We need to get it all moving now," he said.

North Kerry TD, Jimmy Deenihan also welcomed the news calling for Shannon Development and the IDA to establish 'energy park' status for the landbank. "Synergy between the ESB and the LNG development should lead to an emphasis now on the landbank tapping into the vast opportunities that are being presented by green energy at present."



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
Web: www.safetybeforelng.com

28th April 2008

Ms. Orla Ryan
Petroleum Affairs Division
Department of Communications, Energy and Natural Resources,
Leeson Lane,
Dublin 2
Email: orla.ryan@dcenr.gov.ie

Re: Public Consultation on Draft Heads of Petroleum Exploration and Extraction (Safety) Bill, 2007

Dear Ms. Ryan,

We the members of the Kilcolgan Residents Association, having had serious reservations about the safety approach used by the HSA, An Bord Pleanala and the Statutory Bodies in evaluating the safety aspects of the proposed LNG terminal at Tarbert in County Kerry are hereby making the following submission as is our right on the public consultation on Draft Heads of Petroleum Exploration and Extraction (Safety) Bill, 2007.

The most serious flaw in the HSA's approach to safety opinion it gives to planning authorities, which we fear will be replicated implicitly in this bill, 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.

From our attached submission to An Bord Pleanala,¹ which was ignored by the Bord as being irrelevant, you will note (in point 7) that 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 2008². The Bill will require the introduction of binding guidance regarding minimum distances between

¹ "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." Submitted to An Bord Pleanala by the Kilcolgan Residents Association, March 8th, 2008 (attached).

² 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>

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.

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 UK Bill deals with the same issues we are faced with in Ireland and highlights one glaring issue of concern to us viz. that the statutory bodies need guidance regarding minimum distances between dangerous installations and cannot be relied upon to apply their own criteria because, as we have learned, they will always favour the developer to the detriment of communities.

Secondly, we feel that the consequences of all decisions made under this proposed bill should be available to the general public at the planning decision-making stage to allow effective and timely participation in the decision-making process as per EU Directives, especially Article 6 of the EIA Directive. We therefore urge that the Safety Case should not only be submitted to the Commission but should also be subject to public scrutiny, sanction and approval.

Thirdly, as was highlighted in the Irish media in recent days, even the large gas and oil companies have grave reservations about the statutory process in place in Ireland. One media report noted the following:

“Earlier this month, seven [Mayo residents] travelled to Norway with Labour Party president Michael D Higgins, Green Party councillor Niall Ó Brolcháin and Sinn Féin councillor Noel Campbell in a bid to break the current impasse on the Corrib Pipeline issue. The group met StatoilHydro, a partner in the Corrib gas project, and received support from the federation of oil and gas workers' unions, SAFE, representing 8,700 members. StatoilHydro commented afterwards that the chances of moving the refinery were "close to zero". However, in an implicit criticism of the role of Irish statutory authorities, Helge Hatlestad, StatoilHydro's vice-president (exploration and production) for western Europe, said he believed it was "very unfortunate" that the concerns voiced by the north Mayo community had not been listened to during the planning stages of the project in 2000/2001. Speaking earlier this month, Mr Hatlestad said: "We've learned in Norway that there is a need for these sort of discussions, for consultation and communication, before a project is sanctioned . . . It becomes commercially unviable to do something different once a project has started."”

Fourthly, we are of the opinion that the regulations relating to exploration and extraction safety activities of Head 11 are regulations that should be decided upon at the planning stage because that is the only means by which community consent and approval can be obtained and this will ensure compliance with EU directives on public access to information, public participation and environmental impact assessment and to ensure compliance with the Seveso II Directive.

Finally, we are deeply concerned that this bill is attempting to explicitly and implicitly allow a parallel system of planning and development of gas and petroleum without full consultation with the general public and without powers of the general public to veto projects which put their lives in danger when a viable alternative exists. The final Report from the APaNGO project entitled 'community engagement in planning exploring the way forward'³ was launched at the international APaNGO closing conference in Brussels at the end of October 2007. The APaNGO project is one of the first studies of community engagement and involvement at the European level, covering findings from the seven Member States in North West Europe (Belgium, France, Germany, Luxembourg, the Netherlands, the Republic of Ireland, and the UK). It noted that the "legitimacy of any planning decision will vitally depend on the quality of democratic input to the process; without that input, decision-making itself will be discredited.

³ Final Report of the INTERREG IIIB Advocacy, Participation and NGOs in Planning Project – "community engagement in planning – exploring the way forward". October 2007 http://www.apango.eu/closingconference/20071016_APaNGO_ENGLISH_FINAL_REPORT_PRINT_UK.pdf



Fitzwilliam Hall,
25 – 26 Fitzwilliam Place,
Dublin 2

13 September 2007

Tel: 01 6698557

Mr. Eamonn Murtagh,
Gas and Electricity Safety Manager,
Commission for Energy Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24

Re: CER Consultation on “A Natural Gas Safety Regulatory Framework for Ireland – Proposed Vision” (Framework)

Dear Eamonn,

On 27 July 2007, the CER published a Consultation Paper entitled “A Natural Gas Safety Regulatory Framework for Ireland – Proposed Vision” (Framework). Shannon LNG has reviewed the Framework and offers the following comments, along the lines proposed by the CER on page 40 of the Framework.

In general we welcome the approach proposed by the CER which places the responsibility for safe operations on the operators of natural gas and LNG facilities. The proposed approach also appears to offer a flexible, experience based approach to regulation, with safety being assured through license conditions rather than through prescriptive safety requirements.

Shannon LNG agrees that it is critical all gas transporters maintain high levels of gas safety and integrity (section 4.2). We also agree that new transporters should comply, where applicable, with existing codes and standards for the operation of transmission systems. However, we would like to seek clarification from the Commission that the commercial part of any Code of Operations developed by a new transporter would not necessarily have to be the same as the BGÉ Code?

The proposed approaches to “Gas Safety Promotion and Public Awareness” and “Gas Safety Reporting” seem reasonable as proposed.

In general, the proposed “Incident Reporting and Investigation Regime” appears reasonable for the most part as proposed. However, there is one area which may need further clarification:

- The interaction between the “Emergency Procedures” as implemented by the Network Emergency Manager (NEM) and the gas suppliers may need some amplification and clarification (page 29). In many instances, gas suppliers may have commercial agreements between themselves and their customers which address, for example, instances of *force majeure* resulting in an unexpected interruption in gas supply. In such circumstances the supplier may have the contractual right to interrupt deliveries to its customer(s) independent of the NEM. It will be important to ensure such arrangements are properly coordinated through the NEM to ensure that commercial arrangements are not disrupted by the actions of the NEM.

The proposed “Audits and Inspection Regime” also appears reasonable for the most part as proposed. However, there are two aspects which may need further clarification:

- It is unclear how ‘new’ or ‘changed’ safety risks (page 32) are to be identified. It appears that these perhaps should follow from major alterations or expansions of facilities, or other identifiable operational considerations (such as uprating pipeline operating pressures), and some clarity in this aspect would be helpful.
- The role of the Gas Safety Officer (page 33) is not clear. In Shannon LNG’s case it is not clear if the Gas Safety Officer could enter the LNG terminal premises and order the company to undertake certain operations which in the Gas Safety Officer’s view are necessary for safety. In this instance, what redress does the company have if it feels the Gas Safety Officer’s orders are inappropriate or even dangerous? If the company follows the erroneous prescriptions of the Gas Safety Officer, who will be held liable for any damages (physical and monetary) arising as a result of the Gas Safety Officer giving poor, or incorrect orders? It appears the intent of these provisions may be intended to be more directed towards the physical protection of small end consumers, but if this is the case the proposed regulations might benefit from some additional clarity in this regard.

As to the “Implementation Programme”, Shannon LNG notes that the implementation schedule does not presently refer specifically to LNG, but the question of when the safety case assessment process for LNG is to be completed appears unanswered. Perhaps the schedule could make specific reference to the expected timetable for the LNG project. In that respect, Shannon LNG also recognizes that the CER has drawn on experience in the UK and Victoria to compare safety approaches.

The other minor comments on the text are detailed below:

- Section 5.2 (page 19) describes the risk of explosion from a large scale loss of containment at either an LNG or storage facility. Shannon LNG does not believe that explosions are a credible event at either type of facility, since by definition, loss of containment will also leave no confined space where gas could build up to an explosive level. Absent confinement, there cannot be an explosion.
- Section 5.3 (page 19) addresses gas quality. From the discussion in 5.3 it is not clear to the reader that an acceptable Wobbe index is usually expressed as a range, generally plus or minus 4% around a mid-point value. As presently written it could be read that there is one single Wobbe index number which would be acceptable. Also, values of Wobbe index outside the range may not represent a *safety* risk, but rather a *quality* risk, such as the presence of excessive sooting, flame lift on burners, etc. which are not acceptable to customers, but do not *per se* represent safety risks.

- Section 6.5 (page 31) states that “As previously described in Section 2.2.2, Bord Gáis Networks is currently required to investigate natural gas-related incidents and report to the Commission on the outcomes of the investigation.” We would appreciate if the Commission could clarify whether Bord Gáis Networks will continue to investigate natural gas incidents, where the incident relates to infrastructure belonging to another natural gas undertaking.

Thank you for providing us with the opportunity to participate in this consultation and we look forward to meeting with you to discuss our response.

Martin Regan (on behalf of Paddy Power),
Managing Director,
Shannon LNG Ltd.

**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.

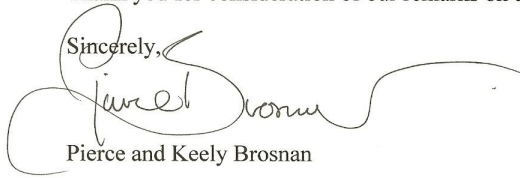
The decision to approve and construct an LNG terminal is a gravely serious matter that demands the utmost scrutiny and review. We learned this first hand by participating in the review an LNG terminal proposal for offshore California put forth by the largest mining company in the world, BHP Billiton. 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" with a decorative flourish at the end.

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

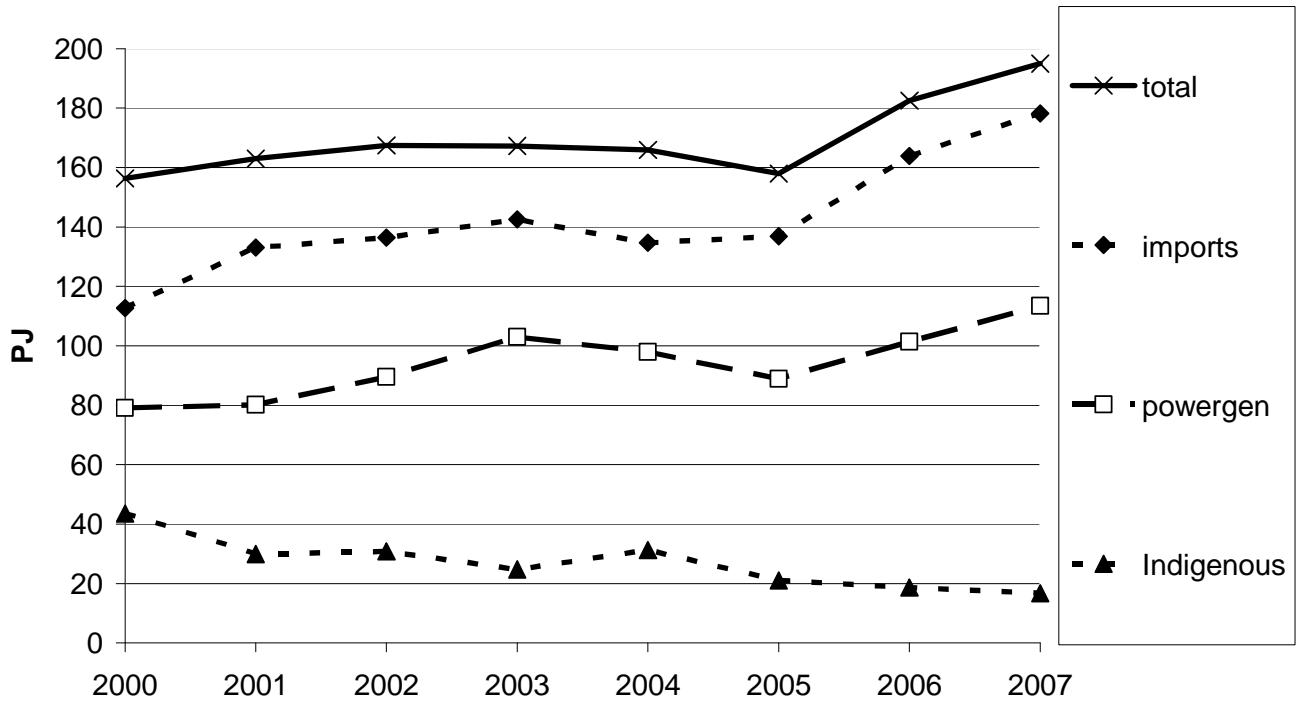
New Zealand - Energy Balance 2007 (NZ Ministry of Economic Development)				
Petajoules (Gross)	Fossil Fuels			Non-fossil
	Solid	Liquid	Gas	Renewables
Indigenous	125	93	170	229
Imported	-56	190	0	0
Total	69	283	170	229
Power generation	26	0	75	166
All other uses	43	283	95	45
Ireland - Energy Balance 2007 (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)



CER APPENDIX 1:

KRA and Safety Before LNG submission to An Bord Pleanála on Shannon LNG pipeline and compulsory acquisition order reference GA0003 and DA0003 – October 7th 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 Seanator 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 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 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.

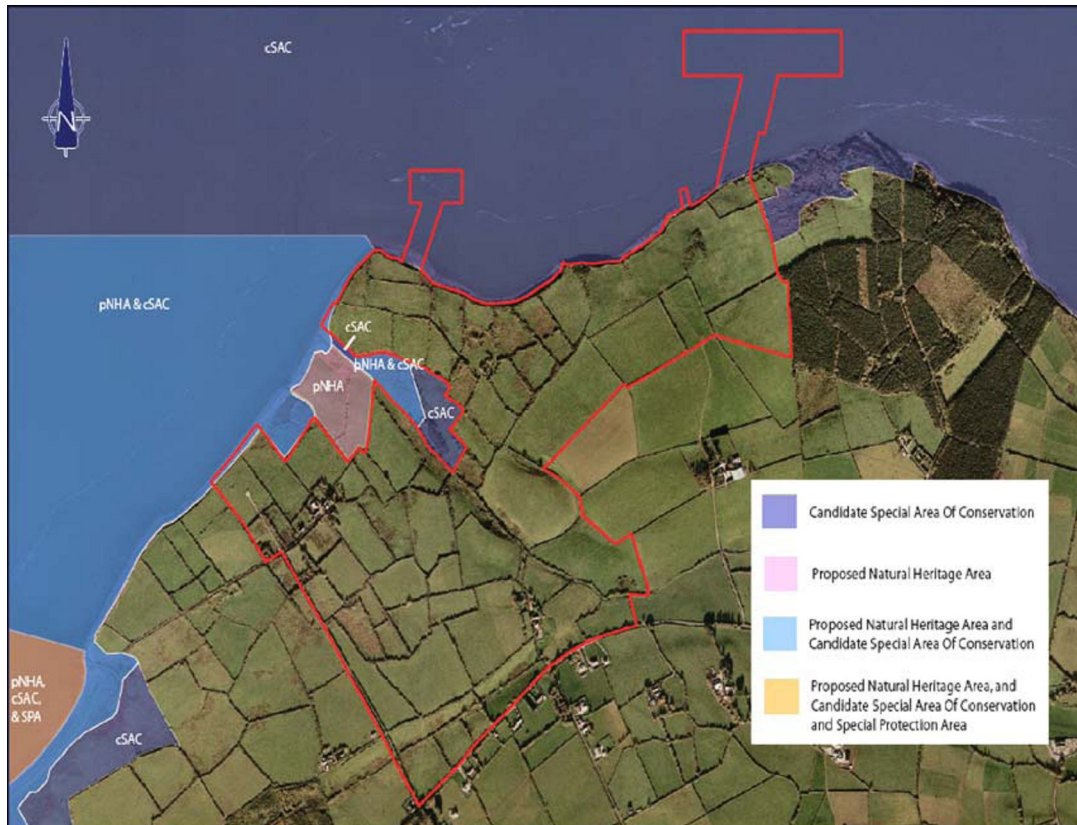
2. In November 2006, RPS published a Strategic Environmental Assessment Screening Report on the proposed variation to the Kerry County Development Plan. No mention was made of the Shannon LNG proposal. The criteria for determining whether a variation to a development plan requires an SEA is clearly defined 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:

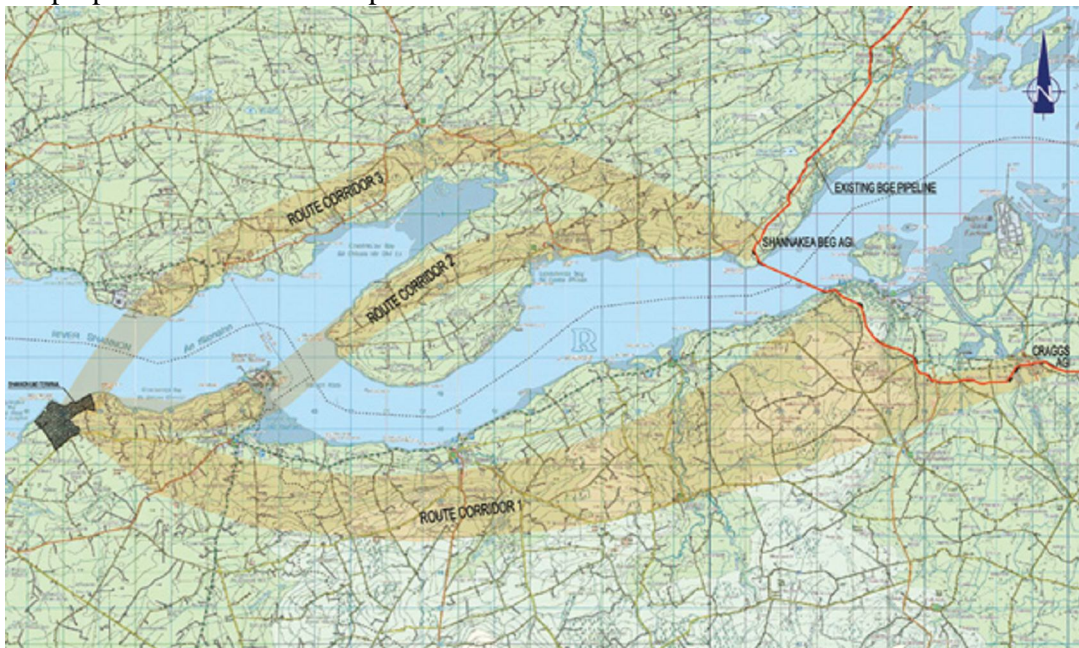
“Dear Minister.

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.

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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 Kilmurri, County Kerry, and Ballygoghlan, Ballycullane Upper, Ballynagaul, 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.

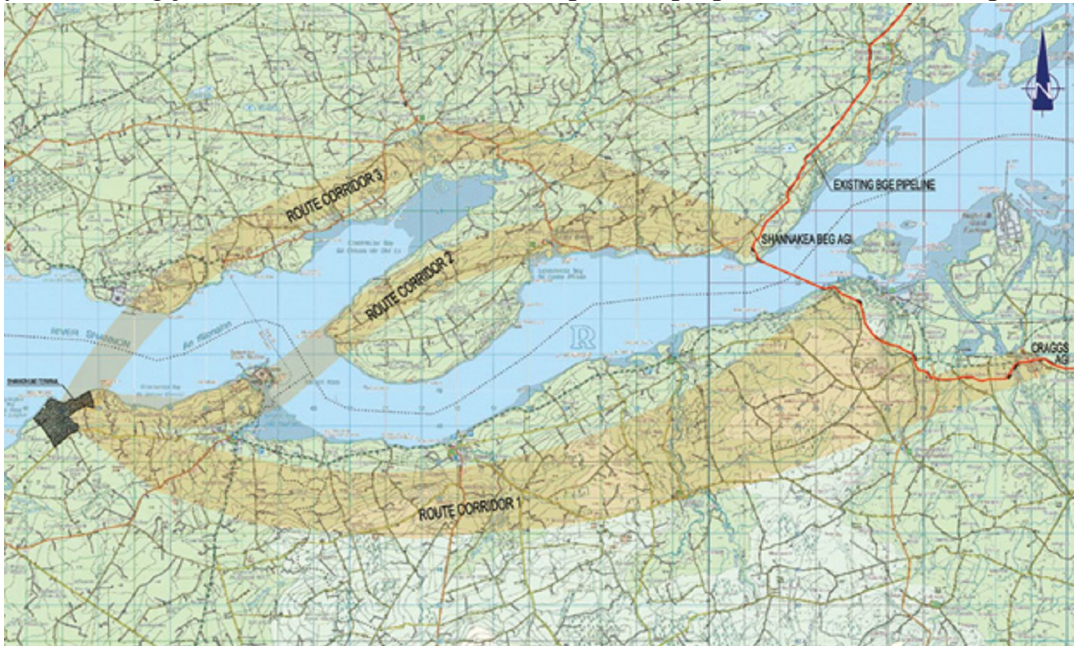
“Best route chosen for Shannon LNG says Minister

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.

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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.

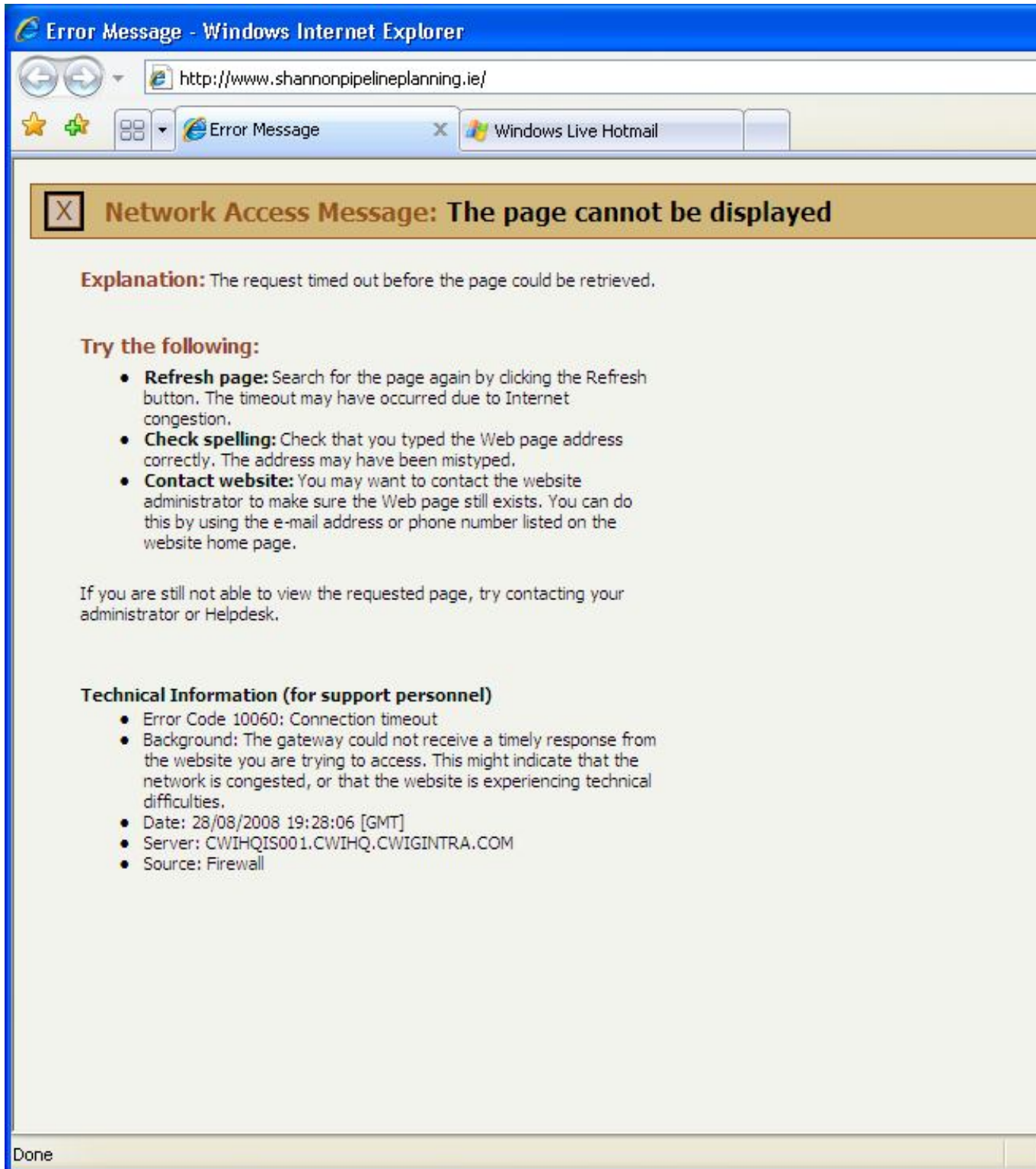
We had the same problem with the application for the LNG terminal, where the site was down for long periods and which only seemed to be available to the public when the problem was highlighted with the Board.

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.

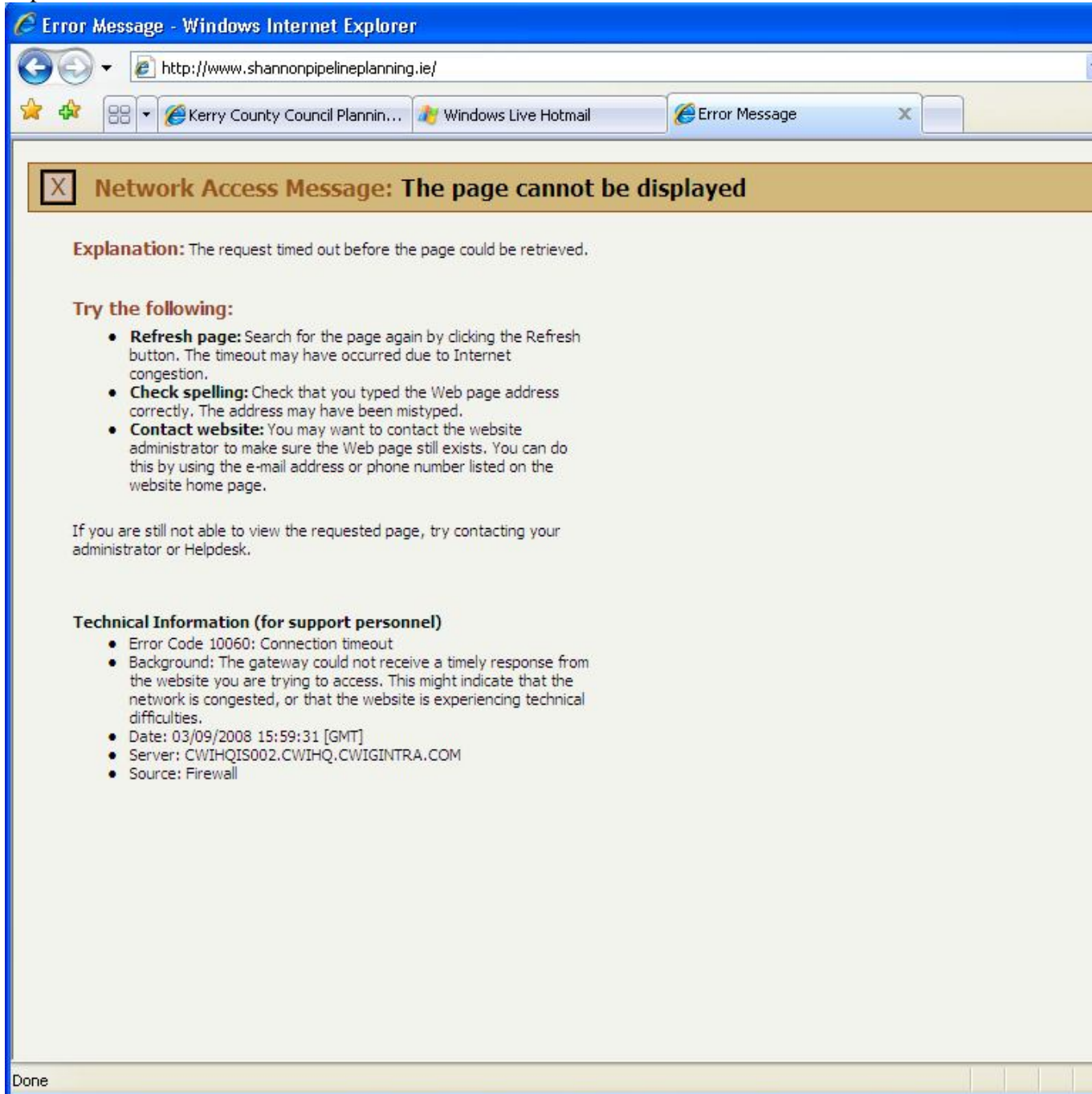
We await your feedback,

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.

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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 or failing agreement to be appointed on the application of either party (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/ronlyres/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>



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

30 September 2008

For Attention of:
Standards in Public Office Commission,
18 Lower Leeson Street,
Dublin 2.

By Email only to: sipo@sipo.gov.ie

Re: Complaint on possible breach of ethics and conflict of interest by Councillor John Brassil and Senator Ned O'Sullivan.

Dear Sir / Madam,

We are hereby formally complaining to the Standards in Public Office Commission of what we consider may have been a breach of ethics and a conflict of interest by Senator Ned O'Sullivan and Councillor John Brassil of Kerry County Council as follows:

Article 175 (f) of the Local Government Act 2001 clearly defines a directorship as a declarable interest. Article 176 (2) of the same Act clearly defines a declarable interest as a beneficial interest. A directorship is therefore a beneficial interest.

1. We are complaining of what we consider may have been a breach of ethics and a conflict of interest by Councillor John Brassil as outlined in Section 1 below and as follows:
 - a) in his voting in support of the variation number 7 to the Kerry County Development Plan 2003-2009 that rezoned lands in Kilcolgan from 'Rural General' and 'Secondary Special Amenity' to 'Industrial' on March 12th 2007 for the development of an LNG terminal while he was both a county councillor and a director of Shannon

Development (the owner of the lands to be rezoned).¹ This is contrary to Article 177 of The Local Government Act 2001 in our opinion.

- b) in Mr. Brassil accepting the appointment of 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. The post of Chairman of Shannon Development is a highly-prestigious position which has enhanced Mr. Brassil's profile locally and which cannot hurt his political ambitions if he decides to run for higher office. Our fear is that this is a political "thank-you" position, a reward, for ensuring that the Shannon LNG project proceeded as quickly as possible contrary to Article 170 of The Local Government Act 2001. To put it another way, we feel that John Brassil would not have been appointed Chairman of Shannon Development if he had voted against the rezoning of the Shannon Development land.²
- c) in seeking to influence the decision of the Kerry County Council planning authority to support the Shannon LNG project on land owned by Shannon Development (of which he was a director) contrary to Article 168 of the Local Government Act 2001 which states:

*"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."*³

and Article 177 (4) of the Local Government Act 2001 which states:

"A member of a local authority or of any committee, joint committee or joint body of a local authority shall neither influence nor seek to influence a decision of the authority in respect of any matter which he or she has actual knowledge that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, any matter which is proposed, or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment."

This is supported by the following 3 points:

- i. In June 19, 2006⁴: John Brassil asked a meeting of Kerry County Council – *"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."* And he said **"that this has the potential**

¹ See section 1: Complaint to Kerry County Council on possible breach of ethics and conflict of interest by Councillor John Brassil

² See section 3: Complaint to Kerry County Council on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan point 11.

³ <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

⁴ Minutes of June 19th 2006 Meeting of Kerry County Council - <http://www.kerrycoco.ie/minutedocs/Item%202b%20Ordinary%20Minutes%20June%202006.pdf>

to be a huge project for North Kerry and he called on the Executive to give it every support.”⁵

- ii. In our complaint to the Office of the Ombudsman⁶ concerning the refusal by Kerry County Council to carry out an SEA (Strategic Environmental Assessment) on variation No 7 of 2007 to Kerry County Development Plan (reference L18/07/2518), the company undertaking the SEA screening report, RPS, stated that it did not know the site was earmarked for an LNG terminal. RPS therefore recommended that no SEA was needed. We are complaining that, in our opinion, Mr. Brassil’s representations, detailed above, **effectively prejudiced a Strategic Environmental Assessment Screening report**. The screening report did not take into consideration the proposed Shannon LNG terminal in determining whether the proposed rezoning would have an effect on the environment and therefore require a full Strategic Environmental Assessment. We believe that it was a negligent act that RPS was not informed by Kerry County Council that an LNG terminal was proposed for the land to be rezoned. This would also constitute negligent behaviour contrary to Article 168 of the Local Government Act 2001.
- iii. On 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, Councillor Brassil replied as follows to the “Kerryman” Newspaper⁷:

“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.”

2. We are complaining of what we consider may have been a breach of ethics and a conflict of interest by Senator Ned O’Sullivan as outlined in Section 3 below⁸:

- a) in his proposing and voting in support of the variation number 7 to the Kerry County Development Plan 2003-2009 that rezoned lands in Kilcolgan from Rural General and Secondary Special Amenity to Industrial on March 12th 2007 for the development of an LNG terminal while he was both a county councillor and a director of Shannon Foynes Port Company (a company that will control all port development in the

⁵ Minutes of June 19th 2006 Meeting of Kerry County Council -

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

⁶ See section 4: Complaint to The Office of the Ombudsman concerning the refusal by Kerry County Council to carry out an SEA on variation No 7 of 2007 to Kerry County Development Plan (reference L18/07/2518)

⁷ <http://www.kerryman.ie/news/cllr-brassil-rejects-any-lng-wrongdoing-1473917.html> Kerryman”
Thursday September 11 2008

⁸ See section 3: Complaint to Kerry County Council on possible breach of ethics and conflict of interest by Senator Ned O’Sullivan

rezoned area and realise a revenue boost if the Shannon LNG project goes ahead). This is contrary to Article 177 of The Local Government Act 2001 in our opinion.

- b) in Mr. O'Sullivan accepting the appointment to the Seanad and Joint Committee on Climate Change a few months after the successful rezoning of 600 acres of Shannon Development Land (which we now estimate is worth 60 million Euros) in an area which would be under the control of the Shannon Foynes Port Company, of which Mr. O'Sullivan was a director. To be quite clear on our fears, they are that Mr. O'Sullivan may have possibly obtained a political "thank-you" position, a reward, less than 5 months after he voted for the rezoning of the Tarbert lands contrary to Article 170 of The Local Government Act 2001. To put it another way, we feel that Mr. O'Sullivan would not have been appointed to the Seanad or the Oireachtas Joint Committee on Climate Change if he had voted against the rezoning of the Shannon Development land.
- c) in the performance of his functions as a senator and a member of the Oireachtas Joint Committee on Climate Change and Energy Security. We feel that Senator O'Sullivan abused his position when he stated in the Oireachtas Joint Committee meeting of November 29th 2007:

"This project has been fairly well received by the public in Kerry but there are rumblings of concern. I notice that a small group of people has been briefed by the Shell to Sea people. I hope we do not go down that road.."⁹

These comments were made by Senator O'Sullivan a mere two weeks after RTE's current affairs programme "Prime Time" ran a documentary on the proposed LNG terminal which contradicted serious safety issue claims which the Shannon LNG developer had made. The LNG expert interviewed by 'Prime Time' (Dr. Tony Cox) concluded that vapour clouds do not evaporate harmlessly into the air as was claimed by Shannon LNG in its publicity documents¹⁰. For a senator to claim that we had been "**briefed by the Shell to Sea people**" was disingenuous in the extreme and an abdication of the Senator's responsibility and duty to be fair to all as obliged under Article 168 of the Local Government Act 2001. In any case, ours were serious safety and environmental concerns and this personal agenda to push the Shannon LNG project was outside the terms of reference of the Joint Committee on Climate Change. To reinforce this point, even after the evidence shown on the 'Prime Time' video of a major LNG accident in Algeria 3 years previously which resulted in the deaths of about 27 people and another massive LNG explosion which levelled a square mile of Cleveland in 1941, killing 128 people, Senator O' Sullivan persisted in his naïve and misleading LNG questions in the same meeting, when he asked:

"Is it true there has never been an accident in an LNG transmission?"¹¹

⁹ <http://debates.oireachtas.ie/DDebate.aspx?F=CLJ20071129.XML&Ex=All&Page=4> and Appendix 2

¹⁰ "Prime Time" video of November 15th 2007 c.f. <http://www.rte.ie/news/2007/1115/primetime.html>

¹¹ <http://debates.oireachtas.ie/DDebate.aspx?F=CLJ20071129.XML&Ex=All&Page=5> and Appendix 2

- d) in seeking to influence the decision of the Kerry County Council planning authority to support the Shannon LNG project on land which would be controlled by Shannon Foynes Port Company (of which he was a director) contrary to Article 168 of the Local Government Act 2001 which states:

“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.”¹²

and Article 177 (4) of the Local Government Act 2001 which states:

“A member of a local authority or of any committee, joint committee or joint body of a local authority shall neither influence nor seek to influence a decision of the authority in respect of any matter which he or she has actual knowledge that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, any matter which is proposed, or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment.”

This is supported by the following 3 points:

- i. On March 12th 2007 Councillor O’Sullivan **both proposed and voted in favour of the rezoning** 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 planning. The lands, we believe, were sold for approximately 28.1 million Euros (open to verification) but proposing the vote was effectively an attempt to influence the rezoning.
- ii. On September 17th 2008, following our complaint of a possible breach of ethics by Senator O’Sullivan in his voting to rezone the land while a director of the company that would control all shipping to the site, Senator O’Sullivan replied as follows to the “Kerryman” Newspaper:
“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”
- iii. In our complaint to the Office of the Ombudsman¹³ concerning the refusal by Kerry County Council to carry out an SEA (Strategic Environmental Assessment) on variation No 7 of 2007 to Kerry County Development Plan (reference L18/07/2518), the company undertaking the SEA screening report, RPS, stated that it did not know the site was earmarked for an LNG terminal. RPS therefore recommended that no SEA was needed. We are complaining that, in our opinion, in Mr O’Sullivan’s role as director of Shannon Foynes Port Company and his admission that he was “doubly obliged to assist the

¹² <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

¹³ See section 4: Complaint to The Office of the Ombudsman concerning the refusal by Kerry County Council to carry out an SEA on variation No 7 of 2007 to Kerry County Development Plan (reference L18/07/2518)

LNG project”, **he may have prejudiced a Strategic Environmental Assessment Screening report.** The screening report did not take into consideration the proposed Shannon LNG terminal in determining whether the proposed rezoning would have an effect on the environment and therefore require a full Strategic Environmental Assessment. We believe that it was a negligent act that RPS was not informed by Kerry County Council that an LNG terminal was proposed for the land to be rezoned. This would also constitute negligent behaviour contrary to Article 168 of the Local Government Act 2001.

- iv. Ned O’Sullivan has continued to actively promote the virtues of the LNG terminal even after the land was rezoned without any genuine concern for the huge safety, environmental, planning and regional impact of the development.¹⁴

The Ethics Registrar of Kerry County Council stated that our complaint “had the bona fides to demand a formal referral to the County Manager and the Mayor”¹⁵ which is all he could do under the Local Government Act, 2001.

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 current Minister for Energy, Mr. Eamon Ryan T.D., issued the following statement, on the announcement of the proposed LNG terminal on May 22, 2006¹⁶:

“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 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.

¹⁴ <http://archives.tcm.ie/irishexaminer/2007/07/23/story37943.asp>

¹⁵ See Section 2 Email Communication with Kerry County Council, the Oireachtas and the Office of An Tanáiste on Ethics complaint on Councillors Brassil and Sullivan.

¹⁶

http://www.greenparty.ie/en/news/latest_news/govt_must_give_clear_position_on_proposed_lng_facility_in_north_kerry

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."

In this complaint we believe the acts specified above by the specified individuals, Brassil and O'Sullivan constitute a serious and deliberate breach of Ethics legislation and an attempt to override transparency and accountability in the planning process to the detriment of the residents adjacent to the proposed LNG terminal.

We await your feedback.

Your faithfully,

Johnny McElligott

SECTION 1

Complaint to Kerry County Council on possible breach of ethics and conflict of interest by Councillor John Brassil



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

04 September 2008

For Attention of:

Ms. Beth Reidy,
Complaints Section,
Kerry County Council,
Áras an Chontae,
Tralee,
County Kerry.

Email: breidy@kerrycoco.ie

cc. margaret.ohanlon@kerrycoco.ie

cc. padraig.corkery@kerrycoco.ie

cc. Mr Brian Looney, Head of IS and Ethics Registrar, Kerry Local Authorities.

(Brian.Looney@kerrycoco.ie)

Re: Complaint on possible breach of ethics and conflict of interest by Councillor John Brassil

Dear Ms. Reidy,

We are hereby formally complaining of what we consider may have been a breach of ethics and a conflict of interest by Councillor John Brassil in his voting in support of the variation number 7 to the Kerry County Development Plan 2003-2009 that rezoned lands in Kilcolgan from Rural General and Secondary Special Amenity to Industrial on March 12th 2007.

John Brassil became Chairman of Shannon Development on May 4th 2007. A press release from Shannon Development¹⁷ made the announcement as follows:

"Mr Michael Martin TD, Minister for Enterprise Trade and Employment, has today (4th May 2007) appointed Cllr John Brassil as Chairman of Shannon Development. Cllr Brassil, from Ballyheigue, County Kerry, is a qualified civil engineer and pharmacist."

¹⁷ <http://www.offalytechnologycentre.ie/News/NewsReleases2007/Title,4913,en.html> and
<http://archives.tcm.ie/irishexaminer/2007/05/05/story31991.asp>

He has been an elected member of Kerry County Council since 1999, and a member of the Shannon Development Board since 2004.”

In May 2006¹⁸ Shannon LNG announced an option to purchase, subject to planning, the lands at Kilcolgan owned by Shannon Development, the board of which Councillor Brassil was a member (and also a director, we believe) as follows:

“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 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.”*¹⁹

On March 12th 2007 Councillor Brassil voted in favour of the rezoning 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 planning The lands, we believe, were sold for approximately 28.1 million Euros (open to verification).

The minutes of the March 12th 2007 meeting stated the following:²⁰

*“07.03.12.06 Proposed variation No. 7 of the County Development Plan 2003-2009
Mr. M. McMahon, Director of Planning, referred members to his report on this item which was circulated and he briefed them on the report. Cllr. N. O’Sullivan PROPOSED that this Council having considered the County Manager’s Report on submissions received in relation to proposed Variation No. 7 of the Kerry County Development Plan 2003 – 2009 in respect of lands in the townlands of Reenturk, Rallappane and Kilcolgan Lower (Ballylongford) approves the making of this variation to the Kerry County Development Plan 2003 – 2009 pursuant to Section 13 of the Planning and Development Act, 2000.
Cllr. R. Beasley SECONDED this proposal.*

¹⁸ <http://www.shannonlngplanning.ie/files/Newsletters/Issue1.pdf> page 1

¹⁹ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

²⁰ [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) pages 6 and 7

A vote was taken which resulted as follows:-

For: Cllrs. Beasley, Brassil, Buckley, Cronin, Ferris, S. Fitzgerald, Foley, Gleeson, M. Healy-Rae, Leahy, McCarthy, McEllistram, Miller, O'Sullivan, Purtill, T. Fitzgerald (16)

Against: None (0)

Not Voting: None (0)

Absent: Cllrs. Cahill, Connor-Scarteen, Fleming, D. Healy-Rae, MacGearailt, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea and Sheahan (11)

The Mayor declared the resolution carried."

In a further meeting of Kerry County Council on November 26th 2007 to discuss the proposed LNG terminal Councillor Brassil left the meeting as follows:²¹

"Proposed Liquefied Natural Gas (LNG) regassification terminal at Ralappane and Kilcolgan Lower.

Cllr. J. Brassil informed the meeting that he is Chairman of Shannon Development who own this land and while he has no beneficial interest in it he would withdraw from the meeting while this item was being dealt with. Cllr. Brassil then left the Chamber."

Our complaint is that the real damage was done in the rezoning of the lands industrial for the LNG terminal and that Councillor Brassil should equally have absented himself from this meeting which saw his organisation achieve a value for land it owned of, we believe, 100,000 Euros an acre through rezoning. The actual planning permission was dealt directly through the fast-track planning by An Bord Pleanala which defended its decision by emphasising the Industrial zoning of the land.

Our understanding is that only lands owned by Shannon Development were rezoned with this variation to the County Development Plan.

We await your feedback.

Kind Regards,

Johnny McElligott

²¹ <http://www.kerrycoco.ie/minutedocs/Minutes%20Nov2007.pdf> page 9

SECTION 2:

Email Communication with Kerry County Council, the Oireachtas and the Office of An Tanáiste on Ethics complaint on Councillors Brassil and Sullivan.

From: Kilcolgan Residents Association [mailto:safetybeforelng@hotmail.com]
Sent: 12 September 2008 11:50
To: Margaret O'Hanlon
Cc: Beth Reidy; Padraig Corkery; Brian Looney
Subject: Complaint on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan

For Attention of:
Ms. Margaret O'Hanlon,
Complaints Section,
Kerry County Council,
Áras an Chontae,
Tralee,
County Kerry.
Email: margaret.ohanlon@kerrycoco.ie
cc. breidy@kerrycoco.ie
cc. padraig.corkery@kerrycoco.ie
cc. Mr Brian Looney, Head of IS and Ethics Registrar, Kerry Local Authorities
.Brian.Looney@kerrycoco.ie

Dear Ms. O'Hanlon,

Could you please acknowledge receipt of the attached complaint?

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

Date: Fri, 12 Sep 2008 14:02:04 +0100
From: Brian.Looney@kerrycoco.ie
Subject: RE: Complaint on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan
To: safetybeforelng@hotmail.com
CC: breidy@kerrycoco.ie; padraig.corkery@kerrycoco.ie; margaret.ohanlon@kerrycoco.ie
[Dear Mr. McElligott,](#)

[As the nature of your complaint refers to a possible breach of Ethics, I will be dealing with your complaint as Ethics Registrar.](#)

Please note that as the matter relates to someone who is not a current Council member we may not have authority to proceed with any investigation under Part 15 of the Local Govt Act, in that section 167 of the Local Govt Act applies to “a member of a local authority”.

I will seek clarification on this matter early next week when I have an opportunity to discuss with the County Solicitor.

With regard to your two other complaints, both are currently being progressed and you will be advised of further developments in due course.

Le buíochas,

Brian Looney / Briain Ó Luanaigh
Head of IS / Ceannasaí Teic. Faisnéise
Kerry Local Authorities / Údarais Áitiúil Chiarraí
<http://www.kerrycoco.ie/>

From: Kilcolgan Residents Association [mailto:safetybeforelng@hotmail.com]
Sent: 17 September 2008 15:13
To: Brian Looney
Subject: RE: Complaint on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan

Dear Mr. Looney,

Thank you for your mail of September 12th 2008.

Reports in the "Irish Times" and "Kerryman" newspapers out today seem to indicate that a decision has already been made regarding our complaint about Councillor Brassil (c.f. <http://www.irishtimes.com/newspaper/ireland/2008/0917/1221599424149.html>) where it is quoted that:

<<“As far as we are concerned there is no issue at stake and we will be reporting back accordingly,” Mr Curran said. Mayor of Kerry Tom Fleming (FF) told the meeting Mr Brassil had acted “for the common good and had no beneficial interest”.>>

The Local Government Act 2001 articles 175(f) and 176(2) clearly states that a directorship of a company is a declarable and beneficial interest and there are no Ministerial declarations that negate those requirements.

The requirements of Standards of integrity in Article 168 apply to all members and employees of Kerry County Council and we feel that the health and safety threat to residents near the proposed LNG terminal at Tarbert are being overlooked in this affair.

Also, as stated in a subsequent letter to you on September 12th 2008, we are complaining of the following:

"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 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. The post of Chairman of Shannon Development is a highly-prestigious position which has enhanced Mr. Brassil's profile locally and which cannot hurt his political ambitions if he decides to run for higher office. Our fear is that, this too, is a political "thank-you" position, a reward, for ensuring that the Shannon LNG project proceeded as quickly as possible." We want this complaint of our fear of a possible link with his promotion and his support for the LNG project investigated by the council also under Article 170 (1) of the Local Government Act 2001 also.

If, as reported in the media, the decisions on Councillor Brassil and Senator Ned O'Sullivan have already been made by the council, then we would be grateful if you could please send us a formal confirmation so that we may forward it on to the next stage with the Standards in Public Office Commission and with Minister Gormley.

We would also be grateful if you could forward us an electronic copy of the County Manager's Report on the matter as well as a copy of the Kerry County Council Code of Conduct.

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

Date: Thu, 18 Sep 2008 17:03:50 +0100

From: Brian.Looney@kerrycoco.ie

Subject: RE: Complaint on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan

To: safetybeforelng@hotmail.com

Mr. McElligott,

I felt that your complaint had the *bona fides* to demand a formal referral to the

County Manager and the Mayor, and so I referred your complaint to them on Sept 10th, under my obligations as Ethics Registrar in Part 15 of the Local Govt Act, 2001.

I subsequently met the Manager and the Mayor in advance of Monday's Council meeting, as part of their considerations on the matter.
I understand that they also interviewed Councillor Brassil.

Based on the Manager's declaration at the Council meeting as reported, it is clear that they found no breach of the Ethics framework by Councillor Brassil.

I await their formal report on the matter and once in my possession, it is my duty to place it on the Ethics Register. I will of course also forward you a soft copy as requested.

The *Code of Conduct for Councillors* (I presume this is what you mean by "Kerry County Council Code of Conduct") is available for download from:
www.environ.ie/en/Publications/LocalGovernment/Administration/FileDownload,1956,en.pdf

Regarding your complaint concerning former Councillor and current Senator Ned O'Sullivan,

I have referred the matter to County Solicitor John J Daly.

As he is no longer a Councillor, I am not certain if we have powers to investigate, and the matter may have to be referred elsewhere.

Once I have this legal advice, I will advise you of my actions.

A final update on your initial complaint concerning Fehily Timoney and a Conflict of Interest

on their part in the County Development Plan SEA, having a relationship with two companies.

I am still awaiting documents from the Planning Section and will update you further.

Le buíochas,

Brian Looney / Briain Ó Luanaigh
Head of IS / Ceannasaí Teic. Faisnéise
Kerry Local Authorities / Údarais Áitiúil Chiarraí
<http://www.kerrycoco.ie/>

To: safetybeforelng@hotmail.com
Subject: Re: Complaint on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan
From: Michael.McKenna@Oireachtas.ie
Date: Thu, 25 Sep 2008 14:33:43 +0100

Dear Mr McElligott,

Please see my letter attached in connection with the correspondence you sent to me on 12 September.

Yours Sincerely,

Michael McKenna

From the desk of Michael McKenna
Clerk to Joint Committee on Climate Change and Energy Security

Direct Dial: 00 353 (1) 6183147
eMail: michael.mckenna@oireachtas.ie
Web: www.oireachtas.ie

An Comhchoiste um
Athrú Aeráide agus
Áirithiú Fuinnimh,
**Teach Laighean,
Baile Átha Cliath 2**



Joint Committee on
Climate Change and
Energy Security,

Leinster House,
Dublin 2
Phone (01) 618 3147
Fax (01) 618 4123

Mr. Johnny McElligott,
Kilcolgan Residents Association
c/o Island View
Convent Street
Listowel,
Co. Kerry

**Complaint about a member of the Joint Committee on Climate Change and
Energy Security**

Dear Mr McElligott,

I refer to your email communication of 12 September 2008 regarding the above.

As the subject matter of your complaint does not come within the Orders of Reference of the Joint Committee it is not possible for the Committee to consider it.

You may wish to refer to the Ethics in Public Office Acts 1995 and 2001 to ascertain if you have grounds for a complaint under those Acts. If you consider that you have such grounds you should contact the Clerk of the Seanad.

Yours sincerely,

**Michael McKenna
Clerk to the Joint Committee
on Climate Change and Energy Security
25 September 2008**

To: safetybeforelng@hotmail.com
Subject: RE: Complaint on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan
From: Michael.McKenna@Oireachtas.ie
Date: Thu, 25 Sep 2008 15:56:57 +0100

Dear Mr McElligott,

The contact details for the Clerk of the Seanad are:

Deirdre Lane,
Clerk of the Seanad,
Seanad Eireann
Leinster House,
Dublin 2.
Tel 01-6183357
deirdre.lane@oireachtas.ie

From the desk of Michael McKenna
Clerk to Joint Committee on Climate Change and Energy Security

Direct Dial: 00 353 (1) 6183147
eMail: michael.mckenna@oireachtas.ie
Web: www.oireachtas.ie

Tanáiste and Office of the Minister for Enterprise, Trade and Employment.
Our Ref: 080522/MIN
23 September 2008

Mr. Johnny McElligott
Kilcolgan Residents Association,
c/o Island View,
Convent Road,
Listowel,
Co. Kerry.

Dear Mr. McElligott

The Tanáiste and Minister for Enterprise, Trade and Employment, Ms. Mary Coughlan, T.D., has asked me to refer to your e-mail and attachment of 5th September 2008 regarding Mr. John Brassil's role in relation to the rezoning by Kerry County Council of land at Tarbert, Co. Kerry which was owned by Shannon Development.

The Tanáiste is anxious to ensure that all members of State Bodies under her remit adhere to the highest standards and to this end each Board Member has been given a copy of the "Code of Practice for the Governance of State Bodies" and must perform their duties according to the highest ethical standards. This Code provides inter alia that all State Bodies should have written Codes of Business Conduct for Directors and Employees. Such a Code is in place in Shannon Development and is available on the Company's website. Moreover, the Tanáiste has procedures in place within her Department, to ensure insofar as is possible, that her Department's agencies adhere to the Code. She is satisfied that Mr. Brassil, in his role as Chairman of Shannon Development, has no case to answer in relation to this issue. She understands that Shannon Development have also investigated your complaint and the Company Secretary has replied direct to you.

It appears from the correspondence that your relates more to Mr. Brassil's role as a member of Kerry County Council and the Tanáiste understands that the Council has conducted its own enquiry in the matter. You will appreciate that it would be inappropriate for the Tanáiste, as Minister for Enterprise, Trade and Employment, to intervene in relation to any local authority or planning matters.

Yours sincerely,

Bridget Flynn

Private Secretary.

SECTION 3:

Complaint to Kerry County Council on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan



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

12 September 2008

For Attention of:

Ms. Margaret O'Hanlon,
Complaints Section,
Kerry County Council,
Áras an Chontae,
Tralee,
County Kerry.

Email: margaret.ohanlon@kerrycoco.ie

cc. breidy@kerrycoco.ie

cc. padraig.corkery@kerrycoco.ie

cc. Mr Brian Looney, Head of IS and Ethics Registrar, Kerry Local Authorities
Brian.Looney@kerrycoco.ie.

Re: Complaint on possible breach of ethics and conflict of interest by Senator Ned O'Sullivan

Dear Ms. O'Hanlon,

We are hereby formally complaining of what we consider may have been a breach of ethics and a conflict of interest by Senator Ned O'Sullivan:

- d) in his voting in support of the variation number 7 to the Kerry County Development Plan 2003-2009 that rezoned lands in Kilcolgan from Rural General and Secondary Special Amenity to Industrial on March 12th 2007 for the development of an LNG terminal while he was both a county councillor and a director of Shannon Foynes Port Company and
- e) in the performance of his functions as a senator and a member of the Oireachtas Joint Committee on Climate Change and Energy Security

1. Senator O'Sullivan was a member of the board of directors of Shannon Foynes Port Company and was a director of this company until his election to the Seanad in July 2007.²²
2. On 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 transhipment terminal at Ballylongford on the site of the proposed LNG terminal²³. A local newspaper, "Kerry's Eye", described it as follows²⁴:

"New hopes for Ballylongford - €10m development included in new Shannon Foynes Plan

The Shannon Foynes Port Company has drawn up a five year plan for Limerick and Foynes Ports and a portion of the landbank at Ballylongford.

The three part project will involve the redevelopment of the Limerick Docks, jetty extension and further reorganisation in Foynes. In Kerry, plans include the provision of a jetty, cranes and hardcore development of 20 acres of the 600 acres landbank at Ballylongford, for the transhipment of containers to Limerick and Foynes. The project will begin with the jetty at the deepest point feasible, at a cost of €10m. After this, the storage surface on land will be prepared leading to the construction of the on short cargo handling facilities, including cranes.

"I want to thank my fellow directors on the Board of Shannon Foynes Port Company for being big enough to cut out parochial thinking and taking a broad view of the Estuary", said Cllr. Ned O'Sullivan, the only representative from Kerry on the Board. The entire project is expected to cost €250 million. It is understood that the company has identified private partners with regard to the Ballylongford proposals at this stage.

Development of the landbank at Ballylongford / Tarbert has been retarded by the poor roads, no rail link and no mains water. The use of the new jetty for transhipment means that these deficits will be of little consequence. "All you want is cranes, a surface and a jetty", Cllr. O'Sullivan said.

The company foresees that on average one feeder ship will arrive each week and a smaller number of boats will handle the broken up containers into Limerick and elsewhere into Europe. "There is almost a three day delay getting into Rotterdam, Antwerp or Bremerhaven; we will be able to do a one tide turnaround in Ballylongford", Cllr. O'Sullivan said. "I don't see that this will result in too many jobs initially, to be honest. But in two or three years, when it is up and running, I think it will generate quite a number of jobs", he forecast. Shannon Development

²² IRIS OIFIGIUIL, APRIL 18th, 2008 page 35 c.f.

<http://www.oireachtas.ie/documents/publications/RegofInterestsSeanad2007.pdf>

²³ <http://www.sfpc.ie/news023-articles.htm>

²⁴ <http://www.sfpc.ie/news023-articles.htm>

has recently advertised for 'expressions of interest' in developing the 600 acre site. "We are currently evaluating some of the enquiries but it is early days yet", he added."

However, since the LNG terminal was proposed, all plans for this transshipment facility have mysteriously been shelved.

3. 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."*²⁵

4. In May 2006²⁶ Shannon LNG announced an option to purchase, subject to planning, the lands at Kilcolgan owned by Shannon Development, as follows:

"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."

5. The Shannon Foynes Port Company, of which 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.**"*²⁷

²⁵ Houses of Oireachtas Commission, Annual Report 2007 – page 18 c.f.
<http://www.oireachtas.ie/documents/commission/reports/2007.pdf>

²⁶ <http://www.shannonlngplanning.ie/files/Newsletters/Issue1.pdf> page 1

²⁷ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

6. Shannon Foynes Port Company is the estuarial port authority with responsibility for the entire Shannon Estuary²⁸. The development of an LNG terminal on the Shannon Estuary would therefore bring a huge revenue boost to the Port Company due to as many as 125 of the largest ships in the world docking in its area of control yearly.²⁹

7. On March 12th 2007 Councillor O'Sullivan **both proposed and voted in favour of the rezoning** 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 planning. The lands, we believe, were sold for approximately 28.1 million Euros (open to verification). The minutes of the March 12th 2007 meeting stated the following:³⁰

“07.03.12.06 Proposed variation No. 7 of the County Development Plan 2003-2009

*Mr. M. McMahon, Director of Planning, referred members to his report on this item which was circulated and he briefed them on the report. **Cllr. N. O'Sullivan PROPOSED** that this Council having considered the County Manager's Report on submissions received in relation to proposed Variation No. 7 of the Kerry County Development Plan 2003 – 2009 in respect of lands in the townlands of Reenturk, Rallappane and Kilcolgan Lower (Ballylongford) approves the making of this variation to the Kerry County Development Plan 2003 – 2009 pursuant to Section 13 of the Planning and Development Act, 2000.*

*Cllr. R. Beasley **SECONDED** this proposal.*

A vote was taken which resulted as follows:-

***For:** Cllrs. Beasley, Brassil, Buckley, Cronin, Ferris, S. Fitzgerald, Foley, Gleeson, M. Healy-Rae, Leahy, McCarthy, McEllistrim, Miller, **O'Sullivan**, Purtill, T. Fitzgerald (16) **Against:** None (0) **Not Voting:** None (0) **Absent:** Cllrs. Cahill, Connor-Scarteen, Fleming, D. Healy-Rae, MacGearailt, O'Brien, O'Connell, O'Connor, O'Donoghue, O'Shea and Sheahan (11)*

The Mayor declared the resolution carried.”

8. Our grievance is that the real damage was done in the rezoning of the lands from 'Rural General' and 'Secondary Special Amenity' to 'Industrial' for the LNG terminal without any strategic environmental assessment (SEA) being undertaken. Councillor O'Sullivan should have:
 - a. Disclosed the nature of his interest as a director of Shannon Foynes Port Company at the meeting,
 - b. Withdrawn from the meeting,
 - c. Taken no part in the discussion and
 - d. Refrained from voting.

²⁸ <http://www.sfpc.ie/>

²⁹ http://www.shannonlngplanning.ie/files/EIS/ShannonLNG_Terminal_EIS_Vol_1_of_4_Issue1.pdf page 5

³⁰ [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

Shannon Development achieved a value for land it owned of, we believe, 100,000 Euros an acre through this rezoning. This rezoning immediately increased the future estimated earnings of Shannon Foynes Port Company, of which Ned O’Sullivan was a director at the time. The actual planning permission was dealt directly through the new fast-track planning act – the Strategic Infrastructure Act 2006 - by An Bord Pleanála, whose inspector defended its decision by emphasising the Industrial zoning of the land as follows:

“Of eight sites examined in the Shannon Estuary, the present site was chosen on the basis of its water depth, topography, infrastructure and zoning”³¹.

9. Our understanding is that only lands owned by Shannon Development were rezoned with this variation to the County Development Plan.
10. Furthermore, we are concerned that there may be a link between the appointment of Ned O’Sullivan to the Seanad and Joint Committee on Climate Change and the successful rezoning of 600 acres of Shannon Development Land (which we now estimate is worth 60 million Euros) in an area which would be under the control of the Shannon Foynes Port Company and which Mr. O’Sullivan voted in favour of at the Kerry County Council meeting on March 12th. 2007. To be quite clear on our fears, they are that Mr. O’Sullivan may have possibly obtained a political “thank-you” position, a reward, less than 5 months after he voted for the rezoning of the Tarbert lands.
11. 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 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. The post of Chairman of Shannon Development is a highly-prestigious position which has enhanced Mr. Brassil’s profile locally and which cannot hurt his political ambitions if he decides to run for higher office. Our fear is that, this too, is a political “thank-you” position, a reward, for ensuring that the Shannon LNG project proceeded as quickly as possible.
12. We are of the understanding that it is common practice for the Kerry county councillors to follow the lead of the opinions of the councillors attached to the immediate area under concern at a council meeting. For this reason the participation of the 2 North Kerry Councillors from the total number of 6 councillors from the Listowel Electoral Area, Brassil and O’Sullivan, carried great importance in the councillors’ decision not to oppose the rezoning of North Kerry land.

³¹ An Bord Pleanála, Inspector’s Report into the proposed LNG terminal reference PA0002, page 20
<http://www.pleanala.ie/casenum/PA0002.htm>

13. We are of the understanding that Shannon Foynes Port Company does not permit or encourage in any part of its Articles of Association for its Directors to vote for rezoning of lands which would bring it financial gain.
14. We are equally 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 years³². 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.
15. 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 years³³. As this two-year condition is a fact, 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.
16. Finally, it has to be highlighted that we have never once seen any genuine concerns being expressed by either the Shannon Foynes Port Company, Shannon Development, Senator O’Sullivan, or John Brassil, for the Environmental or Safety Impacts for such a massive development of an LNG spill on water and this has been to the detriment of other stakeholders in the Lower Shannon Estuary Region.
17. Our complaint of a Breach of Ethics, we feel, needs to take the following points on board, as well as the issues already raised above:
 - a. Clare County Council, as stated in the Manager’s Report circulated to the Council Meeting, 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

³² http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

³³ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

investigation which may have been undertaken in respect of the proposed variation.”³⁴

- b. No SEA was undertaken and we feel that this was influenced by the representations made by both the Chairman of Shannon Development, John Brassil, and Ned O Sullivan, director of Shannon and Foynes Port Company because:
 - i. the option-to-purchase was conditional on obtaining planning permission for an LNG on lands zoned rural within 2 years,
 - ii. an SEA could have taken up to 1 year to complete alone, and
 - iii. both councillors voted on the issue proving they were making representations directly and indirectly on the issue.
- c. Ned O’Sullivan did not withdraw from the meeting. He proposed the approval of the rezoning (therefore definitely taking part in the discussion on the matter). He voted for it and did not declare his interest in Shannon and Foynes port company even though that should have been done (as it would have been declared in the minutes as obliged under Article 177(3) of the Local Government Act 2001)
- d. Ned O’Sullivan has continued to actively promote the virtues of the LNG terminal even after the land was rezoned without any genuine concern for the huge safety, environmental, planning and regional impact of the development.³⁵ The KRA, on the other hand, had raised such concerns at the planning stage as follows:

“We objected that the rezoning of land for promoting the installation of an LNG terminal that will only secure 50 long-term jobs so blatantly contravenes the objectives of the current county development plan of the “development as a premier deep-water port facility and for major industrial development and employment creation.”³⁶ that an attempt is being made to remove the central reason for developing the land bank in the first place. We are of the opinion that as per its obligations under Article 12.1 of the Seveso II Directive the councillors at the very least should have debated the type of developments that will be allowed near the LNG terminal. 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 housing complexes, businesses and developments.³⁷ It also prohibits LNG tankers from passing within 1,500 feet of populated shorelines. This law increases and formalises the protection afforded to

³⁴ Appendix 1: County Manager’s Report on the proposed variation No 7 to the Kerry County Development Plan 2003- 2009

³⁵ <http://archives.tcm.ie/irishexaminer/2007/07/23/story37943.asp>

³⁶

<http://www.kerrycoco.ie/planning/devplan/5.%20Employment%20and%20Economic%20Activityplan.pdf>
section 5.2.9

³⁷ Patrick signs LNG buffer bill into law

<http://www.heraldnews.com/news/x153381548/Patrick-signs-LNG-buffer-bill-into-law>

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”.

For a senator to completely ignore and omit such significant mounting international concern for the siting of LNG terminals shows either a blatant incompetent ignorance of the issues or a negligent and express intention to ignore the consequences.

- e. 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 2008³⁸:

“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.”

- f. Our fear is that his appointment to the Seanad and to the Oireachtas Joint Committee on Climate Change was a reward (contrary to Article 170(1) of the Local Government Act 2001) for promoting the rezoning and for continuing to push the positive sides of LNG in the Oireachtas speeches he has given for the following reasons:
 - i. Councillor John Brassil, who, coincidentally, also voted in favour of the rezoning, was made Chairman of Shannon Development less than 2 months after the rezoning
 - ii. We question the qualifications of Senator O’Sullivan, with no relevant experience in climate change, to be on such a technical committee.
- g. We feel that Senator O’Sullivan abused his position when he stated in the Oireachtas Joint Committee meeting of November 29th 2007:

³⁸ <http://www.safetybeforelng.com/docs/DAY%203%20012308%20TRALEE%20LNG.PDF> page 49

“I am interested in the gas situation because I recently read that gas will be the new oil, but I am not sure that was meant as a compliment. I am especially interested in liquified natural gas. As the Chairman is aware, plans for the establishment of a LNG terminal in Ballylongford on the Shannon Estuary, which is near where I live, are well developed. How new is the science of LNG? Is it well established? To what extent will LNG be a serious contributor to the overall gas supply? For example, what percentage of the gas supply is derived from LNG at the moment? How secure is that supply? This project has been fairly well received by the public in Kerry but there are rumblings of concern. I notice that a small group of people has been briefed by the Shell to Sea people. I hope we do not go down that road. Perhaps this is a micro-question for a forum such as this, but I would like to know more about it.”³⁹

These comments were made by Senator O’Sullivan a mere two weeks after RTE’s current affairs programme “Prime Time” ran a documentary on the proposed LNG terminal which contradicted serious safety issue claims which the Shannon LNG developer had made. The LNG expert interviewed by ‘Prime Time’ (Dr. Tony Cox) concluded that vapour clouds do not evaporate harmlessly into the air as was claimed by Shannon LNG in its publicity documents⁴⁰. For a senator to claim that we had been “briefed by the Shell to Sea people” was disingenuous in the extreme and an abdication of the Senator’s responsibility and duty to be fair to all as obliged under Article 168 of the Local Government Act 2001. In any case, ours were serious safety and environmental concerns and this personal agenda to push the Shannon LNG project was outside the terms of reference of the Joint Committee on Climate Change. To reinforce this point, even after the evidence shown on the ‘Prime Time’ video of a major LNG accident in Algeria 3 years previously which resulted in the deaths of about 27 people and another massive LNG explosion which levelled a square mile of Cleveland in 1941, killing 128 people, Senator O’ Sullivan persisted in his naïve and misleading LNG questions in the same meeting, when he asked:

“Is it true there has never been an accident in an LNG transmission?”⁴¹

- h. Ned O Sullivan did not act with integrity in our opinion. 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

³⁹ <http://debates.oireachtas.ie/DDebate.aspx?F=CLJ20071129.XML&Ex=All&Page=4> and Appendix 2

⁴⁰ “Prime Time” video of November 15th 2007 c.f. <http://www.rte.ie/news/2007/1115/primetime.html>

⁴¹ <http://debates.oireachtas.ie/DDebate.aspx?F=CLJ20071129.XML&Ex=All&Page=5> and Appendix 2

*standards of integrity, conduct and concern for the public interest.”*⁴²

- i. Article 170 (1) of the same Act clearly forbids any reward for a councillor in his duties as follows:

*“An employee or a member of a local authority or of a committee of a local authority shall not seek, exact or accept from any person, other than from the local authority concerned, any remuneration, fee, reward or other favour for anything done or not done by virtue of his or her employment or office, and a code of conduct under section 169 may include guidance for the purposes of this subsection”.*⁴³

- j. Article 175 (f) of the same Act clearly defines a directorship as a declarable interest as follows:

*“Each of the following interests is a declarable interest for the purposes of this Part: -(f) a directorship or shadow directorship of any company held by the person concerned at any time during the appropriate period, and in this paragraph “shadow directorship” means the position held by a person who is a shadow director for the purposes of the Companies Acts, 1963 to 1999.”*⁴⁴

- k. Article 176 (2) of the same Act clearly defines a declarable interest as a beneficial interest in the following situation:

*“A person shall also be deemed to have a beneficial interest which has to be disclosed under this Part if he or she has actual knowledge that he or she or a connected person has a declarable interest (within the meaning of [section 175](#)) in, or which is material to, a resolution, motion, question or other matter which is proposed, or otherwise arises from or as regards the performance by the authority of any of its functions under this or any other enactment..”*⁴⁵

- l. Article 177 of the same Act clearly defines the duties of disclosure by a member of a local authority of pecuniary or other beneficial interests as follows:

“(1) Where at a meeting of a local authority or of any committee, joint committee or joint body of a local authority, a resolution, motion, question or other matter is proposed or otherwise arises either—(a) as a result of any of its functions under this or any other

⁴² <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

⁴³ <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

⁴⁴ <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

⁴⁵ <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

enactment, or (b) as regards the performance by the authority, committee, joint committee or joint body of any of its functions under this or any other enactment,

then, a member of the authority, committee, joint committee or joint body present at such meeting shall, where he or she has actual knowledge that he or she or a connected person has a pecuniary or other beneficial interest in, or which is material to, the matter—(i) disclose the nature of his or her interest, or the fact of a connected person's interest at the meeting, and before discussion or consideration of the matter commences, and (ii) withdraw from the meeting for so long as the matter is being discussed or considered,

and, accordingly, he or she shall take no part in the discussion or consideration of the matter and shall refrain from voting in relation to it.”⁴⁶

18. In conclusion, we feel that this 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 written answers in May 2006 in the Dail the following was noted:

“Energy Resources.

88. Ms B. Moynihan-Cronin asked the Minister for Communications, Marine and Natural Resources the developments on plans for a strategic gas reserve; if the Kinsale reservoir will be utilised in this regard; and if he will make a statement on the matter. [20650/06]

Minister for Communications, Marine and Natural Resources (Mr. N. Dempsey): Responsibility for monitoring the security of Ireland’s natural gas supply lies with the Commission for Energy Regulation (CER). The CER publishes annually a 7-year rolling forecast of capacity, flows and customer demand (‘the Gas Capacity Statement’). The forecast also assesses whether projected supplies of gas from indigenous sources, imports and storage, are sufficient to meet forecast demand. A key finding of the 2005 Gas Capacity Statement is that, even under unusually cold weather conditions, the Irish gas transmission system can cope with forecast demand.

The issue of a strategic gas reserve is one of the issues to be addressed by means of an all-island study, which will assess the potential for natural gas storage on the island and the possible contribution of LNG to security of supply on an all island basis. While Ireland does not currently maintain a strategic gas reserve, commercial reserves of natural gas are held by licensed natural gas shippers and suppliers, including Bord Gáis E´ireann (BGE´). Indeed, at current levels, BGE´’s Kinsale reserves can supply 50% of nondaily metered customer requirements, i.e.

⁴⁶ <http://www.irishstatutebook.ie/2001/en/act/pub/0037/print.html>

small business and domestic for up to 50 days. This is in addition to stocks held by BGE' in the UK, which operates a similar regime to Ireland.

Also, BGE', as the natural gas Transmission System Operator, has developed contingency plans in the event of any curtailment in gas supplies. These plans include switching gas-fired power generation plant to alternative fuels, voluntary reductions from large industrial gas consumers and using its reserves from the South-West Kinsale reservoir.

The CER is in the process of issuing a licence to Marathon Oil Limited to operate a storage facility at the depleting gas fields off the Kinsale Head in Co. Cork. This facility, the first such in the country, with considerable storage capacity, will come into operation in the coming weeks. It will be an important enhancement of security of supply.

Work is well advanced in finalising transposition of EU Directive 2004/67 on measures to Safeguard Security of Natural Gas Supply. This will serve to further define the roles and responsibilities of gas market players relative to security of supply in the context of the liberalised natural gas market.

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." ⁴⁷

This project was therefore being promoted from the highest levels of the government in the Dail from as early as May 2006, **before the land was even rezoned**. However, the All-Island Gas Storage study document referred to above by Minister Dempsey was completed in November 2007. 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"⁴⁸ 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, in spite of our requests, only released in Executive Summary format to the general public at the end of March 2008, when the planning decision had already been made by An Bord Pleanála to allow the LNG terminal go ahead⁴⁹. This 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

⁴⁷ <http://historical-debates.oireachtas.ie/D/0620/D.0620.200605300043.html>

⁴⁸ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf>

⁴⁹ <http://www.pleanala.ie/casenum/PA0002.htm>

storage options⁵⁰; 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 TERMINAL⁵¹ and by Stag Energy in its GATEWAY GAS STORAGE PROJECT⁵²

- 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

19. We believe, therefore, that the actions of Senator O'Sullivan are a blatant breach of ethics and a conflict of interest because they involve deliberately pushing a political decision to site a dangerous LNG terminal to the exclusion of democratic input to a process highlighting any negative points to the project until it is too late. As the Senator, therefore, may possibly have contravened the Ethical Framework for the Local Government Service provisions of Part 15 of the Local Government Act 2001, the Ethics in Public Office Act 1995, the Standards in Public Office Act 2001 and the relevant codes of conduct of councillors and members of the Oireachtas and Committees and all other legislation governing behaviour of elected officials, we are requesting that this complaint be investigated thoroughly as we believe we have provided prima facie evidence to sustain this complaint.

We await your feedback on how you propose to deal with this complaint.

Yours sincerely,

Johnny McElligott

⁵⁰ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> page 5

⁵¹ http://www.hoegh.com/lng/business_development/focus/

⁵² <http://www.stagenergy.com/Gateway/index.html>

Appendix 1: County Manager's Report on the proposed variation No 7 to the Kerry County Development Plan 2003- 2009:

**County Manager's Report on
Proposed Variation No 7
to the Kerry County Development Plan 2003 – 2009**

Variation No 7

This variation proposes to rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43 acres) 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.



Kerry County Council
Planning Policy Unit

Introduction

1.0 Legal Preamble

In accordance with Section 13(2a) of the Planning and Development Act 2000 (as amended), Kerry County Council propose to make a variation to the Kerry County Development Plan 2003-2009 to facilitate the development of industrial uses on lands in Reenturk, Rallappane and Kilcolgan Lower.

2.0 Proposed Variation

The Kerry County Development Plan 2003-2009 was adopted by the Council in November 2003, and came into effect on 9 December 2003. This variation proposes to rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43 acres) 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.

The purpose of this 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 as Ballylongford/Tarbert as suitable for development as a premier deepwater port and for major industrial development and employment creation'. The adoption of this variation will also give 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'.

3.0 Public Consultation

In accordance with Section 13 (2) of the Planning and Development Act 2000 (as amended) notice of the proposed variation was published in the local papers inviting observations and submissions. Copies of the variation were put on display from the 2nd February to the 8th of March 2007.

4.0 Statutory Bodies

Under Section 13 (2) of the Planning and Development Act 2000 (as amended) the planning authority is required to consult the prescribed authorities listed under Part 3 Section 13 of the Planning and Development regulations 2001 (as amended).

5.0 Submissions Received

Written Submission No. 1 – No. 4

**An Bord Pleanála.
Department of Education
and Science.
Department of the
Environment, Heritage and
Local Government.
Office of the Minister for
Agriculture and Food.**

Submission

No observations on the proposed variation.

Written Submission No. 5

**Catherine McMullen, An
Taisce, Kerry Association,
5 Glenashe, Killorglin,
County Kerry.**

This submission raises the following issues –

1. The proposed zoning is appropriate for the majority but not all of the lands. The submission proposes that half of the lands currently zoned as Secondary Special Amenity should be retained for amenity uses such as walking and recreation to meet the needs of local people.
2. Positioning amenity lands at either end of the land bank would provide a buffer between houses in the vicinity of the industrial site and the site itself.
3. Public access to the shore line should be maintained particularly in view of the likely loss of public access to Kilcolgan Strand from the public road following the development of the site.
4. Sufficient land should be zoned residential in Tarbert and Ballylongford to meet the housing requirements of any workforce.

Response

1. An extensive area of land to the west of the site is designated as Secondary Special Amenity and includes a walking route to Carrig Island. It is considered therefore, that sufficient natural amenity lands have been reserved. The adopted Tarbert Local Area Plan makes adequate provision for the amenity requirements

of the village. In addition, a draft local area plan for Ballylongford is in the process of being prepared and will make provision for amenity uses to serve the towns catchment area.

2. The impact of development on the residential amenity of houses in the vicinity of zoned industrial lands will be dealt with at the planning application stage.
3. It is recognised that industrial and public amenity uses are incompatible due to reasons of health, safety and utility. Extensive foreshore lands from Richards Rock to Reenturk Point are however, excluded from the proposed industrial zoning and remain designated as Secondary Special Amenity.
4. The adopted Tarbert Local Area Plan makes adequate provision for an increase in demand for residential development. In addition, a draft local area plan for Ballylongford is in the process of being prepared and sufficient land will be zoned to cater for increased demand.

Written Submission No.6

**Clare County Council
New Road,
Ennis
Co. Clare**

The submission makes the following points:

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 whole 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.

Response

Any future application on these lands will be subject of 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.

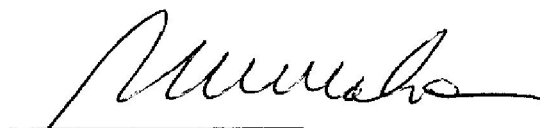
The lands subject of this variation have been in the ownership of Shannon Development for a number of years. While the text of the County Development Plan 2003-2009

facilitated industrial development on the land, the relevant zoning map did not reflect this objective. This variation will regularise the zoning maps with the text of the Plan. It is considered therefore that the proposed variation will not alter or impact to any additional extent on the objectives of the Mid West Regional Planning Guidelines.

6.0 Recommendation

Having considered the submissions received it is recommended that the variation to rezone 188.8ha (466.53 acres) of land, comprising 105ha (261.43 acres) 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 is adopted.

Signed:



M. McMahon/ M. Mac Mathúna,

Director of Services/Stiúrthóir Seirbhísí,

Planning & Sustainable Development/Pleanáil Agus Forbairt Inbhuanaithe

Date: 8/3/07

Appendix 2: Statements by Senator Ned O’Sullivan in the Seanad and in the Oireachtas Joint Committee on Climate Change and Energy Security Meetings

<http://historical-debates.oireachtas.ie/S/0187/S.0187.200710250003.html>

Seanad Éireann - Volume 187 - 25 October, 2007

Order of Business.

Senator Ned O’Sullivan: I ask the Leader to refer two matters to the Minister for the Envir[757]onment, Heritage and Local Government. The first concerns salary and expense remuneration for county and town councillors who are members of regional water boards, of which there are many — I had the privilege of being chairman of the Shannon basin water board in its first year. It is extraordinary that whereas the officials who attend these board meetings are fully covered for expenses, in many cases the elected members are not. An anomaly has arisen whereby some county managers reimburse councillors for their out-of-pocket expenses. As these are important boards, I ask the Leader to pursue the matter with the Minister, who gave me a favourable response as late as yesterday.

The second matter I want referred to the Minister concerns the proposal to establish a liquified natural gas, LNG, terminal at Ballylongford on the Shannon estuary in north Kerry. This project, which is of great importance for the nation, will greatly enhance our energy options while providing badly needed employment in north Kerry and west Limerick, particularly in towns such as Listowel, Abbeyfeale and Newcastle West.

Senator Joe O’Toole: Why west Limerick?

Senator Jerry Buttimer: We have a new candidate.

An Cathaoirleach: Senator O’Sullivan, without interruption.

Senator Ned O’Sullivan: Will the Leader raise this matter with the Minister and invite him to the Chamber to brief us on this important project for the nation as well as north Kerry and west Limerick?

http://www.oireachtas.ie/viewdoc.asp?fn=/documents/Committees30thDail/J-Climate_Change/Homepage.htm

**Joint Committee on Climate Change and Energy Security
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Clerk to the Committee: Mr. Michael McKenna

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**COMHCHOISTE UM ATHRÚ
AERÁIDE AGUS ÁIRITHIÚ
FUINNEAMH**

**JOINT COMMITTEE ON
CLIMATE CHANGE AND
ENERGY SECURITY**

Senator Ned O'Sullivan: I find this discussion quite interesting and the two presentations were very stimulating. It is clear this committee has more than enough work to do. I will respond to Mr. Brendan Halligan's challenge regarding what Ireland can hope to achieve because he approaches this matter from a pessimistic point of view, deeming Ireland so small that our tiny footprint makes little difference to the global situation. My grandmother said that many a mickle makes a muckle and Ireland has a contribution to make to this issue that could see it in an exciting situation of giving leadership as a small country. This is what we did during the information technology, IT, revolution and if we did so in this regard, we could make an important contribution in the process.

Efficiency is an area that must be more closely examined because I believe there is always a deficit in this regard. I come from a background of working in local authorities and I am not aware of any emphasis on green issues and energy efficiency in planning regulations imposed by local authorities. I have dealt with planners all my life on issues such as the size of houses, locations and so on but I am not aware that local government and the commercial sector are serious about energy conservation. This must be examined.



I am especially interested in tidal energy because Ireland is an island nation and there is room for growth in this sector. What is happening in terms of wind energy? There was a big surge — excuse the pun — in the construction of wind farms and it has become common to see planning applications for them in the newspapers. Has this waned and, if so, why? Surely the popularity of wind energy has not already peaked. I would like to know more about this.

I am interested in the gas situation because I recently read that gas will be the new oil, but I am not sure that was meant as a compliment. I am especially interested in liquified natural gas. As the Chairman is aware, plans for the establishment of a LNG terminal in Ballylongford on the Shannon Estuary, which is near where I live, are well developed. How new is the science of LNG? Is it well established? To what extent will LNG be a serious contributor to the overall gas supply? For example, what percentage of the gas supply is derived from LNG at the moment? How secure is that supply? This project has been fairly well received by the public in Kerry but there are rumblings of concern. I notice that a small group of people has been briefed by the Shell to Sea people. I hope we do not go down that road. Perhaps this is a micro-question for a forum such as this, but I would like to know more about it.

In the same vein, what do the representatives of SEI think is the future of a plant such as Moneypoint, which is a major polluter? Do we have to suffer from this for much longer? I do not propose to close it down but I wonder about its future. Can we reshape or refit it in some way so that it can make a serious and meaningful contribution to output without polluting the whole area?

I was interested in the Chairman's comments about opinions on the nuclear option. We should have grasped that nettle 25 years ago when it came up first. It is not too late. There is a different climate out there now, if listeners will pardon the pun. There is a different view about where we are in terms of energy. The debate should be reopened and I would certainly welcome the chance to participate in it.

<http://debates.oireachtas.ie/DDebate.aspx?F=CLJ20071129.XML&Ex=All&Page=5>

Senator Ned O'Sullivan:   Is it true there has never been an accident in an LNG transmission?

Mr. David Taylor: I cannot comment. I have no knowledge about it but have no reason to believe there is a particular danger. With regard to Moneypoint, the committee should bear in mind the price of carbon. The European initiative to establish a carbon market for the electricity sector and large emitters is an important development in the sense that it sends a price signal as to the value of capturing and sequestering carbon and for the viability of coal under conditions of constrained emissions. It is an important instrument that we must see develop. The committee is aware of my views on nuclear power.

**AN COMHCHOISTE UM ATHRÚ
AERÁIDE AGUS ÁINITHIÚ
FUINNEAMH**

**JOINT COMMITTEE ON CLIMATE CHANGE AND
ENERGY SECURITY**

Senator Ned O'Sullivan: While many of the points I intended to raise have been answered, as the Cathaoirleach noted, it is clear there is a duplication of services in this respect. There appear to be layers of bureaucracy and the message for the Government arising from the excellent presentation and highly stimulating discussion is that it must get its act together and achieve some cohesion in this regard. However, I am slightly confused in that Mr. Britton stated that production will reach 1,000 MW in the current year. Consequently, the witnesses appear to be doing fairly well, despite the existing challenges and obstacles. Is it simplistic to ask why not simply keep going, thereby making more energy and more money? While such an approach is probably simplistic, every mickle makes a muckle. As they continue, the witnesses probably will do better, despite the obstacles.

Specifically, what do the witnesses require the Government to do for them? Is this primarily a request for funding or do their needs pertain to the licensing issue and the clearing of obstacles? Is NOW Ireland a group that is exclusive to its five component parts or is it an all-embracing group for everyone in Ireland who is in this business? In other words, are other competitors such as the ESB or others, also working in this field? I seek information in this regard.

What is the ratio between cost and productivity in respect of offshore wind power generation? While everyone desires renewable energy, there are costs associated with all energy production, including energy costs. **How does offshore wind power generation compare with onshore wind power generation? Alternatively, how would it compare with the proposed new liquefied natural gas, LNG, terminal that is to be established in my neck of the woods in County Kerry? How will that compare in respect of its output and the costs that are needed to drive such output?**

I revert to the environmental issues on which members have not focused greatly. There must be some environmental impact associated with a development of this nature. I am from County Kerry, which is a centre for tourism. Some time ago, one of the local newspapers printed an imaginary montage showing what massive turbines would look like five or six miles off the Ring of Kerry, Ballybunion Beach or similar locations. The topic gave rise to major scares in the local newspapers at the time. Are such concerns real and could there be a negative effect on tourism, fishing or navigation in general? Is there a downside in this regard? What is in it for the local population and are there potential spin-offs at local level?

As the Chairman noted, members made a highly instructive trip to Galway Bay last week to view the wave generation project. It might be a good idea for members to view some

of the witnesses' operations in practice. It should be on a day on which the sea is particularly calm as not all members are great sailors

The generation of power by wind and wave offshore is closely physically aligned. Are there meaningful partnerships or linkages between the two? Obviously NOW Ireland considers wind power to be a much stronger generator. It probably is considerably more advanced than wave power in technology etc. Presumably however, the aim is the same, namely, the creation of energy from the sea and the same problems probably arise. This certainly is the case in respect of interconnecting with the grid and so on, as both forms of generation operate in the same territory. Can a case be made for a link-up in this regard?

SECTION 4:

Complaint to The Office of the Ombudsman concerning the refusal by Kerry County Council to carry out an SEA on variation No 7 of 2007 to Kerry County Development Plan (reference L18/07/2518)



Kilcolgan Residents Association
Protecting the Shannon Estuary

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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 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 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."*⁵³

⁵³ <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 EPA⁵⁴ and Clare County Council⁵⁵ 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:

⁵⁴ Email communication with Kerry County Council submitted to the Ombudsman’s Office on November 19th 2007 as attachment 8

⁵⁵ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman’s office on November 21st 2007

20. 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 terminal⁵⁶. However, since the LNG terminal was proposed, all plans for this transshipment facility have mysteriously been shelved
21. 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.”*⁵⁷
22. May 2006: Shannon LNG equally announced an option to purchase, subject to planning, the lands at Kilcolgan owned by Shannon Development, as follows⁵⁸:

“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.**”*⁵⁹

⁵⁶ <http://www.sfpc.ie/news023-articles.htm>

⁵⁷ <http://historical-debates.oireachtas.ie/D/0620/D.0620.200605300043.html>

⁵⁸ <http://www.shannonlngplanning.ie/files/Newsletters/Issue1.pdf> page 1

⁵⁹ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

Shannon Development's Annual Report 2006⁶⁰ 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 years⁶¹. 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 years⁶². 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.

⁶⁰ <http://www.shannonireland.com/media/Media,6816,en.pdf> The Annual Report 2006 of Shannon Development, page 12 (real page 14)

⁶¹ http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

⁶² http://www.sfpc.ie/LNG_01_Shannon-Issue%201.pdf Section 3.1 page 22

23. June 19, 2006⁶³: 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.“

24. 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.
25. 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 Kilcolgan⁶⁴
26. 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

⁶³ Minutes of June 19th 2006 Meeting of Kerry County Council -

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

⁶⁴

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 2004⁶⁵. 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 2.⁶⁶



27. February 7th 2007 (at the latest): Kerry County Council publishes notice of proposed variation No 7 to the Kerry County Development Plan 2003-2009.
28. 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

⁶⁵ 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)

⁶⁶ 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 PC0002.⁶⁷

29. 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."*⁶⁸

30. 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.
31. 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 planning⁶⁹. 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.
32. 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

⁶⁷ 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>

⁶⁸ Appendix 1: County Manager's Report on the proposed variation No 7 to the Kerry County Development Plan 2003- 2009

⁶⁹ [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.

33. 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 2007.⁷⁰

34. 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.”⁷¹

35. 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 2008⁷²:

“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.”

36. 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” Newspaper⁷³:

⁷⁰ IRIS OIFIGIUIL, APRIL 18th, 2008 page 35 c.f.

<http://www.oireachtas.ie/documents/publications/RegofInterestsSeanad2007.pdf>

⁷¹ Houses of Oireachtas Commission, Annual Report 2007 – page 18 c.f.

<http://www.oireachtas.ie/documents/commission/reports/2007.pdf>

⁷² <http://www.safetybeforelng.com/docs/DAY%203%20012308%20TRALEE%20LNG.PDF> page 49

⁷³ <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 2006⁷⁴ 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”.⁷⁵

We await your feedback.

Kind Regards,

Johnny McElligott

⁷⁴ Minutes of June 19th 2006 Meeting of Kerry County Council -

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

⁷⁵ <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

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>

>

> 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

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>
> 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
> >
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> >
> >
> >
> > 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 Denmark⁷⁶.

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.⁷⁷

Gerard O'Sullivan of Fehily Timoney and Co is also a former senior executive engineer in the environment section of Kerry County Council⁷⁸.

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 2004⁷⁹. 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 Denmark⁸⁰. 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 Group⁸¹ 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.

⁷⁶ <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

⁷⁷ <http://www.fehilytimoney.ie/>

⁷⁸ <http://ireland.iol.ie/kerrycco/staffing.html>

⁷⁹ Fehily Timoney Ramboll Company Number 389916

⁸⁰ <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

⁸¹ <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.’”⁸²

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.”⁸³

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

⁸² 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

⁸³ 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 PC0002.⁸⁴ 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 Report⁸⁵ 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." ⁸⁶

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

⁸⁴ 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>

⁸⁵ Kerry County Manager's Report on Variation no. 7 to the Kerry County Development 2003-2009 of March 8th 2007

⁸⁶ 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 apply⁸⁷ 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

⁸⁷ 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 Instrument⁸⁸ 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 2.⁸⁹



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

⁸⁸ C.f. <http://www.irishstatutebook.ie/2004/en/si/0436.html#article12> Planning and Development (Strategic Environmental Assessment) Regulations 2004

⁸⁹ 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’⁹⁰
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 EPA⁹¹ and Clare County Council⁹² 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.

⁹⁰ 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

⁹¹ Email communication with Kerry County Council submitted to the Ombudsman's Office on November 19th 2007 as attachment 8

⁹² 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 Council⁹³ could not confirm receipt of the SEA screening Report and the concerns raised by Clare County Council in its objection to the variation⁹⁴ 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 undertaken⁹⁵

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

⁹³ Email confirmation by John Bradley of Clare County Council forwarded to the Ombudsman's office on November 21st 2007

⁹⁴ 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

⁹⁵ <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 2004⁹⁶. 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:**

⁹⁶ 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 EPA⁹⁷ and Clare County Council⁹⁸ 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).

⁹⁷ Email communication with Kerry County Council submitted to the Ombudsman's Office on November 19th 2007 as attachment 8

⁹⁸ 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 report⁹⁹ 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 2006¹⁰⁰ 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

⁹⁹ 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.

¹⁰⁰ 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



Kilcolgan Residents Association
Protecting the Shannon Estuary

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28 August 2008

KILCOLGAN RESIDENTS ASSOCIATION

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

EXECUTIVE SUMMARY

The Kilcolgan Residents Association's (KRA) submission to the draft Kerry County Development Plan 2009 – 2015 deals with the development of the “Ballylongford Land Bank” of section 5.7 of the draft plan to which we object in its entirety:

1. The KRA has serious concerns that there is a conflict of interest in the SEA undertaken by Fehily, Timoney and Company due to the company's links with the transportation, construction and energy sectors and with Hess Corporation in particular.
2. Given the recent landslide in Lyracrumpane, the KRA is requesting that all companies that undertook independent environmental assessments for Kerry County Council provide declarations that they have no conflict of interest in their work for the council.
3. The KRA requests that Rallapane House and all the remaining structures dating back to at least the 19th century on the northern side of the coast road from Kilcolgan to Tarbert be declared protected structures in this development plan
4. The KRA requests that the Council undertakes a specific strategic environmental assessment of all aspects of the industrial rezoning of lands between Tarbert and Ballylongford, of the strategic development of the southern shores of the Lower Shannon Estuary and of the types of development permissible.
5. The KRA requests that an objective be included in the county development plan that project-splitting be forbidden in all planning applications in the interest of promoting integrated development.
6. The KRA rejects the conclusions of the SEA undertaken by Fehily Timoney and Co, such as how an LNG terminal with LNG tanks around 20 stories high, representing one of the tallest structures in Ireland and wider than the width of Croke Park in an SAC, NHA and SPA area. “will permanently positively impact on”:
 - a. “improving people's quality of life based on high quality living environments, working and recreational facilities”,
 - b. “adhering to the County Emergency plan and other objectives relevant to human health”, even though no emergency plan is in place
 - c. having “a neutral effect on the protection of scenic landscapes, views, routes and landscape features of local value”
7. The KRA describes as disingenuous the declaration of an intention to rezone lands industrial in Ardmore, Carhoonakineely, and Coolnagoonagh east of the LNG site hidden in the small print of the development plan without any advertising or consultation whatsoever with the affected general public.
8. The KRA requests confirmation on whether the Council and indeed the company that undertook the SEA has a professional indemnity insurance that will cover damages due to advice given and any development allowed.
9. The SEA takes no account of the oil storage facility proposed by SemEuro for the landbank and the other planned oil and gas storage hub facilities further east along the Shannon at Tarbert and Foynes. These facilities, along with the LNG terminal will see an increase of 610 oil and gas tanker movements yearly alone on the Estuary with related risks to the environment which must be assessed in an SEA.
10. The proposed LNG terminal is currently the subject of a judicial review in the high court. The KRA therefore requests that the council awaits the outcome of this judicial review before including any objectives in the plan which could later prove to be illegal.
11. The KRA believes that an institutionalised, developer-lead, income-generation culture now pervades the planning process in Kerry County Council, where the Council is now acting like a developer in its own right in attempting to secure its own long-term income via rates received from the oil and gas industry to the detriment of its obligations to all other stakeholders in the county. We therefore request that all

references to any particular company development proposal be removed from the county development plan e.g. *the pipeline route proposed by Shannon LNG in its secret agreement with An Bord Pleanála 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 station.*

12. The KRA objects that the new proposed objectives for promoting the installation of an LNG terminal that will only secure 50 long-term so blatantly contravenes the objectives of the current development plan of the “development as a premier deep-water port facility and for major industrial development and employment creation.” that an attempt is being made to remove the central reason for developing the land bank in the first place.

The KRA is of the opinion that as per its obligations under Article 12.1 of the Seveso II Directive the Development Plan must state the type of developments that will be allowed near the LNG terminal. In Massachusetts, the state House of Representatives unanimously approved a bill on July 24th prohibiting construction of LNG terminals within 5,000 feet of residences, schools, hospitals, elderly housing complexes, businesses and developments. 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. The KRA is of the opinion that if the LNG terminal is to go ahead then no development should take place within 3 miles of this development.

13. The KRA is of the opinion that it is inconceivable that large areas of land be rezoned industrial along the southern bank of the estuary between the beautiful area of Tarbert and Ballylongford, effectively creating an industrial town where there is no proper road infrastructure, where construction lorries will have to be driven every few minutes through the village of Tarbert for years to reach the site, where the locals have to rely on their own wells for water, where there is no plan for deciding where all these workers will be accommodated or how the other social services such as schools will be affected with a sudden increase of movements of large number of workers into the area.
14. 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.

In conclusion, the KRA is of the opinion that the principle objective of the County Development Plan as proposed in objective OS 2-1 is contravened in the proposals put forward for the Ballylongford Land Bank. This objective states:

“The principal aim of the County Development Plan is to provide for an improved quality of life for all the people in the county while regulating development in a sustainable manner”

Objective 11-39 is also contravened as it clearly states that it is an objective of the council to:

“Prohibit developments that pose a significant or potential threat to the coastal environments in keeping with the precautionary principal”.

DETAILED SUBMISSION

Our submission to the draft Kerry County Development Plan 2009 – 2015 deals with the development of the “Ballylongford Land Bank” of section 5.7 which is detailed in the draft plan as follows and to which we object in its entirety:

“Ballylongford Land Bank

The Shannon Estuary constitutes one of the premier deepwater locations throughout the Country. This makes it an area of significant potential for future development and an asset for the County whose potential must be maximised. A large area of land comprising 188.8 ha are currently zoned for industrial development. Planning permission for a gas importation terminal has recently been granted on a portion of this land. This gas terminal constitutes a strategic national asset for the importation, storage and distribution of liquefied natural gas to the national gas grid. Its development will add significantly to the development potential of the area. One of the major attractions for the developer in choosing this location was the deepwater available. While other deepwater is available to the West of the LNG site, this would require longer jetty facilities. More accessible deepwater is available to the East of the LNG site. 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. The development of this land which can accommodate a significant number of enterprises would on development, provide employment opportunities for north Kerry. It is the intention therefore, of Kerry County Council to zone additional lands in this area for industrial development.

Employment and Economic Activity Ballylongford Landbank - It is an objective of the Council to:

ECO 5-24: Facilitate the provision of the infrastructure necessary to cater for the need of industry in Ballylongford/ Tarbert and throughout the County

ECO 5-25: Promote and facilitate the development of the lands zoned for industrial development.

ECO 5-26: Promote and facilitate the development of the lands zoned for industrial development.”

1. We have serious concerns that there is a conflict of interest in the SEA undertaken by Fehily, Timoney and Company 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 Denmark¹.

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.²

Gerard O'Sullivan of Fehily Timoney and Co is also a former senior executive engineer in the environment section of Kerry County Council³.

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 2004⁴. It is also our understanding that, in 2004, the Ramboll

¹ <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

² <http://www.fehilytimoney.ie/>

³ <http://ireland.iol.ie/kerrycco/staffing.html>

⁴ Fehily Timoney Ramboll Company Number 389916

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 Denmark⁵. 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 Group⁶ 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.

2. As 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 sectors⁷ we are requesting that a request be made of Fehily Timoney and Co. to make a declaration on all its clients that have any possibility of gaining economic benefit from this draft county development plan, if approved.
3. Given the recent tragedy created by the recent landslide in Lyracrumpane, the risks of which were highlighted as a possible event before the development of a windfarm road, we are now requesting that, before this plan be adopted, that it be confirmed that no conflict of interests exists for all companies who
 - a. undertook independent environmental assessments of the impact of major energy, and transportation developments in the county,
 - b. were involved in assessing the industrial zoning of lands in the county and
 - c. were involved in assessing of the lands open to consideration for windfarms and other energy developments.

We are requesting that the council obtains a declaration from these companies who undertook independent assessments (such as RPS who undertook the screening report that recommended against an SEA be undertaken for the variation to the County Development Plan that allowed lands in Tarbert be rezoned industrial from Rural General and Secondary, Special Amenity) that no clients of these companies were known at the time to expect a considerable economic benefit from being allowed develop on such lands and that they had no conflicts of interest in their work for the council in order to maintain transparency in the planning process.

4. We request that Rallapane House, the old stone farmhouses of the O'Connor families in Kilcolgan Lower and all the remaining structures dating back to at

⁵ <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

⁶ <http://www.ramboll.com/search.aspx?q=soren%20holm%20johansen>

⁷ <http://www.fehilytimoney.ie/>

least the 19th century on the northern side of the coast road from Kilcolgan to Tarbert be declared protected structures in this development plan. Dr. Declan Downey of UCD, honoured by a knighthood from Spain and another from Austria⁸, clarified the historical, cultural and European significance of these houses and the general area surrounding them, a fact that cannot now be ignored by the council⁹.

5. When the lands on the site of the proposed Shannon LNG plant were rezoned to Industrial no SEA had been undertaken as it was claimed that this would have no serious impact on the environment. We therefore now request that the Council undertakes a strategic environmental assessment of the industrial rezoning of lands between Tarbert and Ballylongford and of the strategic development of the southern shores of the Lower Shannon Estuary and the types of development permissible. It is our contention that an SEA should 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.
6. The proposed 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 therefore request that an objective be included in the county development plan that project-splitting be forbidden in all planning applications in the interest of promoting integrated development.
7. Fehily Timoney and Co have now found¹⁰ that the proposed new objective in the draft plan to “Support the development of large scale industrial uses on zoned land within the Tarbert/ Ballylongford area including large scale marine-related industry and enterprise which require deep water access¹¹.”:
 - a) “will permanently positively impact on improving people’s quality of life based on high quality living environments, working and recreational facilities”. This does not make any sense whatsoever given the expert opinion of the Shannon LNG oral hearing that if the LNG terminal blows up, then all of the nearest residents have a high chance of being killed.
 - b) “it will permanently positively impact on adherence to the County Emergency plan and other objectives relevant to human health”. This does not take any account of the fact that there is no emergency plan in place for an LNG accident at Kilcolgan which has a consequence area of

⁸ http://www.ucd.ie/news/2008/05MAY08/280508_knighthood.html

⁹ Day 5 of the Bord Pleanála Oral Hearing into the proposed LNG terminal at Ralappane and Kilcolgan, Brandon Hotel, Tralee, January 25th 2008 (and excerpts in Appendix 1)

¹⁰ http://www.kerrycoco.ie/planning/devplan/SEA%20Report_Appendices-18jUNE2008.pdf : Pages 13 and 14 objective ECO 5-26

¹¹ <http://www.kerrycoco.ie/planning/draftdevplan08.asp> section 5.7 Ballylongford Landbank

12.4 kilometers, crossing 3 different counties, not to mention the mental strain and anguish related to living next to an LNG terminal - a top-tier Seveso II site.

- c) “it will have a neutral effect on minimising greenhouse gas emissions”. This is a complete contradiction of the stated environmental protection objectives (E11-1 to E11-5) in section 11.1 of the draft plan. One example of this is that it is a fact that encouraging and promoting gas infrastructure projects is increasing our reliance on imported fossil fuels.
- d) “It will have a neutral effect on the protection of scenic landscapes, views, routes and landscape features of local value”. This is complete nonsense because the proposed LNG tanks, at around 20 stories high, represent one of the tallest structures in Ireland and are wider than the width of Croke Park in an SAC, NHA and SPA area.
- e) “it will meet the requirements of the River Basin Management plan”. Our understanding is that the river basin management plan for the Shannon Basin District has yet to be published, so it is not possible to assess how the requirements of such a plan can be met.
- f) Will involve the rezoning of more lands, east of the LNG site in Ardmore, Carhoonakineely, and Coolnagoonagh¹². The declaration of an intention to rezone lands industrial in the small print of the development plan without any advertising whatsoever to the general public of the intention to so do is disingenuous in the extreme. This is precluding local participation at a strategic stage in the formulation of the development plan. It has been omitted that some of this land is in a Special Area of Conservation, and therefore subject to protection under EU Directives. In addition, it has been rumoured locally that all forestry trees totalling hundreds of acres, within 3 miles of the LNG plant are to be removed and we ask if the statutory and prescribed bodies have been consulted on this intention.

8. We ask if the Council and indeed the Company that undertook the SEA has a professional indemnity insurance that will cover damages due to advice given and any development allowed.

9. The SEA takes no account of the oil storage facility proposed by SemEuro¹³ for the landbank and the other oil and gas storage hub facilities further east along the Shannon towards Tarbert such as permitted for Foynes by Atlantic Fuel Supply Company Ltd.¹⁴ These facilities, along with the LNG terminal

¹² <http://www.kerrycoco.ie/planning/devplan/Map%2012.1a.pdf> :

¹³ SemEuro oil storage facility at Kilcolgan is currently at the fast-track strategic infrastructure pre-consultation stage at An Bord Pleanála c.f. <http://www.pleanala.ie/casenum/PC0008.htm> and <http://www.safetybeforelng.com/docs/Petition%20to%20the%20EU%20Parliament.doc>

¹⁴ 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 c.f.

<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

will see an increase of 610 oil and gas tanker movements yearly alone on the Estuary¹⁵ with related risks to the environment which must be assessed in an SEA. It has been claimed locally that the oil tanks at Tarbert are now being cleaned with the intention of allowing the importation of oil for distribution outside of the ESB plant. The risks of the development of an oil and gas storage hub along the southern shores of the estuary clearly point to the extreme necessity to have it determined more clearly the types of development that will be permitted along the landbank. Objective EN 11-39 clearly states that it is an objective of the council to “Prohibit developments that pose a significant or potential threat to the coastal environments in keeping with the precautionary principal”. The development of the land bank and the rezoning of further areas along the coast are in complete contradiction to the environmental protection objectives in the plan in the extreme such as, to name but two, “Have a presumption against new development within sections of the coast deemed to be isolated” (EN 11-42) and “Discourage the coalescence of development along the coast” (EN 11-44). We also now request that the council refer to the explicitly-stated intentions of the Risk Assessment of Marine Operations undertaken by Shannon Foynes Port Company and to make a determination on its conformity with the county development objectives when it is noted that the following was clearly stated in the assessment:

- d. An increase of 160 tanker movements a year is projected for a new oil storage facility in Foynes.
- e. 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 Kilcolgan.
- f. 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.
- g. 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.

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: 05789:
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)

¹⁵ Risk Assessment of Marine Operations at LNG Terminal may be viewed at http://www.sfpc.ie/operations_LNGRisk.html

10. The proposed LNG terminal is currently the subject of a judicial review in the high court¹⁶ and we therefore object that an individual project should be blatantly encouraged in a county development plan, especially as no permission has yet been accorded for a vital part of this development - the pipeline - that would link the proposed LNG terminal to the national grid. We therefore request that the council awaits the outcome of this judicial review before including any objectives in the plan which could later prove to be illegal.
11. It is highly objectionable and questionable how the proposed objectives on the development of lands in Tarbert can be so blatantly be developer-lead. We believe that an institutionalised, developer-lead, income-generation culture now pervades the planning process in Kerry County Council, where the Council is now acting like a developer in its own right in attempting to secure its own long-term income via rates received from the oil and gas industry to the detriment of its obligations to all other stakeholders in the county. We have never seen another county development plan aim to promote a single company in the manner in which Shannon LNG is being promoted and now an attempt is being made to retrospectively rubber-stamp a development that contravenes all principles of integrated development. We therefore request that all references to any particular company development proposal be removed from the county development plan. An example of the harm done by this policy can now be noted in the development of the pipeline which has not yet been approved but which was highlighted in the KRA press release of August 12th 2008, which stated the following:
- “If you want gas in Kerry then now is the time to ask for it: The Kilcolgan Residents Association has condemned the proposed 26-kilometer pipeline linking the planned Shannon LNG terminal at Tarbert to the national gas network near Foynes. The KRA says that the route proposed lacks strategic planning, is surrounded in a veil of secrecy at An Bord Pleanála and is contrary to government and EU policy on the avoidance of market dominance, predatory behaviour and distortion of competition.*
- The Spanish Energy giant Endesa’s purchase of the Tarbert ESB station was announced last week with the news that the station would be redeveloped as a gas-powered generator in the coming years, saving jobs in the town.*¹⁷
- However, the pipeline route proposed by Shannon LNG in its secret agreement with An Bord Pleanála 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 station*¹⁸.

¹⁶

http://highcourtsearch.courts.ie/hcslive/case_detail.show?sessionID=2110701045&yearNo=2008&recordNo=598&processType=JR

¹⁷

http://www.endesa.com/Portal/en/press/press_releases/our_companies/endesa/2008/31jul08_press_note+.htm

¹⁸ 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

Shannon LNG has even proposed the development of a new gas-powered electricity station dangerously close to the planned LNG terminal on its own site at Kilcolgan, giving the American multinational huge control over a large amount of strategic energy infrastructure in the country.

Three alternative pipeline routes had initially been announced by Shannon LNG, one of which would pass directly by the ESB station. Due to the complete absence of any strategic environmental assessment, as prescribed by Irish and EU law, An Bord Pleanála has given the go-ahead for the preferred, and cheapest, route of Shannon LNG to go for fast-track planning without any public consultation allowed beforehand on the possible alternatives. A strategic environmental assessment would give clarity and certainty to all - to residents, developers, safety and planning authorities, saving time, expense and much community anguish.

Kerry County Council has to be consulted by law on this proposed pipeline as it goes through the fast-track planning process once more. The KRA is now calling on Kerry County Council to demand, as a minimum, a strategic assessment of the oil and gas storage hub now proposed for the Shannon Estuary. If the dangerous LNG storage facility is to be forced on North Kerry, the least that the council can do in return for the millions that it will receive each year in rates, is to ensure that North Kerry has access to the gas for the development of the region. It is no use looking for it once permission is given for the route preferred by the developer.

It is now abundantly clear that developer-lead strategic infrastructure projects without any guiding strategic assessments are not in the national interest.”

12. The current county development plan states in section 5.2.9. “Lands have been identified at Ballylongford / Tarbert as suitable for development as a premier deep-water port facility and for major industrial development and employment creation.” We object that the new proposed objectives for promoting the installation of an LNG terminal that will only secure 50 long-term jobs (as pointed out by the inspector at the oral hearing in Tralee) so blatantly contravenes the objectives of the current development plan that an attempt is being made to remove the central reason for developing the land bank in the first place. We now see that the real motivation of the council is the income that will be generated from the commercial rates recovered from the gas terminal operator.

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.pleanala.ie/casenum/GC0003.htm>)

www.shannonpipelineplanning.ie (this site contains the EIS for the proposed pipeline).

13. We believe that it is essential for integrated development that a clear indication in the county development plan is given as to the type of development that should be allowed in the vicinity of the proposed LNG terminal if it goes ahead as prescribed by Article 12.1 of the Seveso II Directive which 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.”

In Massachusetts, where Shannon LNG’s mother Company Hess LNG is attempting to build an LNG terminal similar to, but smaller than, the Kilcolgan project, the state House of Representatives unanimously approved a bill on July 24th prohibiting construction of LNG terminals within 5,000 feet of residences, schools, hospitals, elderly housing complexes, businesses and developments¹⁹. It also prohibits LNG tankers from passing within 1,500 feet of populated shorelines. This news has been warmly welcomed by the Kilcolgan Residents Association which has been highlighting the serious negative safety and environmental consequences the proposed LNG terminal will have on North Kerry and the Shannon Estuary in general. If Kilcolgan was in Massachusetts Shannon LNG would not be allowed build the terminal and the local residents would be protected. LNG is dangerous and any forward-thinking politician or planner should be able to see that. 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. A similar bill is being proposed in the UK by Dr. Bob Spink²⁰. In addition, even Gordon Shearer of Hess LNG admitted that there is a need for a buffer zone around LNG terminals, which he suggested be around one mile. Hess LNG CEO Gordon Shearer admitted for the first time ever on a US TV interview on May 20th 2008 that an LNG ship one mile from any point of land is the nearest point “at which risk is down to acceptable levels”²¹. However, any LNG ship will never be more than 1 mile from land once it starts travelling up the Shannon Estuary therefore putting lives at risk all along the North Kerry and South Clare coasts. World-Renowned LNG expert Dr. Jerry Havens told the oral hearing in January that anyone within 3 miles of an LNG accident would be in danger. In the interview, Gordon Shearer has now proposed an offshore pipeline in which he admitted for the first time ever in public that a mile is the

¹⁹ Patrick signs LNG buffer bill into law

<http://www.heraldnews.com/news/x153381548/Patrick-signs-LNG-buffer-bill-into-law>

²⁰ see <http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080115/debtext/80115-0004.htm> and

<http://www.epolitix.com/EN/Legislation/200801/4e63f2df-4a95-48c0-9962-dd5545ad463b.htm>

²¹ <http://www.eenews.net/tv/rss/2008/05/20/> and see Appendix 4

nearest acceptable level at which risk is down to an acceptable level when he said:

“So, we’ve moved that aspect of the project some distance away, so the ship is now a mile away from the nearest point of land. And based on government findings, based on the Department of Energy and Sandia National Labs analysis, that’s the point at which the risk is down to acceptable levels.”

The oral hearing into the proposed terminal held in Tralee over 8 days in January heard from the developer’s LNG expert, Dr. Phani Raj, that in the case of an accident people could hide behind trees, run or hold newspapers over their heads to avoid being burned in the accompanying heat wave. One nearby resident, Mrs. Lily O’Mahony, asked the hearing that since she had her knees done she can hardly walk not mind run and asked if she is supposed to walk around with a newspaper everywhere.

In conclusion we believe that it is more in keeping with the precautionary objective EN 11-39 of the County Development plan (where it clearly states that it is an objective of the council to “Prohibit developments that pose a significant or potential threat to the coastal environments in keeping with the precautionary principal”) that a clear indication be declared on the County Development Plan, that if the LNG terminal is to go ahead then no development should take place within 3 miles of this development.

14. Section 5.7 of the draft County Development Plan also states “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”. We understand this to mean other oil and gas storage facilities and other chemical industries, none of which do much for job creation, while all of which can be detrimental to the environment. Why is this being proposed in an area of outstanding natural beauty and supposedly protected under EU legislation due to its sensitive eco-system?
15. Limerick Chamber is promoting the upgrading of the N69 and make strong reference to the Shannon LNG project²². However, if you read the attached document, you will note that Kilcolgan is not on the Limerick side of Tarbert. Table 8.5 mentions only the development of an inner relief road in Tarbert but no reference whatsoever is made to any blueprint for road development that would create a bye-pass of Tarbert and allow improved connectivity of the road from Listowel to Foynes, for example, in conjunction with the Limerick plan. As construction traffic for the proposed LNG terminal would see a lorry going through the centre of Tarbert every 4 to 5 minutes for a number of years then the proposed objective to “Manage the road network serving settlements in an economic and efficient manner with particular emphasis on

safety for all road users (INF 8-12) is contravened. We are of the opinion that it is inconceivable that large areas of land be rezoned industrial along the southern bank of the estuary between the beautiful area of Tarbert and Ballylongford, effectively creating an industrial town where there is no proper road infrastructure, where construction lorries will have to be driven through the village of Tarbert for years to reach the site, where the locals have to rely on their own wells for water, where there is no plan for deciding where all these workers will be accommodated or how the other social services such as schools will be affected with a sudden increase of movements of a large number of temporary workers into the area. How can this be deemed integrated development by the council and written into a county development plan? We object to this in its entirety.

16. The SEA undertaken by Fehily Timoney and Co does point out some possible negative impacts which we feel are so hidden in a table that they should be expanded upon in more detail: The SEA says that ECO 5-26 (Support the development of large scale industrial uses on zoned land within the Tarbert/Ballylongford area including large scale marine-related industry and enterprise which require deep water access) "MAY CONFLICT WITH ENVIRONMENTAL OBJECTIVES" in the following areas:
1. Conserving protected habitats and species,
 2. Protection of SAC sites under the habitats directive
 3. conserving the diversity and habitats of species in non-designated areas

The KRA has submitted a petition to the European Parliament asking it to condemn Kerry County for its failure to adhere to EU law (reference number 13/2008) and we are hereby requesting that the Council awaits the outcome of this petition as it deals specifically with the Shannon LNG proposal. It is requesting a condemnation of all these breaches of EU Directives which separately and cumulatively amount to a total disregard for EU law in the 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.

The Chairman of the European Parliament Petitions Committee deemed the petition by the Kilcolgan Residents Association (KRA) against the proposed Shannon LNG terminal at Tarbert admissible on June 19th 2008.

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. This right of reply is included at

the end of this submission²³ and we are hereby requesting that the Council takes on board all the issues raised by the KRA to the EU in Appendix 2 because they have a direct bearing on the draft County Development Plan.

17. Furthermore, in a recent report published on Friday August 15th 2008 in the journal 'Science',²⁴ two North Kerry estuaries were named Dead Zones. The Upper Lee Estuary in Tralee and the Cashen Feale Estuary in North Kerry have been declared as areas too polluted to support marine life. A global investigation by Marine Scientists in Sweden and the United States revealed four hundred and five 'dead zones' worldwide. Included in the report are twenty Irish sites unable to sustain any normal marine life due to pollution. Dead zones now comprise around 245,000 square kilometres, according to researchers Robert Diaz of the Marine Sciences Institute at the College of William and Mary in Virginia, and Rutger Rosenberg, a marine scientist at Gothenburg University in Sweden. The KRA therefore requests that this information be included in any consideration of development on the Shannon Estuary or its shores.
18. The KRA further requests that the council takes into consideration in the draft Development Plan the issues raised in recent press releases by Munster Member of the European Parliament (MEP) Kathy Sinnott where:
 - a. She is of the opinion that the recent landslides are connected to poor planning practices:

*"Press Release- Monday, 25 August 2008 Landslides connected to poor planning practices and neglected native Irish forests says Kathy Sinnott"*²⁵

With the recent EU Court Judgment regarding the inadequate Environmental Impact Assessment {EIA} at Derrybrien, it proved that Ireland's blueprint for EIAs is fatally flawed and now we have another serious ecological disaster in Kerry, which went through our flawed planning process, the EU fines will start to roll, adding to the problem. The continued use of flawed EIAs on major infrastructural developments amounts to gross negligence on behalf of the State.

Said Kathy Sinnott, "What recourse is left to the community in Kerry who flagged the possibility of landslides during the planning stage and who were ignored by the so called experts at all levels of the process, when public participation with meaningful engagement is the bedrock of sustainable development and the basis of EU environment law."

²³ KRA Submission to EU Parliament (Appendix 2)

²⁴ <http://www.sciencemag.org/cgi/data/321/5891/926/DC1/1> and <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2008/08/15/MNLD12ADSN.DTL&hw=dead+zones&sn=001&sc=1000>

²⁵ For further information, questions or comments, please contact Kathy on: Brussels office: +32 228 47692 Cork office: +353 21 4888 793 Email: kathy.sinnott@europarl.europa.eu Website: www.kathysinnott.ie Or Andrew St. Ledger, The Woodland League Email: stledgerwood@gmail.com

In 2005 the Woodland League invited an international forester called Herb Hammond, through their connection with the EU forestry NGO FERN who monitor the RU's forests on behalf of the public to assess the landslide at Derrybrien. He said the plantation of exotic conifers with its deep vertical drains, when it was clear felled to facilitate the Windfarm, was a major factor in causing the landslide. He agreed that the planting of fast growing native trees like Willow, Alder and Birch, would be the simplest most economic way to mitigate against further landslides. This is pertinent in regard to the state forestry company Coillte, announcing its intention to create windfarms on the hilltops it manages trees on. Coillte have previously sold public land to facilitate windfarms, Derrybrien is one such site which led to an ecological disaster. The current windfarm guidelines are not detailed or robust enough to protect our hills and people, instead of guidelines we need definite rules. The current landslide working group set up after Derrybrien and Pollathomas, has so far failed to mention the role of trees and their connection to landslides, this is disturbing, and calls into question the ability of state agencies to be impartial.

Kathy Sinnott, a member of the Environment Committee in the European Parliament, stated "I therefore call for an independent outside body to investigate landslides for the public's protection with a moratorium on major infrastructure projects like windfarms on boggy soil until the investigation is complete."

The Rural Development Programme should have been the vehicle funded by the EU, to utilise our native tree resource as the first defence against flooding and landslides. The planting and creation of native tree nurseries to supply stock, as well as the managing of these new woodlands, would create thousands of jobs in rural areas, crying out for true sustainable development." and

- b. She calls on the Irish Government to amend EIA laws in a bid to protect human life.

« -Press Release-Wednesday, 27 August 2008. MEP Kathy Sinnott calls on the Irish Government to amend EIA laws in a bid to protect human life.

Following last week's landslide in Kerry, MEP for Ireland South, Kathy Sinnott today called on the Irish government to change faulty Irish legislation on Environmental Impact Assessments (EIA) in order to safeguard against the loss of human life.

Said Deputy Sinnott, a member of the Environment Committee, "A recent EU Court Judgment (Case C-215/06 of the 3rd July)²⁶ found that Ireland's blueprint for EIA is fatally flawed. Derrybrien in Co. Galway was cited in the Judgment as a clear illustration of Ireland's

²⁶ The Court Judgement can be found here: <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>

misinterpretation of the Directive in Irish legislation. The wind farms in the Stacks Mountain Region in Kerry went through this same flawed planning process, leading to last week's landslide. The continued use of flawed EIAs on major infrastructural developments amounts to gross negligence on behalf of the State. Ireland has been proved that they are in the wrong and condemned by the EU Court. We must change our legislation accordingly."

Continued Kathy Sinnott, "We need to realise that this kind of shoddy planning actually endangers life. To date we have been fortunate that there has of been no loss of human life. However, the landslide in Kerry, like that in Derrybrien, was a disaster with thousands of fish killed and many homes without water or electricity for days. Unfortunately, there are no guarantees for the future if our Government do not accept the EU Court's Decision and its consequences."

Concluded Mrs. Sinnott, "I call on Ireland to accept this Court Judgement, to amend Irish legislation immediately in line with the Judgment and to inspect all infrastructure built and being built under the current flawed legislation and by doing so protect human life from future tragedy." «

In conclusion, we are of the opinion that the principle objective of the County Development Plan as proposed in objective OS 2-9 is contravened in the proposals put forward for the Ballylongford Land Bank. This objective states:

"The principal aim of the County Development Plan is to provide for an improved quality of life for all the people in the county while regulating development in a sustainable manner".

APPENDIX 1:

ORAL HEARING

PROPOSED 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
HEARD BEFORE THE INSPECTOR,
MR. ANDREW BOYLE
ON FRIDAY, 25TH JANUARY, 2008
AT THE BRANDON HOTEL, TRALEE, CO. KERRY - DAY 5

DR. DECLAN DOWNEY PRESENTED HIS SUBMISSION AS FOLLOWS:

MR. DOWNEY: Mr. Inspector, I shall introduce myself very briefly. I am Dr. Declan Downey, University College Dublin, School of History and Archives. I should like to speak very briefly about the heritage and historical aspects of this area and drawing specific reference to some of the proposals for the location of tanks within 400 metres, of Ralappane House. Now, the area, the immediate local area, consisting of the townlands of Kilcolgan, Ardmore, Caroonakilla, Saleen, Returk, Lislaughtin, Pooleen (as heard), these areas are very well steeped in history going back over a period of 2,000 years human habitation. But I am not going to speak about the archaeological significance of the area I am going to speak about the historical significance of the area.

Within that radius we have very fine ruins of the 15th century Abbey, or friary of Lislaughtin. Not far away from that, of course, Carrickfoyle Castle, which has been referred to earlier. These are two of the jewels in the crown of North Kerry tourism and are very much a part and focus of the tourist industry. Which I might add is being developed at a higher level now to niche market tourism, in terms of cultural tourism. So, the visual impact of the tanks that are being referred to by Ms. McMullin from An Taisce, this is a matter we look forward with interest to hearing from LNG how they propose to deal with this issue.

Certainly, we can cooperate with them with regard to suggestions. Some have referred to the planting of trees. I have seen in other areas a very useful situation of the building of earth mounds around the tanks. That also helps in the event of fire. But my specific concern to address you here is with regards to Ralappane House. Now, Ralappane House, ladies and gentlemen, is a 17th century farmhouse and here in Ireland we have very few farmhouses that date back as early as the 17th century. Most date to the mid 18th century or late 18th century, or indeed from the early 19th century.

Ralappane House, as I said, is 17th century and it is on the site of an earlier habitation, a medieval manner house, which was part of the lands of Carrickfoyle. It was held by the O'Connor Kerry family for over 700 years. Then it passed, in the 17th century, into the hands of the Sands family, a Cromwellian planter family. Later it passed into the hands of the Hoare family. Then it passed, through marriage, in around 1820 to the Musgrave family, who occupy it at present. It is a two-storey L-shaped residence, of four bays with a porch in front. It is gable ended with chimney stacks set unevenly between the gable ends. It has dormer windows, with very interesting fret work features around the windows and porch. Its interior is remarkably well preserved. It has some very fine early 18th century paneling and a very fine staircase, etc., and it is reputed to have been the birth place of a 17th century Irishman who had tremendous

distinction in Europe, Bonaventure O'Connor Kerry. He was a Franciscan who had been professed in Lislaughtin Friary and later educated in Louvre and in Salamanca and at Airfort. He became a theologian, a dualist, he was a great classical scholar in the course of his long and distinguished careers in the Universities of Airfort, Innsbruck and [inaudible], and has left a considerable corpus of literature, in terms of the origins of international law and theology. He is one of our significant figures of 17th century Irish history. He is a significant figure on the European context as well and Ralappane is reputed to have been his birth place. So, there is that connection, too, which also enriches its focus and its importance in terms of North Kerry tourism. Not far from Ralappane there is another area, down in Ardmore, and there are a few old farmhouses down there, which, of course, have been abandoned since they have been sold to the various speculators in the 1970's, forming part of that landbank. But, again, one of those farmhouses, which belonged to O'Connor family and remained in their possession down through the centuries, was the reputed birthplace of another Kerry man and, indeed, Irishman of great international reputation in 17th century Europe, and that Bernard O'Connor Kerry, who was a very distinguished medical professor at Oxford, Paris, he was physician to King Yansovieski of Poland. He had a very distinguished international career, not only as a medic, as a great professor of surgery and its use, in developing that, but he was also an historian and he was the first to write an history of Poland.

SO, we have a very deep sense of historical significance in this region of North Kerry. A significance that stretches not just only beyond North Kerry to the rest of Ireland but further afield, to Europe. Therefore, I would request that LNG would address the issue of the location of storage tanks within 400 metres of Ralappane House specifically. Also, in view of the fact that various submissions have been made with regards to the environment, health and safety issues, amenity, etc., that some way could be worked out whereby the genuine and legitimate concerns of the local residents could be balanced with the concerns of LNG in producing a suitable and workable solution to these matters. So, therefore, Mr. Inspector, I should just like to conclude my remarks that I hope that I have indicated to you the importance of this locality in terms of its historical significance as well as in terms of heritage, its impact, of course, as well for local tourism and that, hopefully, this matter can be addressed by LNG with regards to the location of their storage tanks and modifications that could be made to the visual affect of those tanks, too. Thank you. Inspector.

END OF SUBMISSION

INSPECTOR: Thank you, Dr. Downey.

MR. O'NEILL: If I could just briefly respond to that. Maybe not, I don't want to interrupt the flow and I can deal with it later if needs be.

INSPECTOR: I think we will try and see if there are any further submissions. Mr. Kearney, you are Adam Kearney & Associates; is that right?

MR. KEARNEY: That's right, yes.

INSPECTOR: You have made submissions in relation to visual impact as well, do you wish to say anything.

MR. KEARNEY: Not at this time, no. Just to reiterate the fact that I think the bulk and scale of the tanks is overwhelming in this location.

INSPECTOR: Okay. Ms. Griffin?

MS. GRIFFIN: Catriona Griffin. I just want to check. In the brochures we have been given it says the height of the tanks is 50 metres, but if you take into account the

various valves and rods on top of the tanks they appear to be more like 70 metres in height.

INSPECTOR: Okay. Do you wish to make another statement?

UNKNOWN SPEAKER: I just want to make another statement. Yes, it is on record and An Bord Pleanála granted planning permission for about 20 wind turbines in the Tarbert area. I don't know exactly the location. But, you know, obviously, that is a couple of years ago and they were never followed through. I know that there were some objections in Tarbert, I don't know why, but there was. Maybe some people were close by and the wind and everything else. But I maintain that, this would be my submission anyway, that if the whole landbank was utilised with wind turbines I'd say that they could supply a tremendous amount of energy. It is sustainable, it will last forever and I don't think there is any danger of them blowing up. I put my submission fully for full safety. It was brought up the other day that even boiling a kettle is not fully guaranteed safe but relatively I do believe more safe than an LNG gas terminal. So would wind turbines. I do believe that we have to move away from fossil fuel, however safe it is they say, or environmentally impacted, and move on to sustainable energy. Global warming is here or global heating, whichever you want to call it, is here. It is not ten years down the line, it is here. We have the capacity in this country to supply all our LNG needs with sustainable wind, wave and sun. If the Vatican, which is a State, if that can be carbon neutral -- I believe it is a small State but it is the only State which carbon neutral in the world. We have all the facilities here and working in conjunction with nature I believe that we could do the same here, if not at least close to it. Thank you, Mr. Inspector.

INSPECTOR: Thank you. This is a fairly wide ranging topic, so does anybody else wish to make a submission. Okay.

MR. FINUCANE: Michael Finucane. Just in reply by the way for the record. I would like to reply to Dr. Downey there and his history of the place. I can trace my family back to the 1780's, they are part of the landbank. But there was a few omissions by Dr. Downey. There was 28 Celtic families dispossessed on that land in the plantation of Munster. He also forgot to mention about the decimation of Carrickfoyle Castle, the seat of the O'Connors, by General [inaudible] on Palm Sunday, 1690. I have reason to believe it was the first...(INTERJECTION).

MR. INSPECTOR: Sorry, could you speak a little bit more clearly, I think our stenographer is having difficulties.

MR. FINUCANE: By the decimation of Carrickfoyle Castle, the seat of the O'Connor's Kerry, in 1690, Palm Sunday, it was the first time that gun powder was used in Ireland. General [inaudible] was one of the Generals [inaudible]. They also sailed up Ballylongford Bay and they sacked the Franciscan Friary at Lislaughtin and murdered and looted the Franciscan Nuns. Three of the nuns escaped and they were caught over Glencloosey, practically near where the actual terminal is proposed. They were spotted by the soldiers and their ears were cut off. And that's how the name of that area is called Glencloosey to this day, for years. It is easy to glance over history, if you want to go back far enough you can pick what you like out of it. But history should be told as it happened. That's all I can say.

INSPECTOR: Thank you. Any other contributors?

INSPECTOR: Okay, I am going to ask the applicants if they wish to respond to those remarks.

MR. O'NEILL: Thank you, Inspector. Some of the issues that have been raised will be dealt with in the individual submissions that are made. I would like to just deal with Dr. Downey's observations in case they slip between the submissions and are not dealt

with. I don't want them to go unanswered. The first thing I would say is that the EIS has a study of the historical context of the area, not only the site itself but the immediate area, and that's at paragraph 14.3 of the EIS Volume 2. There is a specific reference in that to Ralappane House. I will also note that the occupiers of Ralappane House, the Musgrave family, are, I understand, in fact very supportive of the proposal. I understand that Dr. Downey is appearing on behalf of the Kilcolgan Residents Association, and, of course, he is entirely entitled to do that, and very welcome. I don't understand him to be speaking on behalf of the Musgraves. Although if I am incorrect no doubt I will be corrected on that.

MR. DOWNEY: May I reply to that?

MR. O'NEILL: I am practically finished,

Dr. Downey can then reply. Mr. Downey has been talking about the house in the historical context rather than the architectural context. I don't understand Ralappane House to be, from an architectural point of view, of particular significance or of sufficiently important significance to be mentioned in the Development Plan. Again, if I am incorrect on that no doubt the record will be set straight. But really what I am saying is that the historical context of this area has been taken account, has been assessed in the EIS.

MR. DOWNEY: Mr. Inspector?

INSPECTOR: Dr. Downey, Yes.

MR. DOWNEY: First and foremost, I know the Musgrave family, I have known them all my life, I am a native of Tarbert and I know that they have reservations about the location of these tanks within 400 metres of their house. We are old Tarbert families, we go back over 300 years in the district.

Secondly, as regards the matter of architecture and the architectural significance of the house, this has been noted by a number of architectural historians and has been given prominent coverage in various publications regarding the historic houses in Co. Kerry. I would refer you to Valerie Barry's recent publication on the historic houses of Kerry. The interior of the house, as well as its exterior, might not be as grand and as flamboyant as a marvellous Palladian mansion, but that is not the context in which the house is important. It is important as gentleman's farmhouse and that, too, is part of the heritage of the country. Thank you, Chairman.

INSPECTOR: Thank you Dr. Downey.

MR. O'NEILL: Thank you, sir. If I may just clarify that, in fact, the Barry study to which Dr. Downey refers to is itself referred to in the EIS. As I say, all of these matters have been considered and no doubt you can draw attention to those matters. As I say, they are at 14.3 of Volume 2 of the EIS. I now intend dealing with the various aspects covered

under this module and the first person I am going to...(INTERJECTION)

MS. GRIFFIN: Mr. Inspector, could I just answer something that was just said? Could I just make a comment to something that was just said?

INSPECTOR: Okay, Ms. Griffin.

MS. GRIFFIN: Catriona Griffin. No doubt Mr. O'Neill has read all the submissions on this planning application, as I have, and the Musgrave family have not put in a submission either for or against the terminal.

MR. DOWNEY: If I might add to that,

Mr. Inspector. I know that the Musgrave family have reservations, I am a personal friend of them, and I know that they do not wish to make any submission as they wish to retain a certain distance from this. Mr. O'Neill, just looking over your reference here to the historical coverage of the area, it is rather general. My intention of drawing

attention here to the historical significance is to go beyond that. I have referred to significant personages from this area who attract a lot of attention in Europe as well as in Ireland, in terms of the historical interest and significance of the area. Their names and their significance is not addressed in this. But I do complement you on your report, in that you have given an overall view of the historical significance of the area. With regards to another speaker who addressed certain things that I failed to omit earlier. I said that I was going to keep my comments brief and focus on the immediate matters here in relation to Ralappane House and the location of the tanks within 400 metres of that house. The other matters that are raised are interesting but I consider them not to be immediately relevant to the purposes of this forum. Thank you.

APPENDIX 2:
EU PETITION

Mr. John McElligott
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July 31st 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 2008²⁷. The inspector's report²⁸ 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 report²⁹ 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

²⁷ Planning Application Reference Number PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm>

²⁸ Planning Application Reference Number PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm> Inspector's Report page 61

²⁹ 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)

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 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 Lee³⁰ 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 published³¹.
- 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 2008³². 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 site³³. Drinking water is protected under Article 7 of the 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.

³⁰ Shannon LNG EIS volume 3 figure 6.1 www.shannonlngplanning.ie

³¹ <http://www.galway.ie/en/Services/PublicNotices/TheFile,6700,en.pdf>

³² Day 5 of oral hearing into proposed LNG terminal, January 25th 2008, 12:45 pm.

³³ 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).

h) The Irish statutory “Environmental Protection Agency” (EPA), in its 2006 policy document- “Water Quality in Ireland”³⁴ 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 Law³⁵.
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 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

³⁴ “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

³⁵ <http://www.environ.ie/en/Environment/EnvironmentalLiabilityDirectiveConsultationProcess/>

entire process has been retrospective, rather than having been carried out from first principles.”³⁶

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.

³⁶ Planning Application Reference Number PA0002 c.f. <http://www.pleanala.ie/casenum/PA0002.htm> Inspector's Report page 39

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'.³⁷

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 Pleanála³⁸, 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

³⁷ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-388.747+02+DOC+PDF+V0//EN&language=EN>

³⁸ See Appendix 3 (HSA Technical Advice to An Bord Pleanála)

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 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”³⁹ 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 development⁴⁰. 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;

³⁹ “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=352f79060b0cb41cfebab5cdeedab92a

⁴⁰ 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”⁴¹ 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 options⁴²; 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 TERMINAL⁴³ and by Stag Energy in its GATEWAY GAS STORAGE PROJECT⁴⁴

⁴¹ <http://www.dcmnr.gov.ie/NR/ronlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf>

⁴² <http://www.dcmnr.gov.ie/NR/ronlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf> page 5

⁴³ http://www.hoegh.com/Ing/business_development/focus/

⁴⁴ <http://www.stagenergy.com/Gateway/index.html>

- 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.

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 Assessment⁴⁵, 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 Foynes⁴⁶. 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 Kilcolgan⁴⁷. 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

⁴⁵ "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

⁴⁶ 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: 05789:

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)

⁴⁷ 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>

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 ecosystem 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”⁴⁸ 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.

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-Island⁴⁹ 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

⁴⁸ <http://www.dcmnr.gov.ie/NR/rdonlyres/8AD0EDDB-3237-4157-B230-2D467A3C1F9C/0/4DCENRGasStorageExecutiveSummary.pdf>

⁴⁹ “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

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"⁵⁰ 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 Assessment⁵¹, showing there are already plans for a massive 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

⁵⁰ www.sei.ie/getFile.asp?FC_ID=2296&docID=59

⁵¹ "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

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 Shannon⁵² 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 EIS⁵³ 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 area⁵⁴. Further, the

⁵² <http://mida.ucc.ie/pages/information/mgmt/protectedAreas/eu/details.htm>

⁵³ 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

⁵⁴ “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

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 seawater⁵⁵. 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 Code 02165)⁵⁶ – 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 synopsis⁵⁷ 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

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>

⁵⁵ 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

⁵⁶ “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>

⁵⁷ “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>

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 Ireland⁵⁸ 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.

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 of EU Petition

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 of EU Petition

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 of EU Petition

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

Appendix 3: Road Improvements proposed by Limerick Chamber.



Improved Connectivity Key to Driving Economic Growth

<http://www.limerickchamber.ie/uploads/Limerick/documents/Final%20Draft%20N69%20Proposal%2017%20July%2008.doc>

As an island economy our ability to do business efficiently and cost effectively is critical to ensuring the economic viability of Ireland. The region west of Limerick city has a well established industrial base; however the current road infrastructure, the N69 Limerick to Tralee road is inadequate and could hamper the future economic growth, expansion and prosperity of the West Limerick/ North Kerry region. To avoid this, Limerick Chamber is calling for the acceleration of the N21 Adare by-pass and is proposing the construction of a spur-road linking the N21 between Croagh and Adare to the N69 between Foynes and Askeaton. This road will give direct access for the businesses, residents and potential tourists of West Limerick/ North Kerry to the national road grid by providing a link to the Atlantic Corridor.

The need for improved connectivity

Current Business Activity on N69

There is a very significant industrial base in existence along the N69 Limerick to Tralee Road. Multi-national corporations such as Rusal Aughinish Alumina, Wyeth Nutrition Ireland and Aeroboard Limited are located along the route. Ireland's 2nd largest commercial seaport facility, Foynes Port, which handles over 1.8 million tonnes per annum, is also served by this road. A significant proportion of Ireland's trade travels along the Shannon Estuary. Shannon Foynes Port Company handle in excess of 11 million tonnes and 1,000 vessels annually.

The Aughinish Plant employs almost 500 full-time staff; its annual contribution to the local economy is in excess of €100 million. It is the largest purpose-built refinery in Europe and has an annual output of 1.8 million tonnes. On any one day an average of 300 cars occupy the car park, 99 other vehicles such as service companies go through the gates in addition to 34 daily delivery loads. This equates to over 300,000 inward and outward movements along the N69 to Aughinish Alumina annually.

Currently 100,000 Heavy Good Vehicle (HGV) loads move through Foynes Port annually, and this is forecast to increase to 150,000 HGV loads by 2020. Of the current 100,000 HGV loads that leave the port, 95% head due east on the N69 - 65% of these go directly into Limerick city and onward and 30% connect to the national roads network at Newcastle West. The remaining 5,000 loads leave the Port and head due west along the N69 to Kerry. **If the Adare bypass and spur road was in place at least 65,000 of today's HGV loads could potentially be removed from the N69.** This would immediately improve the quality of life of thousands of people that live along the N69.

Future Business Activity on N69

The oil terminal which is currently being built at the port is due to be opened within the next two years; this will inevitably lead to higher volumes of traffic. Additionally, the recent Independent Report on the Limerick Docklands Initiative recommended the movement of activities from Limerick Docklands to Foynes Port. If this proposal is adopted it would result in an additional 42,000 HGV vehicles using the N69 annually. If the spur road was in place this traffic would be on Ireland's primary national road grid and not the secondary N69.

Shannon LNG Ltd., an Irish subsidiary of Hess LNG Limited, a 50/50 joint venture of Hess Corporation and Poten & Partners, has recently been granted permission to build a Liquefied Natural Gas (LNG) regasification terminal on a 104 hectare site along the Shannon Estuary. This strategic €500 million infrastructural investment is the first planning project to pass the shortened planning procedure and is part of the National Energy Strategy. Currently the only road that serves this plant is the N69.

The ESB Tarbert electricity station is currently for sale. There has been much interest in the purchase of the plant with both An Bord Gáis and Spanish electricity giant Endesa expressing interest. Although the exact future of the plant is unknown it is not going to lie idle and today access to the plant is solely along the N69.

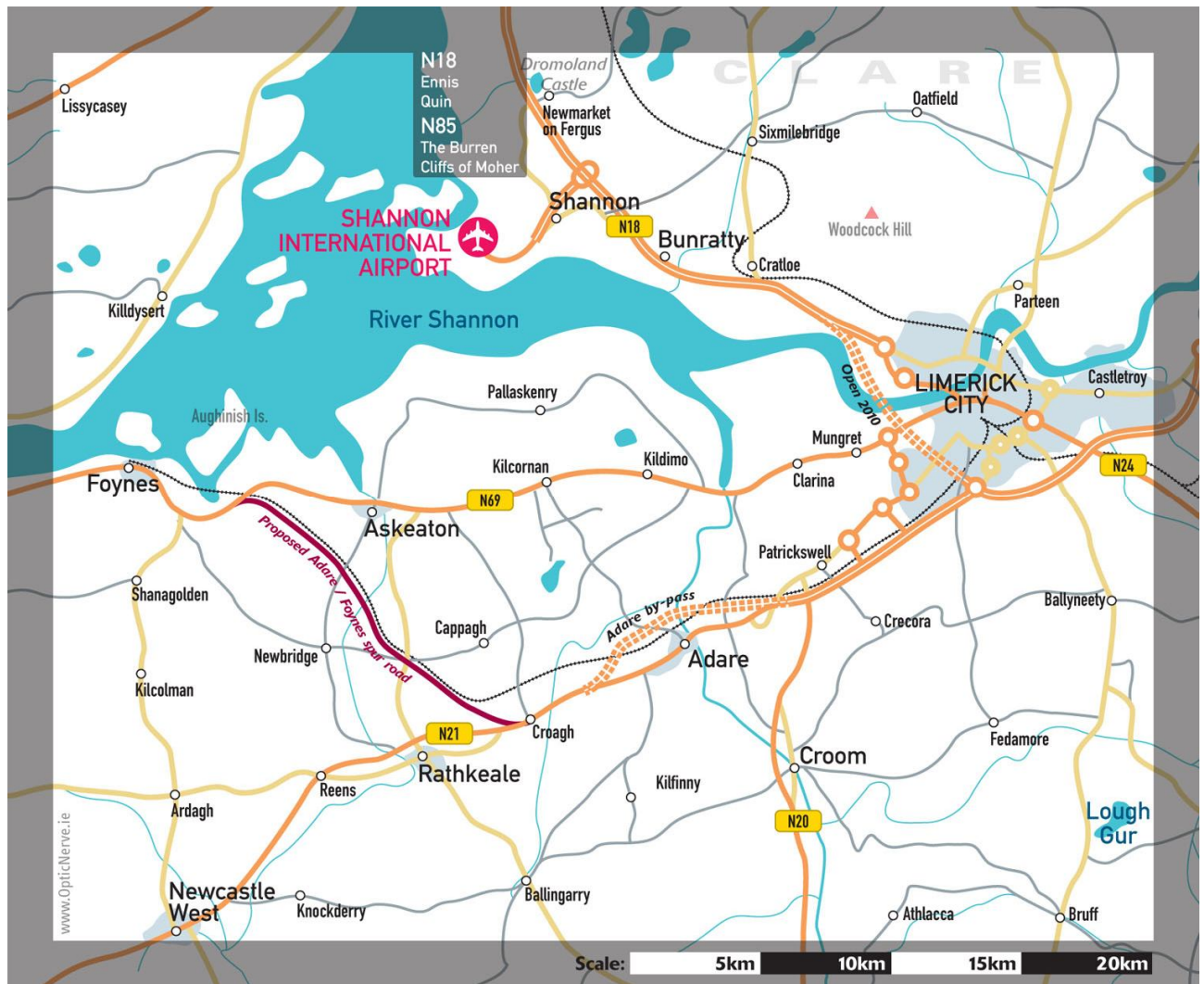
Minco's joint venture with Xstrata Zinc is currently exploring 294 square kilometres of land between Limerick and Tipperary. Drilling to date has resulted in the discovery of a significant cluster of zinc-lead massive sulphide lenses. Ireland is already an established zinc producer supplying around half of Europe's mine production. The Pallasgreen project is believed to be the biggest exploration drilling programme ever undertaken in the 50-year modern history of the Irish mining industry. The movement of all goods to and from this project will go through Foynes Port; because the rail line is not operational this very significant volume of traffic will have to be transported by road along the N69.

Today's high traffic volumes already place a huge strain on the N69 and the residents that live along the route; it will not be able to cope with the high volume of increased activity that is outlined above.

The proposed route:

Limerick Chamber believes that the most viable option to improve connectivity to the manufacturing bases, businesses and residents along the N69, is to accelerate the construction of the Adare by-pass and provide a single carriageway spur road connecting the N69 between Foynes and Askeaton to the N21 dual-carriage way between Adare and Croagh.

As illustrated below, our proposed route runs parallel to the existing rail line. This will minimise the need for land purchase by the roads authority and also allow the most direct route to connect the two roads. It provides a cost effective and time saving alternative to a costly upgrade of the N69. This spur road will give traffic that is currently using the N69 more direct access to Ireland's primary national roads network. When Adare village is by-passed this spur will provide direct road access for businesses and residents of West Limerick and North Kerry to the Atlantic Corridor as well as the N7 to Dublin.



This spur road is of critical importance for the future growth and prosperity of the greater region and indeed Limerick City. On a conservative estimate 65,000 HGV loads travel annually along the N69 into Limerick city to connect to the national road grid. The above proposal will divert traffic away from the city centre and will allow quicker and easier access to Ireland's national road grid from West Limerick and North Kerry. This would be of significant logistical benefit to those manufacturing plants located along the route.

Limerick Chamber believes that if the government is serious about balanced regional development and about driving future economic growth in an ever increasing competitive global environment it must ensure that appropriate infrastructure is in place. We urge local and national government to prioritise this route in their next Transport Review.

For more information contact Orlaith McMahon, Policy & Research Officer, Limerick Chamber, 96 O'Connell Street Limerick. Tel: 061-415180. Email: omcmahon@limerickchamber.ie

APPENDIX 4:

LNG: Head of Mass. energy company makes case for offshore terminal (OnPoint, 05/20/2008)

<http://www.eenews.net/tv/rss/2008/05/20/>



As the United States pushes for greater energy independence, what role will natural gas and, more specifically, liquefied natural gas (LNG) play? During today's OnPoint, Gordon Shearer, chief executive of Weaver's Cove Energy discusses his company's plan to build an offshore LNG terminal in Fall River, Mass. Shearer addresses local opposition to the plan and discusses the safety concerns that are often associated with LNG. He also discusses the greenhouse gas impacts of LNG and how it compares to other energy options in terms of overall emissions.

 watch video  read transcript

Here follows the transcript of this TV interview:

Transcript

Monica Trauzzi: Welcome to OnPoint. I'm Monica Trauzzi. Joining me today is Gordon Shearer, CEO of Weaver's Cove Energy. Gordon, thanks for coming on the show.

Gordon Shearer: Monica, thank you for having me. It's a pleasure to be here.

Monica Trauzzi: Gordon, Weaver's Cove is seeking to build an LNG terminal in Fall River, Massachusetts, and the proposal has faced some very strong opposition from legislators and also the public in the area. Let's start off by getting everyone up to speed on where things stand in the permitting process.

Gordon Shearer: Well, Monica, where we stand in the permitting process is we have our primary permits and approvals from FERC, going back now almost three years. And we have been working our way slowly, painfully at times, through the process of getting the remaining state and federal permits necessary to start construction on the project. And so a lot of those permits have issued, notwithstanding some of the other media reports, and some of them are in appeal, so they're being challenged on legal grounds. And we've just recently filed a new modification to our original permit where we're relocating the berth for the LNG ships at some distance away from the terminal. So, that's also underway as well.

Monica Trauzzi: And we'll talk about that in just a second. How long has this project been in limbo?

Gordon Shearer: I don't know that we'd say it's in limbo. It's moving. It just doesn't necessarily look like that from the surface. The analogy is the duck. You know, there's not much sign of movement, but the legs are paddling furiously. So, we are moving forward at a slow and measured pace and it's been since really the mid-2003 time period.

Monica Trauzzi: And you recently faced a bit of a legal setback. I don't know if you would call it a legal setback, but there are talks that it is a setback. The U.S. Court of Appeals for the District of Columbia dismissed claims by your company that the state environmental regulators in Massachusetts and Rhode Island had waived the right to deny Weaver's Cove's request for permits because the regulators didn't act within a year of your request. How much of a setback is it?

Gordon Shearer: I don't think we see that as much of a setback frankly. This is a new area

of law that arises out of the Energy Act of 2005, so the courts and the agencies are still feeling their way through how this should be applied to these types of situations. And what the court ruled there is we hadn't suffered any harm because the permits we really need hadn't issued yet. And these permits we appealed are prerequisites to the main permits and so the main permitting agency, the Corps of Engineers, now has to decide if it's going to issue its permits or not. And if it then finds that it can't because of the underlying permits, then we've been told by the court we can go back in and at that point we can seek a redress from the court.

Monica Trauzzi: And how far are you willing to go legally to get this project off the ground?

Gordon Shearer: Well, I think the key here is that we believe, and we've believed since the beginning, New England is in desperate need of new supplies of natural gas, of new natural gas infrastructure. Prices are the highest in the country. Electric prices are driven by gas prices and, therefore, it's critical for that part of the nation to get more energy supply in. Are we totally altruistic? No, because its high priced it's also a very attractive market in which we can operate, so we see that as a balance. The key is balancing the need for energy supply with environmental safety and security considerations that are so much a part of where we are in a post-9/11 world.

Monica Trauzzi: Let's talk about security, because one of the main concerns that residents have with this proposed project is that it could pose serious safety risks, including the risk of a terrorist attack. There are these images about these tankers looking like Roman candles and that they're floating time bombs. Are people wrong to think that or is this a legitimate concern?

Gordon Shearer: I think people are wrong to think that way and that's not just me speaking. Let's take the safety issue. This is, for its size, one of the safest industries in the world, bar none, 50,000 voyages of LNG tankers into some of the world's busiest harbors, Tokyo Bay for example, over a period now of almost 40 years without a single incident or accident in which anybody, any member of the public, was injured or any harm was done to the environment. That is a record that any other industry would have a hard time matching. From a standpoint of security, it's post-9/11. It seems to me we don't have clear answers. Nobody can say what is or is not a security risk, but it's a very good stalking horse for people who oppose anything to say, ah, but you haven't taken terrorism into account. So if you oppose something you just say, well, that's a security risk and nobody can prove that it isn't.

Monica Trauzzi: But there is a threat.

Gordon Shearer: I'm not aware there's any specific threat, other than there's a general concern about threats to infrastructure and any kind of flammable, chemical, or other kinds of critical infrastructure in this country. So, everything in that point could be at risk of being threatened by terrorism. We have been very careful how this project has been designed. We've taken into account the government's findings on safety, security, and, by and large, we've come up with a project design and construct that really addresses most of those concerns to the satisfaction of the federal regulators who've got that responsibility.

Monica Trauzzi: And you mentioned the new proposal for an offshore berth and it was sort of proposed as a way to help address some of the community concerns, but it's failed to silence all critics. Are you confident that you'll be able to get that option passed along?

Gordon Shearer: Well, I think you're right; it's failed to silence all critics. I don't think you could design anything in this world that would silence all critics. And if there was something like that, it would cost so much money nobody could afford it. So, we think that it addresses what we were told and we've been told repeatedly was the biggest concern people have, which was bringing ships up a narrow river close to populations. Even with all of the protective and security measures and precautions we would have taken, people were still nervous. **So, we've moved that aspect of the project some distance away, so the ship is now a mile away from the nearest point of land. And based on government findings, based on the Department of Energy and Sandia National Labs analysis, that's the point at which the risk is down to acceptable levels.**

Monica Trauzzi: And the natural gas would pass through pipelines underwater?

Gordon Shearer: It actually would go under water as liquid, so this is a new technology. It

was not available to us when we originally designed the project. It's now coming onto the market for the first time and it provides us an option that didn't exist three years ago.

Monica Trauzzi: Why LNG? With Congress now debating a cap-and-trade legislation and all this emphasis being put on reducing emissions, LNG seems to be more carbon intensive than regular natural gas. So, is this the way to go when it comes to greenhouse gas emissions and reducing our overall emissions?

Gordon Shearer: Well, I don't know that, I think when you get to cap and trade, in fact, the risk we run, and there have been several recent studies on this, the risk we run is we are going to drive energy consumption, especially for power generation in this country, more towards natural gas and away from coal. And, if we do that, we've got ourselves a serious problem in terms of we're already struggling. Absent LNG coming into the country today, we would be short of supply and, therefore, prices would be much higher than they are. If we keep driving more gas consumption without expanding production, which we are struggling to do, and imports from Canada are falling, LNG has to make up the gap. And LNG is not dramatically different from an environmental, greenhouse gas perspective than other forms of gas production and transportation. The newest project in the world, in northern Norway for example, is using reinjecting the CO₂ emissions back into the reservoir where the gas is coming out of. So, there are solutions to that that may be easier to manage in an LNG context than they are in conventional natural gas.

Monica Trauzzi: What are the net benefits of building this LNG facility to the Fall River area and the people in that area?

Gordon Shearer: They fall into what I call direct community benefit and then the broader, regional benefit. The direct community benefit is in the form of jobs. It's a very depressed area of the state. This project will generate something in the range of 300 construction jobs over a three to four year time period. That's a big slug in the economy. It invests about \$200 to \$300 million directly in the economy. Over time, it will also generate a lot of real estate taxes. We would be the largest real estate taxpayer in the community by a factor of 10 I believe, so it's a huge net economic boost. There are jobs associated with it. It's a long-term player. It's a clean, safe form of energy. I know people don't necessarily agree with that.

Monica Trauzzi: That's debatable, yeah.

Gordon Shearer: That's debatable and we can have that debate. But I think the track record shows that the safety part, it's hard to argue with the history. The other benefit clearly, more diffuse and less specific to Fall River is the benefit to energy prices. Just to put that in context, ISO New England, which runs the power grid up there, did an analysis last summer, an independent analysis based on a lot of different stakeholder reviews. We are totally dependent, and will be for the foreseeable future, on natural gas and the price of natural gas for the price of electricity. They calculated that on an annual basis, the difference between high-priced natural gas and low-priced natural gas to energy consumers in New England would be \$10 billion a year in cost differential for electricity delivered to your house or your business. That is a huge number.

Monica Trauzzi: And so moves by Senators Kennedy and Kerry to have the Taunton River considered a wild and scenic, what are your thoughts on that, because that would not allow for any industrial use of that area?

Gordon Shearer: Well, I think that's interesting because it's already an industrial river. It's got coal-fired power plants, shipyards, barge operations, oil terminals already on the banks of the river. And if the Taunton River is a wild and scenic river, then every river in the country, including the East River and the Hudson River in New York City are going to be designated wild and scenic. So that's a real threat. That's an abuse of the concept of the legislation. If that goes through then everybody is at risk. However, the good news is that, if we do pursue this offshore option and it works out to be feasible, then we avoid the issues because the ships are no longer in the Taunton River and we no longer need to dredge the river. So, we actually solve the problem that the senators seemed to be trying to solve through legislation.

Monica Trauzzi: What about the impact on marine life and fishery resources? That's a big concern as well.

Gordon Shearer: It is and because of that we've agreed to extraordinarily stringent limitations on when we can do construction or dredging in the river in the waterway. We have to avoid all the spawning fish, fish migrations. We have to come up with mitigation to

move shellfish and replace them, to reseed anything. And so it's a big issue and it's heavily dealt with, so that's already being well and truly addressed and there are very, very few short-term impacts associated with the construction. And the long-term impacts, there are no measurable long-term impacts to fisheries.

Monica Trauzzi: What's next for your company, next steps?

Gordon Shearer: Next step is to pursue the offshore option that we've got underway at the Federal Energy Regulatory Commission. We'll pursue and work through the legal appeals and meanwhile we'll continue to try and tell our story our way and see if we can persuade the public and, more importantly perhaps as well, the politicians that this is an important and critical requirement that we've got to bring this energy supply to the region.

Monica Trauzzi: Well, it's not just this area. LNG is controversial all around the country, so it's an interesting issue to watch.

Gordon Shearer: Yes.

Monica Trauzzi: Thank you for coming on the show.

Gordon Shearer: You're very welcome. Thank you for having me.

Monica Trauzzi: This is OnPoint. I'm Monica Trauzzi. Thanks for watching.

[End of Audio]

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 FISHERMENS' 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.

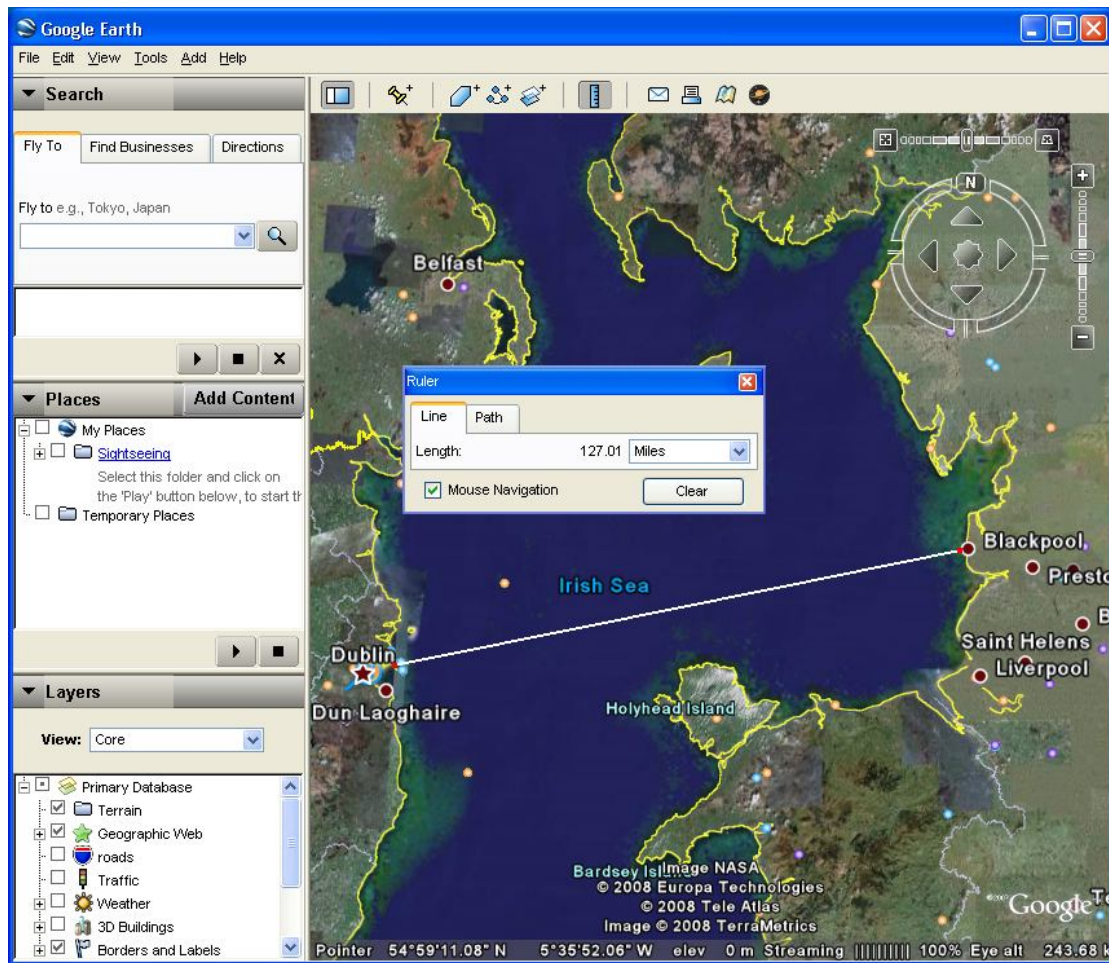
The salt cavern storage facility will improve security of energy supply through the development of a low cost, flexible, high capacity asset

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.



Key Features

http://www.stagenergy.com/Gateway/key_features.html

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

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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.

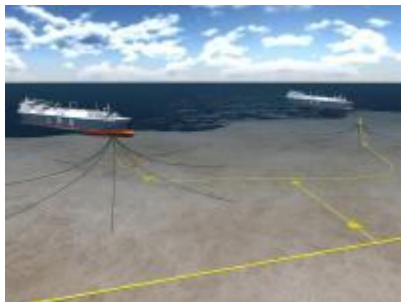
The FSRU will be very cost competitive compared with shore-based terminals and off-shore Gravity Base Structures. The LNG industry is extremely capital intensive however; solutions such as the FSRU and SRV can contribute to lower the overall costs.

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:

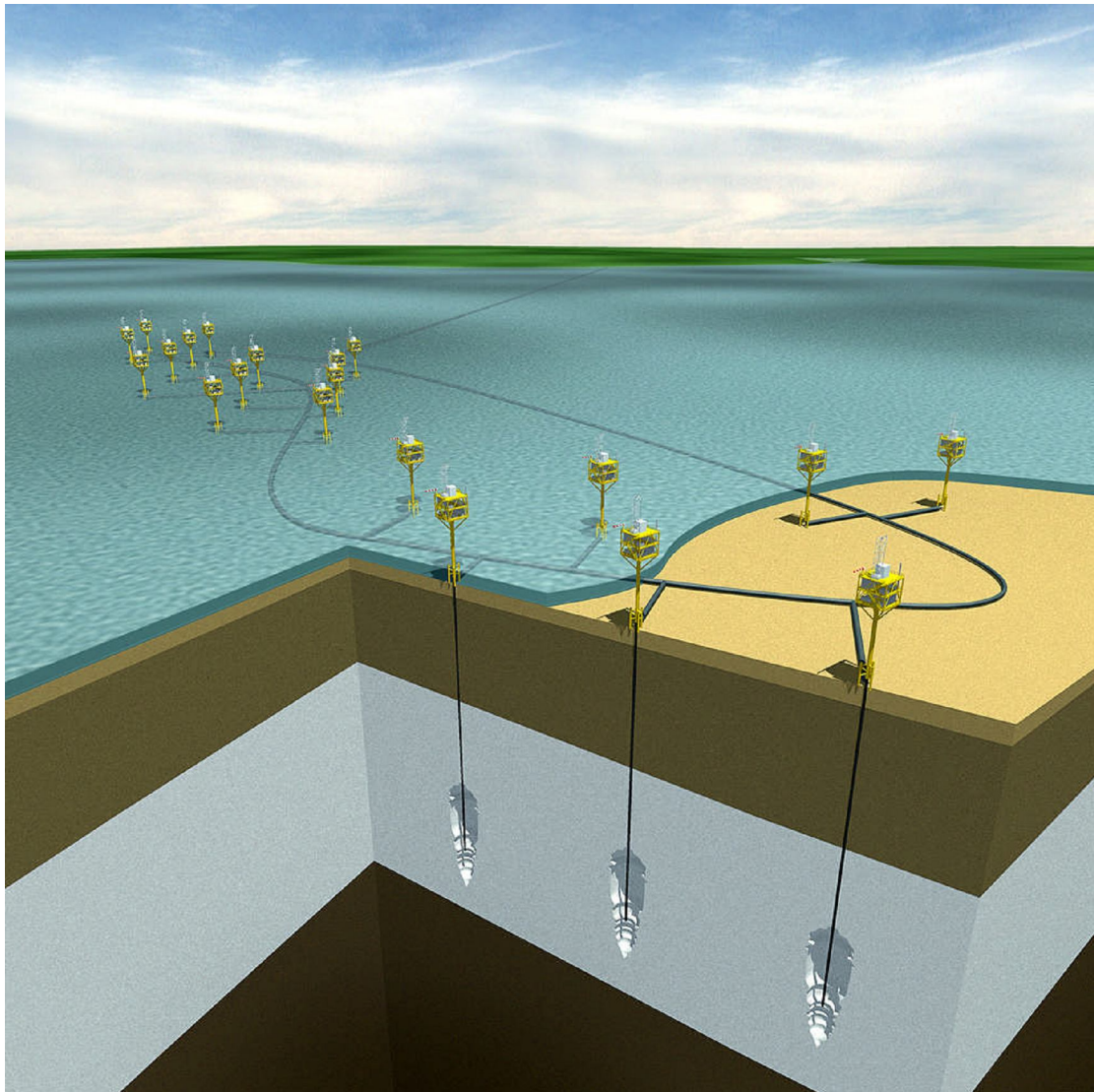
To enable full discussion and consideration of all relevant issues.

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

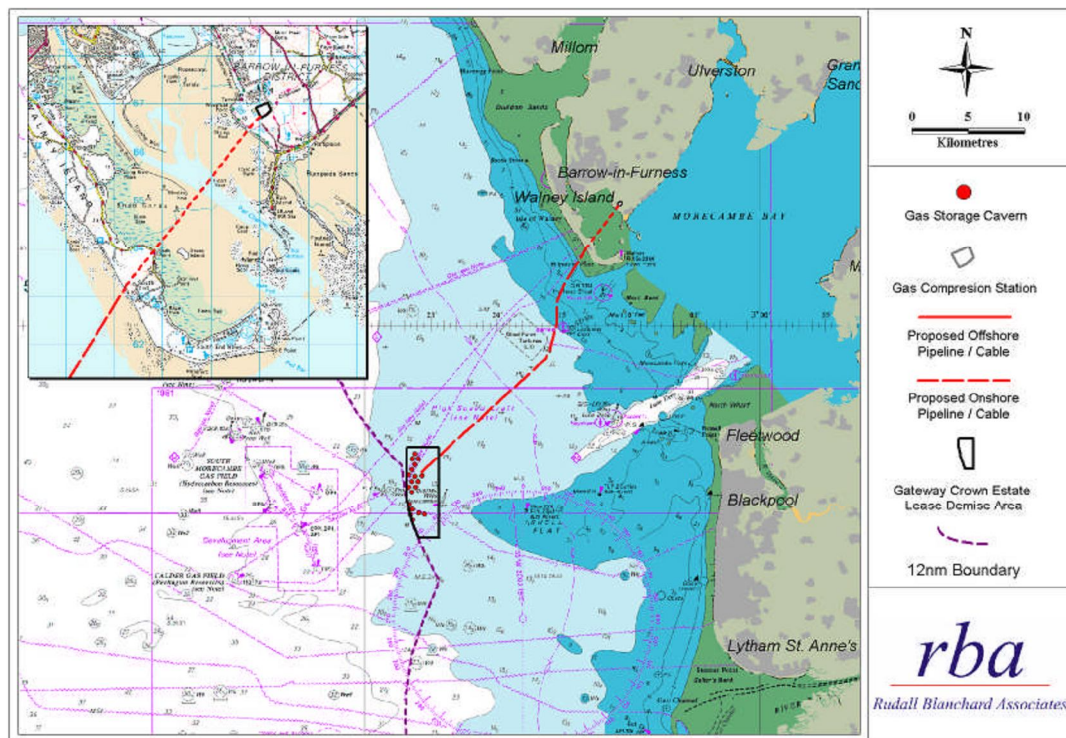
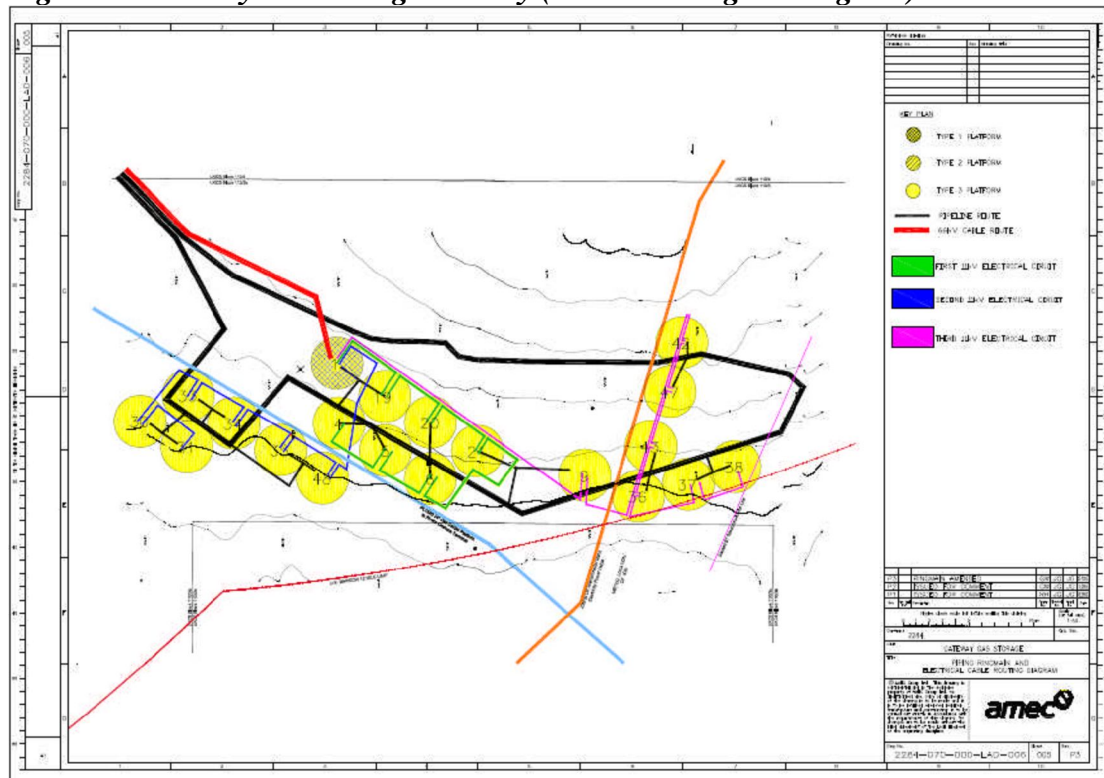


Figure 2: Gateway Gas Storage Facility (rotated through 90 degrees)



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.

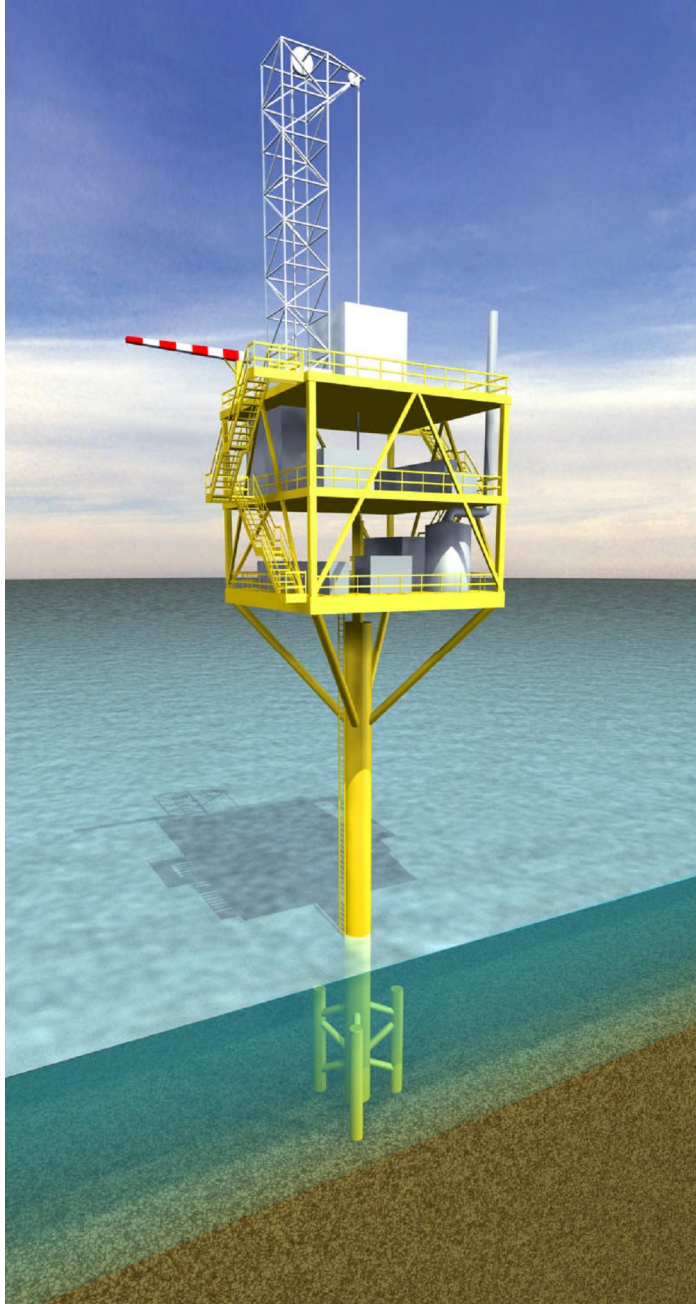
The Walney area was rejected on grounds of potential geological complexity and its proximity to major shipping lanes and two large potential offshore wind farm (OWF) developments. The site adjacent to the Fylde coastline was therefore chosen as the preferred area within which to locate the project, and 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

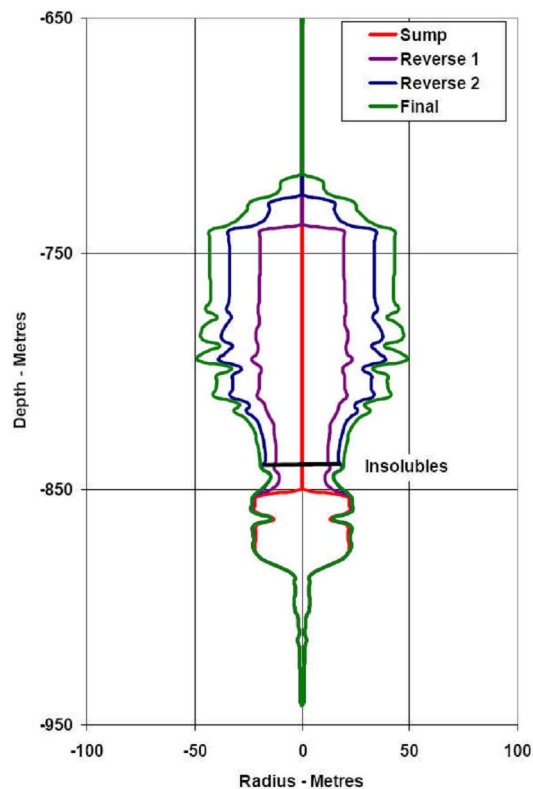


Cavern Creation – Leaching Process

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.

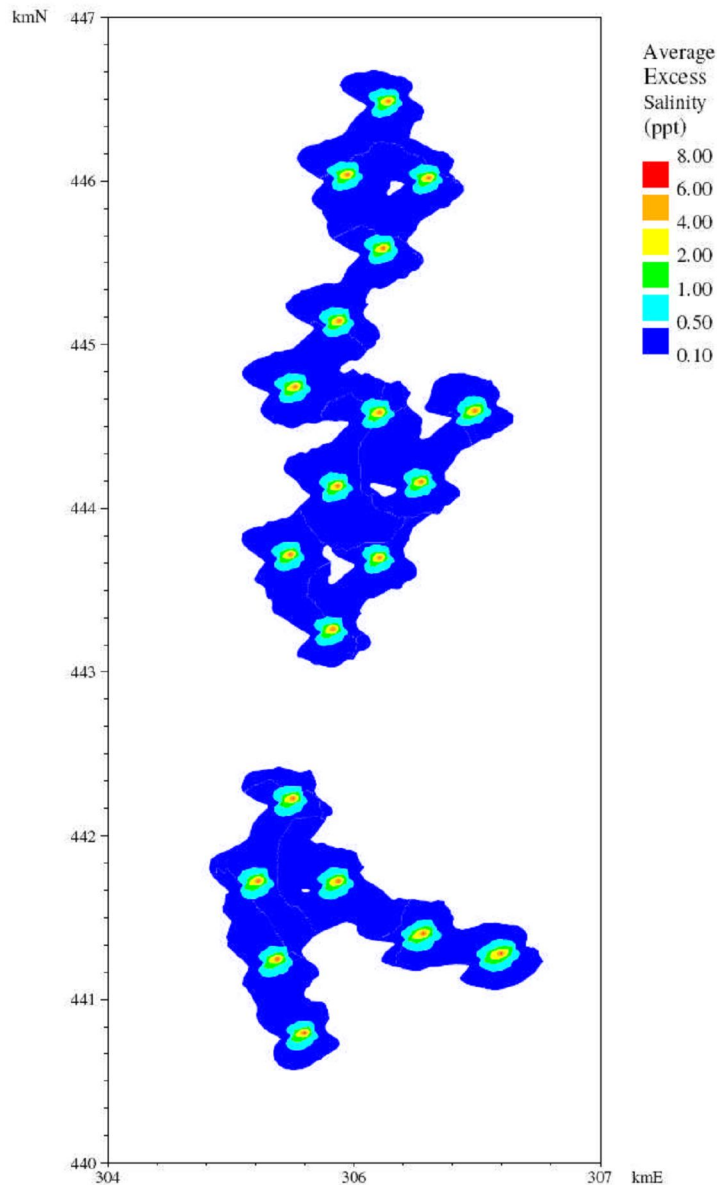
The saline discharge plume was shown to form a rotating pattern, with the plume extending southwest from the monopods at low water. These plumes narrow and rotate anti-clockwise as the current increases to peak flood and then broaden and rotate further to stream northeast at high water. They then narrow 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

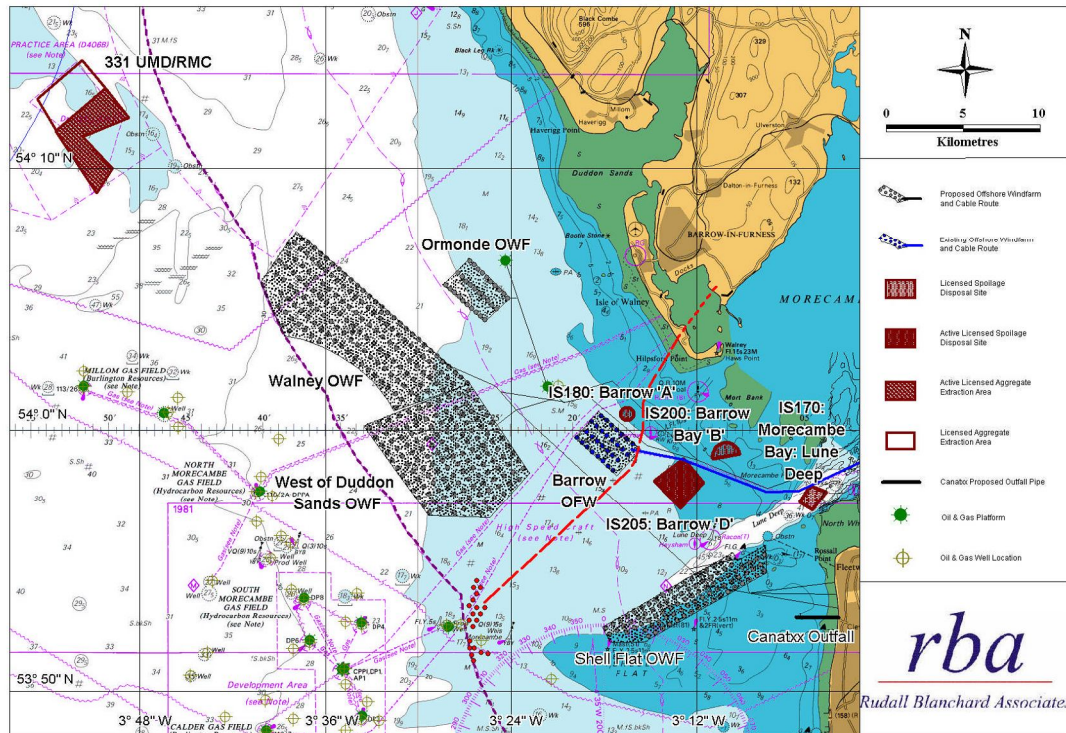
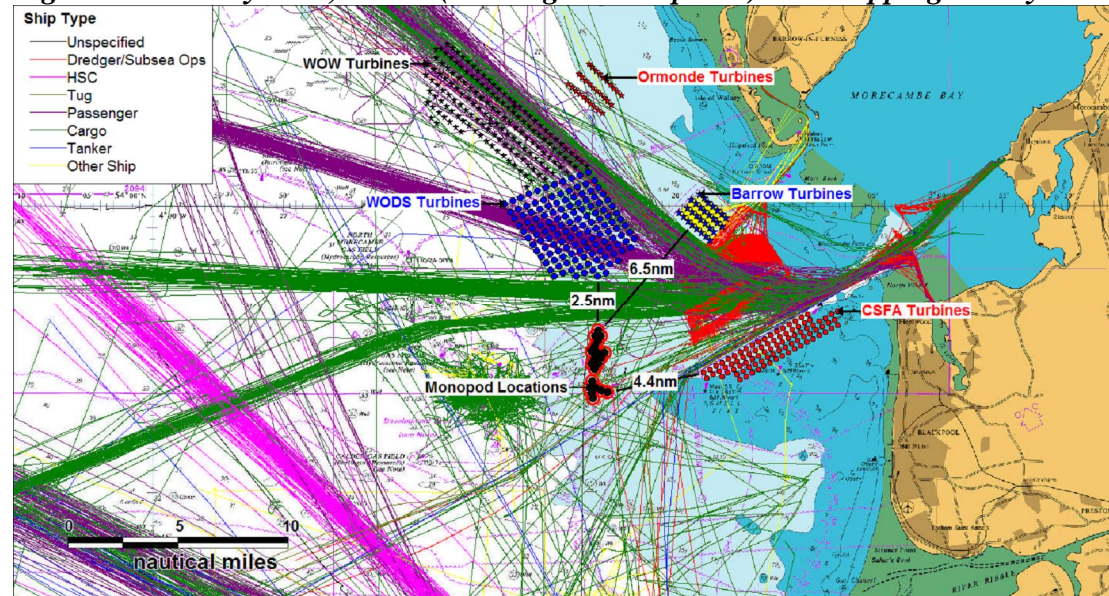


Figure 8: Gateway GSF, OWFs (Existing and Proposed) and Shipping Survey Data



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>

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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.

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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>

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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>



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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:

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“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

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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

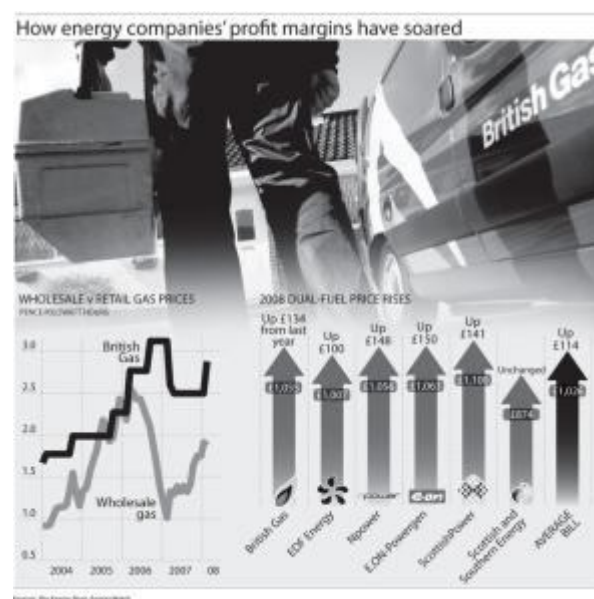
APPENDIX 10: Calls for Inquiry into profiteering by Energy Giants following 500% increase in profits at British Gas.

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.

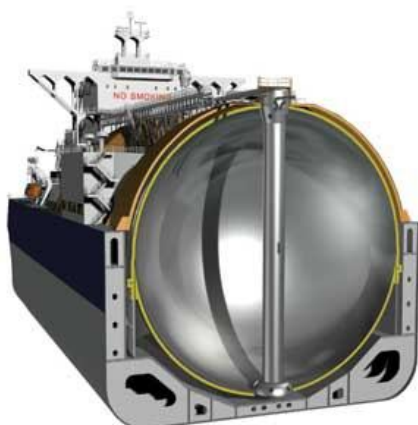


Table 1. Comparison of PRV Requirements Using Equation (2) and Equation (4)

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.

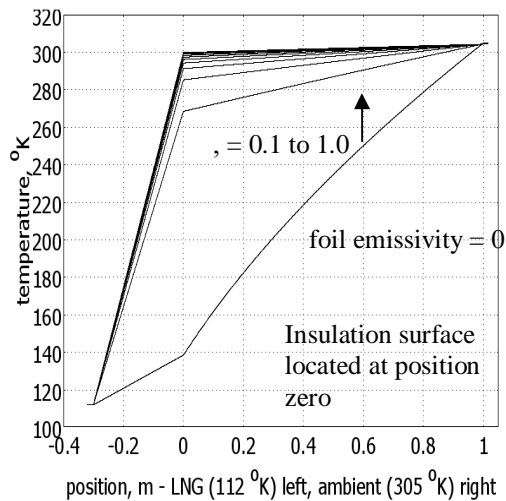


Figure 1. Initial Temperature Profile

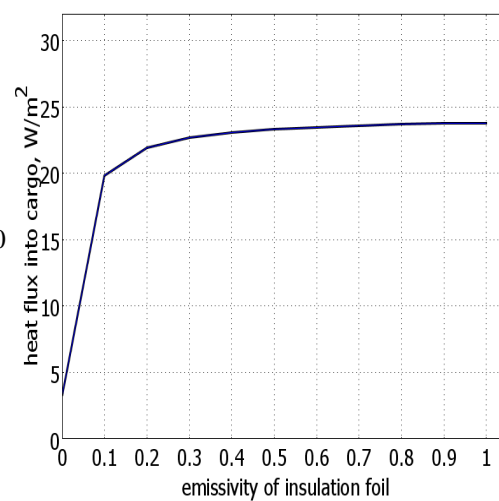


Figure 2. Operating Heat Flux into Cargo

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.

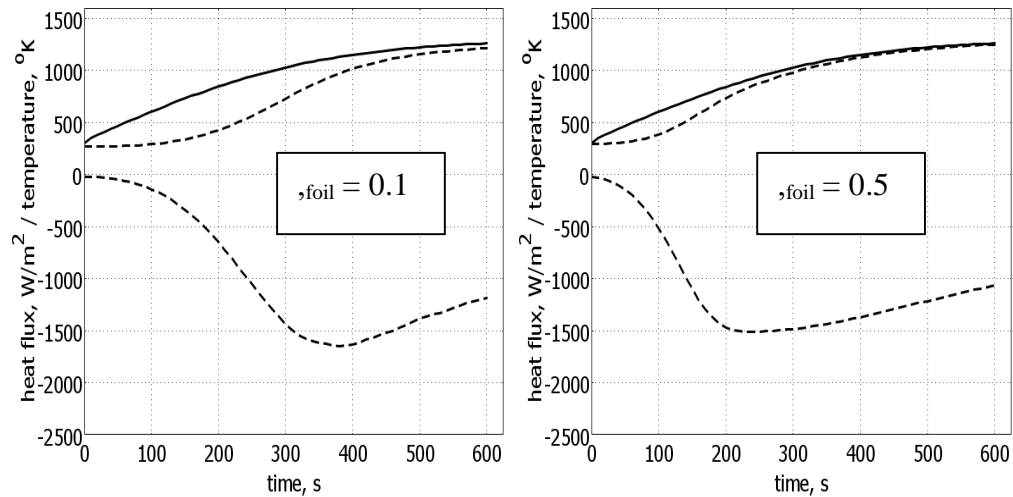


Figure 3. Temperature and Heat Flux – wc solid, ins dashed – $T_{\text{fire}} = 1300$ °K

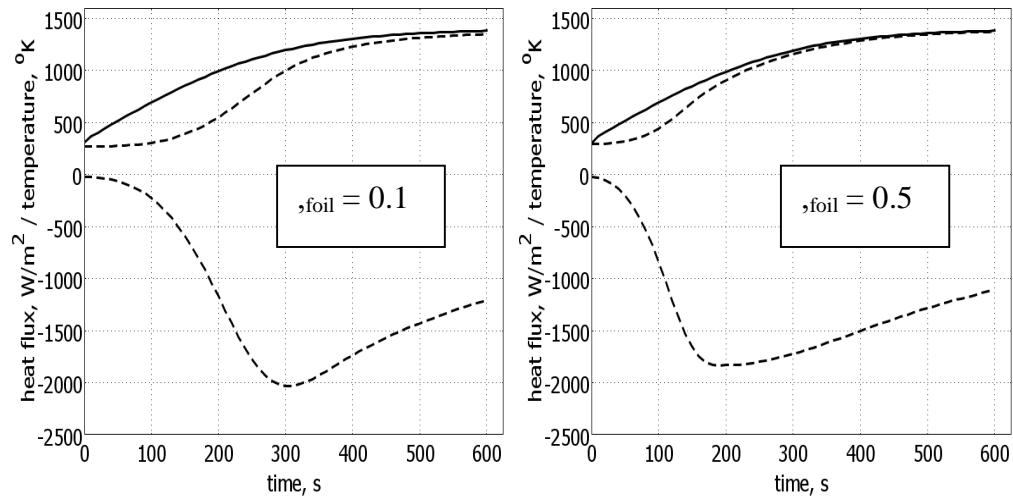


Figure 4. Temperature and Heat Flux – wc solid, ins dashed – $T_{\text{fire}} = 1400$ °K

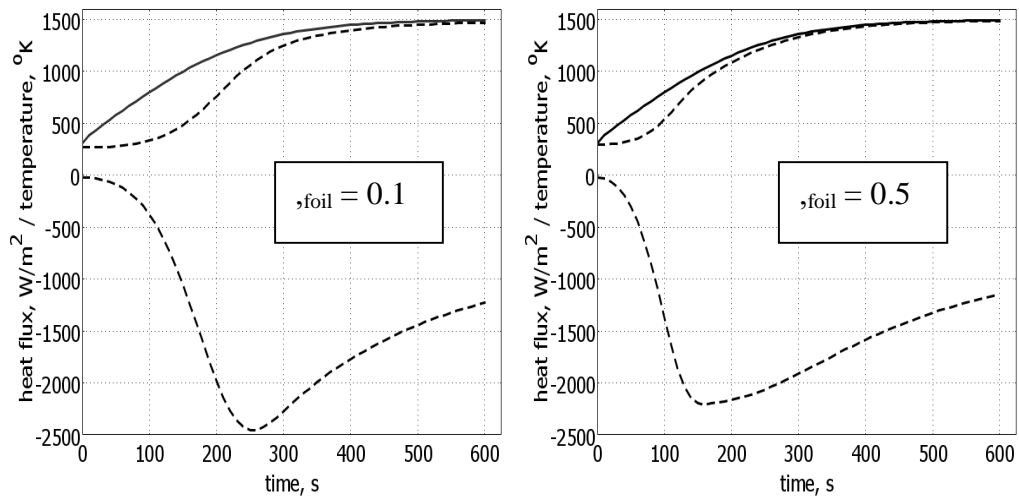


Figure 5. Temperature and Heat Flux – wc solid, ins dashed – $T_{\text{fire}} = 1500^{\circ}\text{K}$

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

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

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.

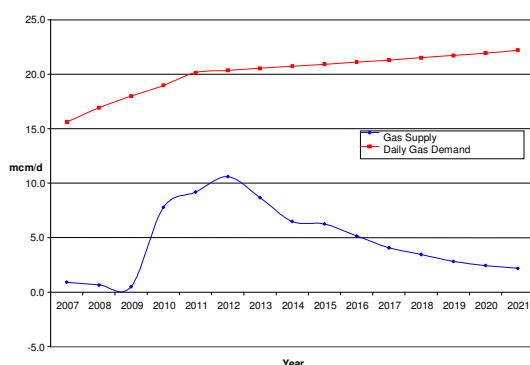
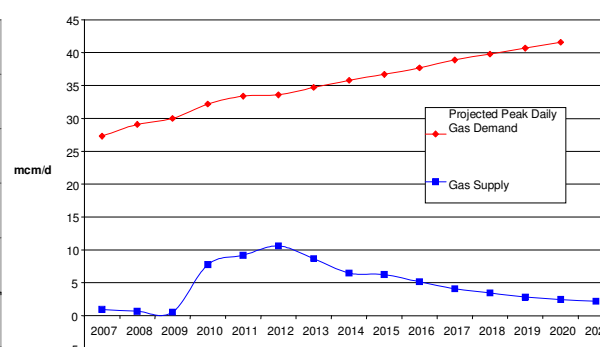


Fig. 1: Annual Daily Gas Demand/Indigenous Supply Balance



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.

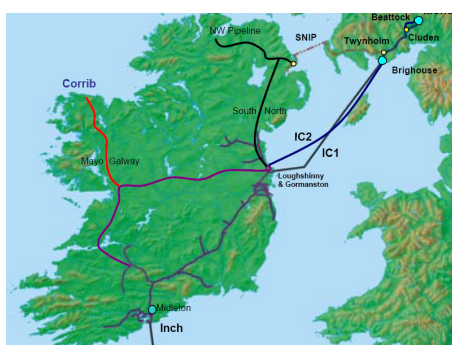


Fig. 2: The Ireland GB Interconnector System

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) *

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	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

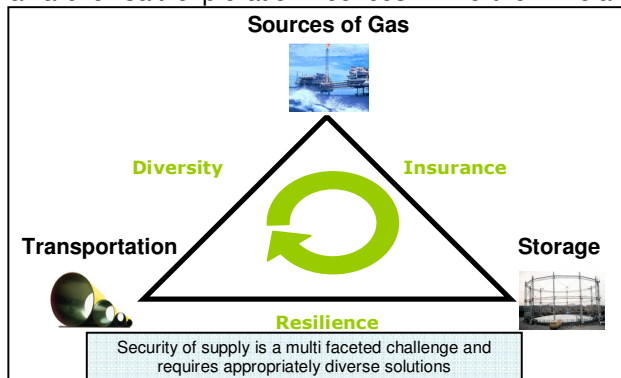


Fig. 3 Security of Supply Triangle

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.

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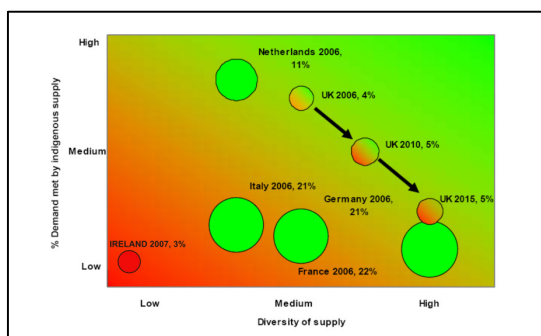


Fig. 4 High Imports Low Supply Diversity

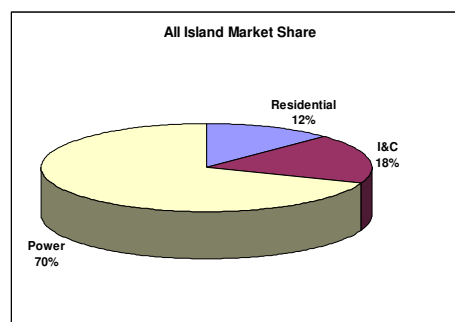


Fig. 5 High Dependence on Gas for Power Generation

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.

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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:

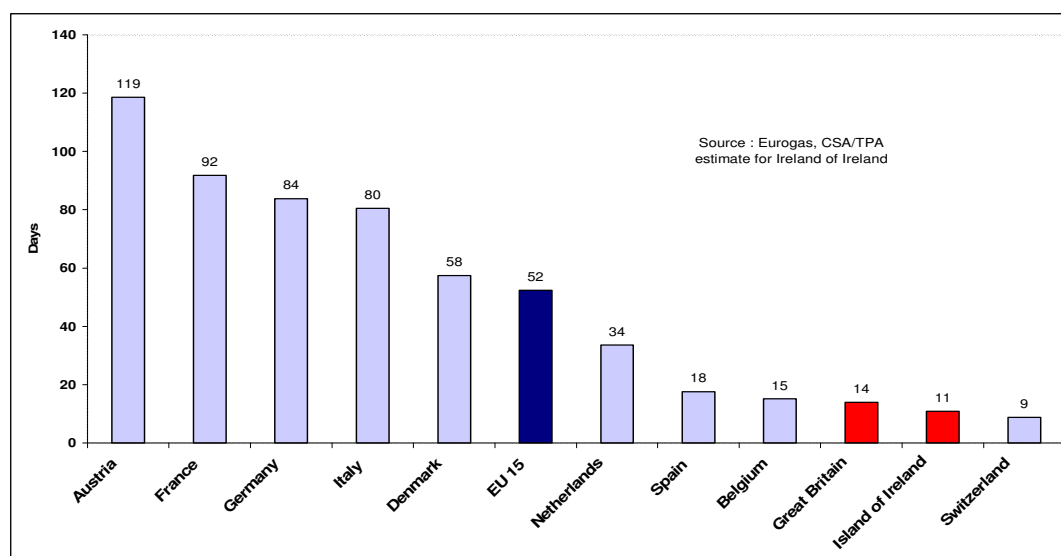


Fig.6 Average Number of Days Gas Storage – End 2005

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

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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.

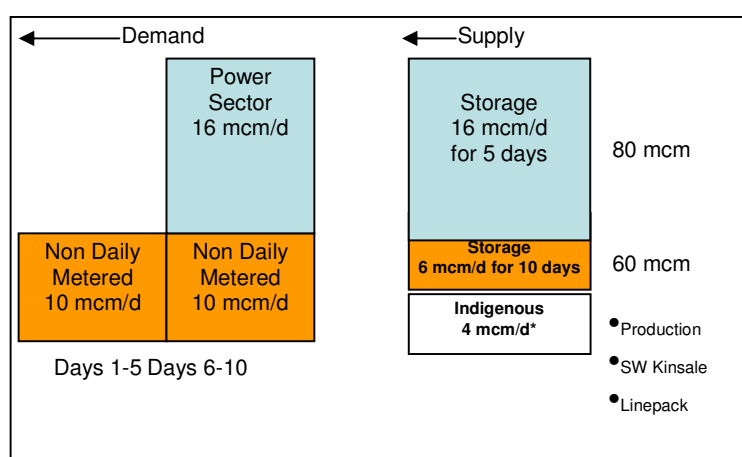
It is recommended that the island of Ireland should not have proportionally less gas storage than GB for the following reasons:

- 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.

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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:

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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.