

AN BORD PLEANALA

ORAL HEARING

RE: 08.GA0003

PROPOSED SHANNON PIPELINE
BETWEEN FOYNES CO. LIMERICK AND RALAPPANE, CO. KERRY

HEARD BEFORE INSPECTOR

MS ANNE MARIE O'CONNOR

ON TUESDAY, 2 DECEMBER 2008 - DAY 2

AT THE LISTOWEL ARMS HOTEL, LISTOWEL

2

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verbatim transcript of their
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APPEARANCES

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ASSI STANT: MR. LEONARD MANGAN

FIRST PARTY:

SHANNON LNG LIMITED: MR. JARLETH FITZSIMONS, BL

INSTRUCTED BY: MS. NICOLA DUNLEVY
MATHESON ORMSBY PRENTICE
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COUNTY COUNCI LS:

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MR. MI CHAEL McMAHON
MR. DECLAN O' MALLEY

CO. LI MERI CK: MR. CI ARAN O' GORMAN
MS. GRAINNE O' KEEFE

TARBERT DEVELOPMENT
ASSOCIATION: MR. FOX
MS. JOAN MURPHY

KI LCOLGAN RESI DENTS
ASSOCATION & SAFETY
BEFORE LNG: MR. McELLI GOTT
MS. GRI FFI N

BALLYLONGFORD ENTERPRISES
ASSOCIATION MR. NOEL LYNCH

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1 THE ORAL HEARING RESUMED ON TUESDAY, DECEMBER 2, 2008

2 AS FOLLOWS:

3
4 **INSPECTOR:** Good morning, everyone, we
5 are ready to reopen the 09:33
6 hearing in respect of the Shannon LNG pipeline. So we
7 will resume where we left off last night. Mr.
8 Fitzsimons, I understand that you have two more
9 witnesses to call.

10 **MR. FITZSIMONS:** That's correct, Inspector. 09:33
11 the two witnesses are Mr.
12 Colin Doyle, dealing with the issues of noise and
13 vibration, and Mr. Michael Biggane, dealing with the
14 issue of consultation and potential impacts on human
15 beings. So in that context, I'll ask Mr. Doyle to 09:33
16 deliver his statement of evidence.

17
18 MR. COLIN DOYLE ADDRESSED THE ORAL HEARING AS FOLLOWS:

19
20 **MR. DOYLE:** My name is Colin Doyle. I
21 graduated from Trinity
22 College Dublin with an honours degree in experimental
23 physics in 1979, and obtained an M.Sc. from Trinity
24 College in 1982, by research on the subject of
25 environmental pollution. I hold a postgraduate
26 diploma in pollution management from the University of
27 Staffordshire. I am a member of the institute of
28 acoustics.
29

1 I am an environmental consultant with ANV Technology,
2 and director of the company. ANV Technology was
3 established in 1995 and provides measurement and
4 consultancy service in the areas of noise, vibration
5 and air quality.

6
7 My main areas of expertise are noise, vibration, air
8 quality, and computer modeling of noise propagation,
9 and dispersion of pollutants in the environment. I
10 have over 25 years experience in environmental science,
11 of which 18 years were in the areas of noise and
12 vibration. I have carried out environmental impact
13 assessments for in excess of sixty development
14 projects.

15
16 I prepared the noise and vibration section of the EIS
17 for this project, and I will summarise the findings of
18 the assessment in my evidence.

19
20 **ANV Technology Appointment**

21 ANV Technology was appointed to carry out a noise and
22 vibration impact assessment of the proposed natural gas
23 pipeline from Ralappane to Foynes. The scope of work
24 included baseline surveys to determine the existing
25 noise environment, computer modeling of noise levels
26 for the pipe laying works, assessment of impact, and
27 mitigation measures.

28
29 The project team for the noise assessment was: Colin

1 Doyle, myself, and Kevin Downes.

2 **Methodology**

3 The existing noise environment was determined in the
4 study area by means of baseline noise surveys at
5 representative locations in accordance with ISO 1996
6 "Description and measurement of environmental noise".

7
8 Noise propagation calculations were based on the
9 methodology of ISO 9613 "Attenuation of sound during
10 propagation outdoors." Calculation of noise due to
11 construction plant and equipment was in accordance with
12 BS 5228, "Noise and vibration control on construction
13 and open sites," using typical noise emission data.
14 Full details of the methodology employed are described
15 in the EIS Volume 2, section 8.2.

16
17 **Noise Impact Report**

18 The complete results from the baseline studies, noise
19 modeling and impact assessment were presented in a
20 noise impact assessment report which was prepared by
21 ANV Technology for this project. The assessment is
22 presented in the EIS Volume 2, Section 8.

23
24 **Noise and Vibration Impact Assessment Criteria**

25 I would like to outline briefly the relevant noise
26 measurement terminology, and the assessment criteria
27 referred to in this evidence. The assessment criteria
28 are described fully in the EIS Volume 2, Sections 8.3
29 and 8.4.

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Noise is measured in units of decibels. The symbol used is dB(A). Typical environmental noise levels range from 30 dB(A) in quiet countryside to 70 dB(A) beside a busy road.

The proposed pipeline will entail noise generation during the construction phase only. During operation, there will be no noise emission, other than minor emissions at the Above Ground Installations at Ralappane and Foynes.

There are no formal national noise limits for construction noise. However, the National Roads Authority has published guideline limits for road construction works, which can validly be applied to other construction projects. The National Roads Authority guidelines propose a noise limit of 70 dB(A) during daytime at houses, with lower limits applicable in the evening and weekend periods. In cases where nighttime works are necessary, further limitation on noise emissions would be required, as considered appropriate to minimise impact, taking account the duration of the activity.

In assessing the degree of adverse noise impact during the construction phase, account was taken of both the level of the construction noise and the duration of the noise. For example, a significant adverse noise impact

1 would be judged to exist if the noise level exceeded 70
2 dB(A) for a period the order of months. Exceedence of
3 this level for a time period of the order of weeks
4 would be termed a moderate noise impact, and exceedence
5 for the order of days would be a slight noise impact.
6 These assessment criteria are set out in the EIS Volume
7 2, Section 8.4, Table 8.2.

8
9 The only elements of the completed pipeline project
10 which have potential for generating noise emissions
11 during the operational phase are the Above Ground
12 Installations, although by industrial standards these
13 will be minor noise sources. Operational noise
14 aspects are dealt with in Section 8.7.7 of the EIS.

15
16 Operational noise emissions from industrial sites are
17 subject to noise limits applied by the Environmental
18 Protection Agency or local authorities as appropriate.
19 These limits are normally 55 dB(A) during daytime, and
20 45 dB(A) during nighttime. The limits apply at noise
21 sensitive locations, which in this case are the houses
22 in the vicinity of the industrial site. It is expected
23 that these noise limits will apply at the proposed
24 Shannon LNG Above Ground Installation at Foynes. The
25 Above Ground Installation at Ralappane will be within
26 the Shannon LNG site, and will be subject to the EPA
27 licence conditions for the overall site.

28 29 **Existing Noise Environment**

1 Details of noise surveys carried out for this project
2 are presented in the EIS Volume 2, Section 8.5.
3 Baseline noise surveys established that the existing
4 noise environment over the pipeline route is relatively
5 quiet, and typical for a rural area. The existing
6 noise environment is determined by noise from local and
7 distant traffic, animals and birds. At the site of the
8 proposed Above Ground Installation near Foynes, there
9 was also a low level noise detectible at nighttime from
10 Foynes Port.

11
12 At measurement locations along the pipeline route, the
13 ambient noise levels during daytime ranged from 40 to
14 50 dB(A), with an underlying background noise component
15 of 31 to 45 dB(A). The higher noise levels were
16 recorded at locations where the pipeline route crosses
17 roads.

18
19 At the site of the proposed Above Ground Installation
20 at Foynes, the mean daytime/evening ambient noise level
21 was 43 dB(A) with a steady underlying background noise
22 component of 35 dB(A). At nighttime, the ambient noise
23 reduced to 36 dB(A), with a steady underlying
24 background noise component of 31 dB(A).

25 **INSPECTOR:** Sorry, Mr. Doyle, just to
26 bring you back there to the
27 ambient noise levels during daytime, it says here 40 to
28 58, is that just misreading it? You said 50.

29 **MR. DOYLE:** Sorry, it is 40 to 58.

1 The level of noise received at any given house will
2 depend on the distance from the pipeline works, and the
3 nature of the ground to be excavated. The duration of
4 the noise impact at any given house will depend on the
5 rate of progress of the works. The faster the rate of
6 progress, the shorter will be the duration of noise
7 impact at any given house along the pipeline route.

8
9 The highest potential noise impacts will be associated
10 with areas where there is protracted rock-breaking,
11 where both the noise emissions and duration of the
12 noise will be greatest.

13
14 The methodology for modelling the noise generated
15 during the construction phase is presented in the EIS
16 Volume 2, section 8.7. Predicted noise exposures are
17 presented in Table 8.11 in the EIS. The detailed noise
18 analysis indicates that for all houses along the
19 proposed pipeline route, the noise level will be within
20 the standard construction noise limit of 70 dB(A).

21
22 Four house locations were identified in the Kinard area
23 where there will be a slight adverse noise impact.
24 These houses are located between 120 metres and 160
25 metres from the pipeline, and are indicated in Figure
26 8.5 in Volume 2 of the EIS. In calculating the noise
27 levels at these houses, it was assumed that
28 rock-breaking may be required in this whole area. The
29 resulting noise level at the houses is calculated to be

1 in the range 60 to 70 dB(A) for approximately 16 days.
2 The noise impact of associated construction traffic on
3 local roads is expected to be negligible, with a
4 calculated noise level of 47 dB(A) at a reference
5 distance of 20 metres from local roads.
6

7 **Vibration**

8 While blasting may be required in areas where rock is
9 encountered, the small-scale nature of this blasting,
10 and the distance separation from the nearest houses of
11 at least 120 metres, will ensure that the applicable
12 ground vibration limit values and blast overpressure
13 limit will be readily achievable. As described in the
14 EIS Volume 2, section 8.7.6, ground vibration generated
15 by excavations, rock-breaking or drilling is likely to
16 be negligible at the nearest houses.
17

18 **Construction Noise Mitigation**

19 Noise aspects of the construction project will be
20 managed in accordance with BS 5228 "Noise Control on
21 Construction and Open Sites," which will be explicitly
22 stated in project contracts. The National Roads
23 Authority guideline construction noise limits are
24 considered appropriate limits for this project. The
25 NRA guidelines, which include a daytime noise limit of
26 70 dB(A) are presented in Table 8.1 in Volume 2 of the
27 EIS.
28

29 **Operational Noise**

1 Other than low level noise emissions from the Above
2 Ground Installations, there are no operational noise
3 emissions from the proposed pipeline.
4

5 The operational noise impact of the Above Ground
6 Installation at Foynes is considered in the EIS Volume
7 2, Section 8.7.7. This facility will be subject to a
8 design specification of 52 dB(A) at a reference
9 distance of 10 metres from the boundary of the Above
10 Ground Installation. This will result in a noise level
11 of less than 35 dB(A) at the nearest house, which will
12 ensure very comfortable compliance with the standard
13 nighttime noise limit of 45 dB(A), and constitute a
14 negligible noise impact.
15

16 In conclusion, during the construction phase of the
17 pipeline, noise levels will be comfortably within
18 acceptable criteria. A slight adverse noise impact
19 during the construction phase was identified at four
20 house locations along the pipeline route. Construction
21 traffic on local roads will have a negligible to slight
22 noise impact. Any blasting will be small scale, and
23 carefully controlled to ensure negligible ground
24 vibration at nearest houses. Operational noise from
25 the Above Ground Installation at Foynes will be very
26 low, and the standard nighttime noise limit of 45 dB(A)
27 will be comfortably complied with. There are no
28 cumulative noise and vibration impacts arising from the
29 construction and operation of the pipeline

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Responses to Objections.

Firstly, or the only one who mentioned noise was Catriona Griffin. The submission from Catriona Griffin refers to concerns about the effects of noise and blasting on humans and animals.

Response.

The construction of the pipeline will generate noise emissions, and low levels of ground vibration, as described in the EIS. The duration of the works adjacent to any given house location will be limited. As set out in Table 8.11 of the EIS, the duration of what could be termed a slight noise impact, will be less than three weeks at any location. The noise impact of the pipeline construction project will be less than for other construction projects, such as road construction, or residential development sites, which would be of significantly longer duration. Any blasting carried out will be small scale, with negligible potential for vibration nuisance. Taking account of the predicted noise levels and durations as presented in the EIS, there is no indication of any significant impact on animals.

That concludes my evidence.

MR. DOYLE THEN CONCLUDED HIS REMARKS

1 and Tarbert Development Association, under the
2 chairmanship of Shannon Development.

3
4 I participated in the preparation of the Pipeline
5 Environmental Impact Statement, in particular
6 Consultation and Human Beings; Volume 1 & Section 15 of
7 Volume 2.

8
9 My principal points of evidence will cover:

- 10 1. Consultation
- 11 2. Human Beings
- 12 3. Community Gain

13
14 On consultation with landowners and local community,
15 please refer to Volume 1 of the EIS, Page 3, and
16 Section 1.15.2 of Volume 2.

17
18 In commencing the process, Shannon LNG identified
19 landowners along the pipeline route, primarily by
20 reference to the Land Registry. Meetings were held
21 with the Farming Organisations and compensation and
22 arrangements in respect of the wayleave for the
23 pipeline were negotiated. Agreements on these matters
24 were concluded in November 2007. A Newsletter giving
25 Pipeline details had been published and issued in July
26 2007.

27
28 Shannon LNG and Arup met with all landowners along the
29 pipeline route to outline the method of construction,

1 accommodation works during construction; e.g., stock
2 and machinery accesses across the working width, water
3 troughs, etc., and the level of reinstatement post
4 construction. At these meetings, Shannon LNG received
5 landowner permission for pipeline engineers,
6 archaeologists and ecologists to walk the land to
7 survey and assess the route in detail.

8
9 As a result of the route survey, the route was amended
10 taking account of particular landowner requirements and
11 terrain features. In May 2008, Shannon LNG held Public
12 Information Evenings in Foynes & Tarbert. The
13 objective of these Public Information Evenings was to
14 inform the local community, in addition to landowners,
15 of the plans for the pipeline project, and to show
16 illustrations of the typical construction activities
17 and reinstatement.

18
19 A visual and graphic display illustrated the proposed
20 pipeline route. The information displayed also
21 explained the reasons for the pipeline, how the route
22 was selected, safety information, and an outline of the
23 permits and approvals which would apply to the proposed
24 development.

25
26 There was a substantial level of interest in the Public
27 Information Evenings, with a total of approximately 140
28 people attending. An Information Booklet containing a
29 copy of the information on display at the Public

1 Information Evenings was distributed at the Information
2 Evenings. Copies of the Information Booklet were also
3 distributed to the Landowners on the proposed pipeline
4 route.

5
6 Going forward, Shannon LNG will establish a group to
7 facilitate good communication on all construction
8 impacts and, subsequent to construction, maintain
9 regular communication with Landowners on the pipeline
10 route.

11 12 **Human Beings**

13 Please refer to Volume 1 of the EIS, page 10, and
14 Section 15 of Volume 2. The impacts on Human Beings
15 are assessed in Section 15 of the EIS. There will be
16 some minor localised effects on agriculture and on
17 residential and recreational amenity during
18 construction. These impacts will be minimised as
19 described in the section 15.5 of the EIS.

20
21 Regarding safety as a potential impact on Human Beings,
22 Leon Bowdoin and Ger Breen have dealt with this, and I
23 note for the purpose of this statement that the area
24 through which the pipeline is routed is rural and the
25 measure of population density in accordance with IS328
26 is low.

27
28 Other potential impacts on Human Beings have been dealt
29 with by my colleagues in the relevant areas such as

1 traffic, noise, etc.

2 Overall, the EIS concludes at Section 15.6 that the
3 pipeline construction will have a beneficial impact on
4 human beings, as it will create temporary employment
5 for approximately 200 people during the construction
6 phase. In addition, there will be significant off-site
7 employment and economic activity associated with the
8 supply of construction materials and services during
9 the construction period.

10
11 Once the pipeline is operational, it will be
12 strategically valuable to Gas Consumers on a national
13 level, supporting security of gas supply into the
14 future.

15 16 **Community Gain**

17 Bord Pleanála's Letter of the 6th November 2008 asked
18 that:

19 Any proposals for community gain should
20 include details such as the
21 beneficiaries, purpose, and duration of
any financial contribution, community
facility, project, etc.

22 The impact of the pipeline construction is primarily a
23 once-off impact for which landowners are compensated by
24 way of crop loss payment in addition to compensation
25 for the wayleave proper. Community impact in the cases
26 of a buried pipeline arise primarily from the potential
27 impacts of construction traffic, construction noise and
28 potential inconvenience at road crossings as the
29 pipeline is constructed.

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There are a number of communities along the pipeline route and under the community gain provision, Shannon LNG is willing to agree a once-off lump sum, as proposed by Cork County Council in the recent Bord Gais Middleton pipeline case, of €4,000 per kilometer of pipeline with the local authorities, payable post construction to the local authorities, to be used for the benefit of the local communities. Shannon LNG envisages that the primary purpose of the community gain fund will be educational in nature.

Inspector, I would like to respond to some of the submissions that have been made. The question of Community Monitoring was raised by both Tarbert Development Association and Ballylongford Enterprise Association. In their submissions, Tarbert Development Association & Ballylongford Enterprise Association have proposed that a group be established to monitor work in progress during construction, and subsequently, and that maintenance and other materials be made available.

In Response: Shannon LNG will establish a group to facilitate good communication on all construction impacts and subsequent to construction will maintain ongoing liaison with landowners.

A set of manuals and procedures will be available to

1 this group in the Shannon LNG Offices.

2 A further submission from Catriona Griffin on local
3 employment. In her submission, Catriona Griffin has
4 expressed doubt that any local employment will
5 be created during the Pipeline construction.

6
7 In response: Some tasks will always be specialist in
8 nature. It is the experience in Ireland that a
9 significant proportion of people engaged in natural gas
10 pipeline construction are local. In addition, as
11 referred to in Section 15.5.1 of the EIS and at 3.2.4
12 above, there will be significant off-site employment
13 and economic activity associated with the supply of
14 construction materials and services during the
15 construction period.

16
17 A Submission from the Killocligan Residents Association
18 and Safety Before LNG, any submission of the Killocligan
19 Residents Association and Safety Before LNG question
20 the need for a CAO process and objects to less than the
21 open market value of the land being offered.

22
23 In response, there are 72 landowners on the pipeline
24 route and five CAO's are being sought, none of
25 which arises from an objection. And if I may explain
26 that, we have signed consents in four of the five cases
27 within our issues, and a fifth case, the person is
28 deceased, and there is an inheritance as a result.
29 There is no question of offering less than the market

1 rate for Pipeline Wayleaves. The Farming Organisations
2 agreed a rate with Shannon LNG, which is in excess of
3 the Bord Gais rate for Pipeline Wayleaves.

4
5 A further submission by the Kilcolgan Residents
6 Association and Safety Before LNG raised the question
7 of landowners feel that they have been bullied into
8 accepting a decision that they felt had already been
9 made. They state that because of the pre-consultation
10 meetings with An Bord Pleanála, and some comments
11 attributed to the Environment Minister, they had been
12 bullied into accepting a decision that has already been
13 made.

14
15 In response, clearly this is not the case. The
16 pre-consultation meetings with An Bord Pleanála were
17 the normal consultations for strategic infrastructural
18 projects. The pipeline route was selected based on the
19 factors outlined by my colleague Brendan Mangan, and
20 Shannon LNG cannot comment on newspaper or radio
21 reports on comments attributed to the
22 Environment Minister.

23
24 A further submission by the Kilcolgan Residents
25 Association and Safety Before LNG raised the question
26 of legal advice. Their submission stated that
27 landowners did not have legal advice. It suggested
28 that landowners had not had legal advice on the
29 Wayleave Offer.

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In response, as part of the Wayleave Agreement, Shannon LNG met the legal costs of landowners obtaining their own legal advice on the Wayleave Offer.

A further comment by the Kilcolgan Residents Association and Safety Before LNG suggested that there is no need for the consultation that has been carried out with the local community. In response, numerous meetings were held with the farming organisations and individual landowners. In addition to these meetings, under the chairmanship of Shannon Development, with the steering committee of the Tarbert and Ballylongford Development Association, Public Information Evenings were held in Foynes and Tarbert. The public information evenings were attended by approximately 140 people.

In another submission by Kilcolgan Residents Association & Safety Before LNG, suggests that this development would industrialise a previously unspoilt landscape.

In response, this is simply not the case. The AGI at the Tarbert end of the Pipeline is on the approved Terminal site. The AGI at the Foynes end of the Pipeline is on a secluded location. The proposed Pipeline is underground for all of the 26 kilometres.

1
2 Another submission from Kilcolgan Residents and Safety
3 Before LNG, on the question of quality of life in the
4 region would suggest that it would be -- that the
5 development would be damaging to the quality of life of
6 the people in the region, and that long-term impacts
7 would be catastrophic.

8
9 In response, Kilcolgan Residents Association & Safety
10 Before LNG

11
12 In response, Mr. Ger Breen in his statement has shown
13 that the proposed Shannon pipeline is similar to all
14 other gas transmission pipelines which have been built
15 in Ireland.

16
17 Daniel Garvey, in his Statement on Landscape and
18 Visual, and Air Quality and Climate, concludes that
19 there may be slight to moderate impacts during
20 construction and negligible to slight long-term impacts
21 post construction.

22
23 In conclusion, Inspector, on Consultation, Shannon LNG
24 has consulted widely on the proposed Pipeline. Shannon
25 LNG worked with the Farming Organisations to agree
26 Wayleave best practice arrangements and compensation.
27 Shannon LNG met with Landowners to agree the Pipeline
28 route and take account as far as possible of their
29 preferences. Under the chairmanship of Shannon

1 Development, Shannon LNG met with the steering
2 committee of the local development associations and
3 held Public Information Evenings in Foynes and Tarbert,
4 which were very well attended.

5
6 On Community Gain, Shannon LNG is willing to pay post
7 construction a once-off sum of €4,000 per kilometer of
8 pipeline to the respective local authority, to be used
9 for the benefit of the local communities for
10 educational purposes.

11
12 On Human Beings, the Pipeline will have an immediate
13 beneficial impact creating temporary employment in
14 construction and the supply of goods and services.
15 Once operational, the Pipeline will be of benefit to
16 consumers nationally, supporting security of supply and
17 will be of economic benefit to the region by connecting
18 Kerry to the national Gas Grid for the first time.

19
20 Thank you, Inspector.

21
22 MR. BIGGANE THEN CONCLUDED HIS REMARKS.

23
24 INSPECTOR: Thank you, Mr. Biggane.
25 Just in relation to the
26 issue of community gain, I am just going to make a
27 comment now because it might facilitate some
28 negotiation or discussions, which is that without --
29 that it would be beneficial to the Board, I believe, in

1 that any -- that solid proposals for community gain
2 were proposed at the hearing, and along the lines as
3 set out in the notes that were sent out with the
4 agenda. So perhaps you might bear that in mind and
5 discuss that matter with the county councils. That is,
6 of course, totally without prejudice to any -- to any
7 recommendation to the Board's decision.

8 **MR. BIGGANE:** In that regard, Inspector,
9 the proposal made in
10 relation to the €4,000 per kilometer is a solid 10:01
11 proposal. The other issues that have been specifically
12 referenced by the Board, the proposal is there that
13 they were going to be for educational purposes, and
14 that the beneficiary was also asked to address it, and
15 again the proposal is there, that it be for local 10:02
16 communities along the route of the pipeline. So those
17 are the proposals being made formally to the Board, and
18 of course, those would form the basis of any discussion
19 that may take place with the planning authorities in
20 that respect. 10:02

21 **INSPECTOR:** Just in terms of framing
22 any condition that the
23 Board might like to set out, they do find it beneficial
24 if they have as much information as possible on that
25 matter. 10:02

26
27 Thank you. Mr. Fitzsimons, do you have anything
28 further to say?

29 **MR. FITZSIMONS:** No, Inspector, thank you.

1 that concludes the direct
2 evidence on behalf of Shannon LNG on the application
3 for approval of the strategic gas infrastructure
4 development. I should of course point out that the
5 witnesses who have given evidence will of course remain 10:02
6 available throughout the remainder of the hearing to
7 answer any questions that you have or the other parties
8 to the hearing. Thank you.

9 **INSPECTOR:** Thank you very much. I
10 would NOW like to ask Kerry 10:02
11 County Council if you have a submission to make to the
12 hearing.

13
14 **MR. PAUL STACK THEN ADDRESSED THE ORAL HEARING AS**

15 **FOLLOWS:** 10:03

16
17 **MR. STACK:** Good morning, Inspector,
18 ladies and gentlemen. My
19 name is Paul Stack. I am the senior planner with Kerry
20 County Council. I have nine years planning experience 10:03
21 with the local authority, and 20 years experience as a
22 civil engineer. I qualified through Trinity College
23 Dublin with a degree in civil engineer, traffic
24 engineering and town planning.

25 10:03
26 My submission relates to the section of the pipeline at
27 the extent of the pipeline in the jurisdiction of the
28 Kerry County Council, approximately a third of the
29 length of the pipeline.

1
2 Shannon LNG proposes to construct a natural gas
3 pipeline between its proposed liquefied natural
4 regasification terminal at Ralappane and Kilcolgan,
5 Lower County Kerry, connecting to the existing Board 10:03
6 Gais Eireann, national gas transmission network near
7 Foynes, County Limerick. The site of the permitted LNG
8 terminal is located near Tarbert and Ballylongford in
9 County Kerry.

10
11 The total length of the pipeline will be approximately
12 26th kilometres in length. It will be buried at least
13 1.2 metres underground for its entire length. The
14 pipeline design pressure will be 98 bar, which is the
15 pressure required to deliver gas into the national gas 10:04
16 network, which is a design pressure of 85 bar.

17
18 The project also includes two above ground
19 installations which Shannon LNG AGI will be located
20 within the boundary of the LNG terminal, and the Foynes 10:04
21 AGI, which will be located close to Foynes in County
22 Limerick.

23
24 The lands through which the pipeline will be
25 constructed is generally used for farming, namely 10:04
26 pasture. There are approximately 72 landowners along
27 the entire route of the pipeline, both in Kerry and in
28 Limerick, and Shannon LNG proposes to acquire a
29 permanent (inaudible) metre wide wayleave of the

1 proposed route. The duration of the construction
2 period or working width of typically 30 metres will be
3 used. This in turn will be within a 100 metre wide
4 corridor which defines the scope for minor rerouting
5 during the construction phase. The corridor is 10:04
6 normally centered on the pipeline. The proposed
7 Shannon pipelines require to transport natural gas from
8 the proposed Shannon LNG terminal at Ralappane, County
9 Kerry, to the existing national gas network near
10 Foynes, County Limerick. With this pipeline connection 10:05
11 the Shannon LNG terminal will have access to the Irish
12 gas market, including the Northern Ireland market.
13 This will allow Shannon LNG to supply gas from diverse
14 sources to the Irish market, providing increased energy
15 price competition, so supply security and reliability. 10:05

16
17 The gas pipeline will have a positive impact on the
18 region from an economical and developmental viewpoint
19 with the possible extension of the gas pipeline to
20 Listowel and further afield. 10:05

21
22 The manager's report is an appraisal of the proposal
23 under various headings and an assessment by the
24 relevant departments of the local authority. It is
25 considered by the local authority that the proposed 10:06
26 development of a gas pipeline connecting the AGI to the
27 existing pipeline in Foynes does not contravene any
28 section of the County Kerry development plan 2003-2009.
29

1 The objectives of the county development plan 2003-2009
2 support the provision of an industrial development at
3 this location, capitalising on its strategic coastal
4 location. It is considered that the proposal is in
5 accordance with all relevant international, national 10:06
6 and regional policies, and the provisions of the county
7 development plan. It is therefore in accordance with
8 the proper planning and sustainable development of the
9 area.

10
11 It is the recommendation of the planning authority that
12 An Bord Pleanála should support the recommendation of
13 Kerry County Council and grant permission from the
14 proposed pipeline. 10:07

15
16 Recommended Conditions. Having regard to the
17 following: 10:07

- 18 A. The planning history relating to the
19 terminal site;
- 20 B. The strategic importance of the proposed 10:07
21 development, both nationally and regionally;
- 22 C. National policy as expressed in the national
23 development plan, the national spatial
24 strategy, 2002-2020; the National Climate
25 Change Strategy for Ireland, 2000, and 10:08
26 government policy in relation to energy supply.
- 27 D. The provision's development objectives and
28 the conservation and amenity provisions of the
29 Kerry County Development Plan 2003-2009 re the

1 shall be forwarded to the planning authority and to the
2 Department of the Environment upon completion. The
3 reason: To ensure the continued preservation of
4 places, caves, sites, features or of objects of
5 archeological interest.

6 3. All road crossings shall be carried out under
7 license from the relevant roads authority. These
8 licenses shall intake the provision of traffic
9 management plans to be obtained prior to the
10 commencement of development. The works will be
11 supervised by staff of Kerry County Council at the
12 developer's expense. Reason: In the interest of road
13 safety.

14 4. The developer shall liaise with the water services
15 section of Kerry County Council in relation to the
16 construction of the pipelines adjacent to the public
17 water mains, and to ensure that appropriate measures
18 are put in place to prevent interruption to the water
19 supply. It is in the interest of protecting public
20 infrastructure and public health. Thank you.

21
22 MR. STACK THEN CONCLUDED HIS REMARKS.

23
24 **INSPECTOR:** Does that complete the
25 submission by Kerry County Council?

10:09

26 **MR. STACK:** That is Kerry's submission,
27 thank you.

28 **INSPECTOR:** Thank you very much.
29 Limerick?

1
2 MR. CIARAN O' GORMAN AND MS. GRAINNE O' KEEFE ADDRESSED
3 THE ORAL HEARING AS FOLLOWS:
4

5 **MR. O' GORMAN:** My name is Ciaran O' Gorman. 10:09

6 **INSPECTOR:** I think you need to push
7 that mike really close.

8 **MR. O' GORMAN:** Hello?

9 **INSPECTOR:** Yes.

10 **MR. O' GORMAN:** My name is Ciaran 10:09

11 O' Gorman, and I am the
12 senior executive engineer in the development management
13 section of Limerick County Council.

14
15 I refer to a letter which we sent to the Board on the 10:10
16 6th of October 2008 which contained a number of
17 internal reports received from our internal
18 departments, and I would like to read those onto the
19 record now that the report was prepared by my colleague
20 Grainne O' Keefe, who is the area planner for this area, 10:10
21 and I would ask her to read this out please.

22 **MS. O' KEEFE:** It is just a summary of
23 five internal department
24 reports within the Limerick County Council, and I'll
25 just go through them briefly. 10:10

26
27 The first one is from the archeologist, who agrees with
28 the mitigation measures as per Section 14.10 of the
29 Applicant's EIS, and in addition states that

1 sufficient funds should be made available to bring the
2 results of any archeological findings to publication,
3 and trenchless construction should be kept to a minimum
4 and avoided in any areas of potential archeology.

10: 11

5
6 The next one is a report from our chief fire officer.
7 Any associated buildings that are intended to be
8 constructed that are not except from the building
9 regulations, and/or building control regulations shall
10 require the successful grant of a fire safety
11 certificate prior to the lodgment and any commencement
12 notice to each of the same.

10: 11

13
14 Our senior executive engineer in the area roads office
15 had a number of issues to raise, that the proposed
16 development is likely to have very significant impact
17 on road safety, traffic management, and road condition
18 maintenance, both during the course of construction,
19 and the period thereafter. The level of detail
20 included in the report, the Applicant's report, is
21 limited in terms of where the Applicant proposes to
22 develop temporary parking areas and construction sites.

10: 11

10: 11

23
24 The engineer recommends that prior to any development
25 commencing on this project, that the
26 Applicant/Developer be requested to consult with the
27 transportation department of Limerick County Council in
28 relation to matters listed. That's three.

10: 11

- 1 1. Prepare a proper detailed traffic
2 management plan identifying all construction
3 sites, temporary parking areas, and delivery
4 routes for various types of material.
- 5 2. To prepare a detailed plan identifying all 10: 12
6 drainage system along the route and report
7 which should include how it is proposed to
8 replace and maintain all of these systems both
9 during and after the construction period.
- 10 3. Prepare a detailed pavement condition 10: 12
11 survey incorporating reports on any structures;
12 e.g., bridges, culverts, along various roads
13 affected by the proposed works.

14
15 The Applicant or developer will be responsible for 10: 12
16 compliance for compliance with all procedures relating
17 to road usage; i.e., load permits, road license and
18 compliance with planning and traffic safety
19 requirements in respect of opening entrances from
20 temporary car parks. 10: 13

21
22 The fourth report is from our senior executive engineer
23 in water services. The engineer refers to the
24 Applicant's statement that states that no permanent
25 water supply is required for the proposed development, 10: 13
26 and that no wastewater will be generated by the
27 proposed development. The proposed pipeline does not
28 intersect any existing local authority, water or
29 wastewater services. The proposed pipeline crosses an

1 existing 100 million diameter group water supply water
2 main at Ballycullane, Glin, and it is listing 75
3 millimeter diameter group water supply, water main
4 passes through the proposed AGI at Foynes. Details in
5 relation to the protection of these water mains are to 10: 13
6 be agreed with the relevant group water supply scheme
7 secretaries prior to commencement of development, and
8 the water services department has no objection to the
9 appli cation.

10
11 The fifth and final report from the conservation
12 officer. The proposed route does not impact directly
13 upon formally protected structures or traverse through
14 any archi tectural conservation areas, and tends to stay
15 clear of structures that may be of interest and 10: 14
16 signi fi cance, and the devel opment will not impact upon
17 the bui lt heri tage.

18
19 The pl anni ng authori ty would also like the Board to
20 consider, in the event of a grant of permissi on that 10: 14
21 there will be a special devel opment contri buti on
22 required to cover the costs associ ated with the repair
23 of damaged publi c roads, and further i nformati on will
24 be requi red from the Appli cant in terms of making a
25 detailed cal culati on in thi s regard. 10: 14

26
27 Also that any openi ngs and hedgerows shall be
28 rei nstated fol lowi ng constructi on.
29

1 In conclusion, the route of the proposed gas pipeline
2 is located within the Shannon coastal landscape
3 character area outlined in policy ENV 14 of Limerick's
4 County Development Plan 2005-2011. The route of the
5 proposed pipeline crosses public roads at 14 locations 10: 15
6 within County Limerick, including the crossing of one
7 regional road, the R 524. The site does not traverse
8 any natural heritage areas or other European designated
9 sites.

10
11 The planning authority and Limerick County Council
12 respectfully requests that An Bord Pleanála will take
13 the issues outlined above by the various internal
14 departments in relation to roads, water services and
15 archeology into consideration in determining the 10: 15
16 proposed development.

17
18 That's it, thank you.

19
20 MR. O' GORMAN AND MS. O' KEEFE THEN CONCLUDED THEIR 10: 15
21 REMARKS

22
23 **INSPECTOR:** Thank you. That concludes
24 your submission?

25 **MR. O' DONOVAN:** Inspector? 10: 16

26 **INSPECTOR:** Kerry, can I just ask you
27 question? In your written
28 submission you make reference to an IPPC license. I'll
29 just confirm with the Applicant, no IPPC licenses are

1 envisaged at this stage?

2 **MR. FITZSIMONS:** Not in relation to the gas
3 pipeline, but an IPPC
4 application will be made to the EPA in due course in
5 relation to the operation of the terminal. 10:16

6 **INSPECTOR:** Okay.

7 **MR. STACK:** That clarifies things.
8 thank you.

9 **MR. McELLI GOTT:** Inspector, sorry, but if
10 there is going to be no 10:16
11 IPPC license for the pipeline, and there is going to be
12 an IPPC license for the terminal, does that not prove
13 that it is project splitting because it is the one
14 project?

15 **INSPECTOR:** I note your point, yes. 10:16

16 **MR. FITZSIMONS:** Inspector, very briefly, if
17 I may come back on that
18 point.

19 **INSPECTOR:** Yes.

20 **MR. FITZSIMONS:** Project splitting relates 10:16
21 to an attempt by a
22 developer to carve up a project in such a manner that
23 no EIS is prepared. For example, a motorway can be
24 carved up into four distinct parts, each falling below
25 the threshold and conceivably a roads authority could 10:17
26 get away without preparing an EIS at all. Of course,
27 an EIS was prepared for the terminal application, a
28 separate EIS has been prepared for the pipeline. So
29 the simple issue of project splitting does not arise on

1 this application, and no matter how many times Mr.
2 McElligott refers to it, it simply does not arise as a
3 matter of law, and is a misconception on his part in
4 this context.

5 **INSPECTOR:** Thank you. We are going to 10:17
6 be moving on to your
7 submission now, Mr. McElligott, so we will move on to
8 the observers at this stage, so perhaps you could
9 incorporate anything that you wanted to say in your
10 submission. 10:18

11
12 So at this stage we will move on to the observers. I
13 am going to ask Tarbert Development Association to
14 make their submission. I believe Joan Murphy is with
15 us today. Ms. Murphy. 10:18

16
17 **MS. JOAN MURPHY THEN ADDRESSED THE ORAL HEARING AS**
18 **FOLLOWS:**

19
20 **MS. MURPHY:** Good morning, Inspector and 10:18
21 everybody.

22
23 Tarbert Development Association see this particular
24 part of the development of the Shannon LNG terminal
25 pipeline, together with the various licences that are 10:18
26 needed, as really vital, since the An Bord Pleanála
27 recommended that the gas from Killoolgan could only be
28 sent by pipeline, not by road. So this is a vital part
29 of bringing this project to fruition.

1
2 Tarbert Development Association, and a properly
3 constituted organisation who have operated -- we have a
4 constitution, and we are have been in existence for
5 over 50 years. For almost all of that time, members of 10: 19
6 the association have worked extremely hard to try to
7 bring development to the region known as the Land bank.

8
9 This Land was purchased a long time ago for
10 development, and we have lobbied politicians, 10: 19
11 departments the government, Shannon Development, to
12 bring development to this area, and whereas there have
13 been many promises over the years, this is the first
14 time that real development is indeed a prospect. We
15 see this element as being vital to bringing this whole 10: 19
16 project to fruition.

17
18 Certainly, at this time, we all know that jobs are
19 badly need, there is promises of a lot of employment
20 and in the area, and certainly in the short-term, there 10: 20
21 is a lot of jobs envisaged. In the longer time,
22 certainly there are many secure jobs that will be
23 brought by this development.

24
25 In the national interest, of course, and it has been 10: 20
26 spelt out by a number of people here, gas is a more
27 desirable fossil fuel than either coal or oil, which
28 are being used by both of the power stations that
29 happen to be closest to us in Tarbert and in

1 Moneypoint. And in the national interest, we all know
2 that the carbon emissions from both gas and oil are
3 indeed higher -- sorry, coal and oil are higher than
4 that of gas, so certainly we would welcome this
5 development. Thank you. 10: 21

6
7 **MS. MURPHY CONCLUDED HER REMARKS:**

8
9 **INSPECTOR:** Thank you very much.
10 Ballylongford Enterprise 10: 21
11 Association, Noel Lynch, is it?
12

13 **MR. NOEL LYNCH ADDRESSED THE ORAL HEARING AS FOLLOWS:**

14
15 **MR. LYNCH:** My name is Noel Lynch. I 10: 21
16 am chairman of the
17 Ballylongford Enterprise Association Limited. We
18 support the proposal and view it as a natural follow on
19 to the regasification terminal, which was recently
20 granted planning permission. We welcome the benefits 10: 21
21 to the community and the economy, that this pipeline
22 will bring, particularly in the future to towns like
23 Listowel, Tralee and Killarney. We welcome this
24 pipeline as it will guarantee the future of jobs at the
25 power station, and will in fact further economic
26 development to the Ballylongford town area.

27
28 We are delighted that there are no objections from the
29 landowners along the pipeline route. Overall, this is

1 a very positive development for our area, and taking
2 both the terminal and pipeline together, we believe
3 that, as already stated on a previous occasion, this is
4 the right project in the right place at the right time,
5 Thank you. 10: 22

6
7 MR. LYNCH CONCLUDED HIS REMARKS:

8
9 INSPECTOR: Thank you, Mr. Lynch.

10 We will now move on. Ms. 10: 22
11 Griffin, you have made a submission in your own right.
12 Are you also part of the Kilcolgan group? Because you
13 have made a written submission, you are entitled to
14 make a submission to the hearing on your own behalf.

15 MS. GRIFFIN: That's right. 10: 22

16 INSPECTOR: Is that what you wish to
17 do?

18 MS. GRIFFIN: Can you hear me?

19 INSPECTOR: No, sorry.

20 MS. GRIFFIN: Can you hear me now? 10: 22

21 INSPECTOR: Yes.

22
23 MS. CATRIONA GRIFFIN ADDRESSED THE ORAL HEARING AS
24 FOLLOWS:

25
26 MS. GRIFFIN: Good morning, Ms.
27 Inspector, Ladies and
28 gentlemen. My name is Catriona Griffin and my husband
29 Pat, daughter Chloe and I live less than 900 metres

1 from the proposed LNG storage tanks. To our horror we
2 find that live approximately 200 metres from the
3 proposed pipeline route.

4
5 My reason for being here is that I want to be able to 10:23
6 say that I participated in the planning process, and
7 therefore when this application is approved I will be
8 able to take matters further.

9
10 I believe that this oral hearing, like the oral hearing 10:23
11 last January, is merely an illusion of going through
12 the motions, and giving the appearance of public
13 participation. In my opinion, this project was given
14 the green light the first moment that Shannon LNG
15 appeared in our midst. I believe that this hearing is 10:23
16 yet another waste of the taxpayers money as I think
17 that whatever is said here is not going to make any
18 difference to the outcome of this planning application.
19 Thank you.

20 10:23
21 **MS. GRIFFIN CONCLUDED HER REMARKS:**

22
23 **INSPECTOR:** Thank you. Mr. O' Donovan?
24 Is Mr. O' Donovan with us
25 today? Would you like to come to the table, Mr. 10:23
26 O' Donovan? Or you can stand. If you just get quite
27 close to the mike.

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29

MR. O' DONOVAN ADDRESSED THE ORAL HEARING AS FOLLOWS:

MR. O' DONOVAN: I am a little bit winded after rushing in, so just bear with me please. 10: 24

Well, this is my submission. There is a couple of pages so maybe you'll bear with us. So get me through it.

10: 24

I have to be true to my own principles and responsibilities as I see them. On safety, the environment and health, with the slogan that prevention and sustainability are the best natural cures of all. I feel sure that the right-thinking people everywhere will agree that we are continuously being adversely affected, leading to a denatured humanity, sea and wild life and vegetable kingdom. 10: 24

There are two primary laws of nature; firstly, do no wrong, and the second one is, we are obliged to protect and respect the atmosphere in which all life, human, animal, sea and vegetable have their existence, now, and hopefully for the generations into the far and distant future. 10: 25

10: 25

In this project, tourism and fishing in the area, in my estimation, would be decimated, as the Shannon is slowly becoming an industrial zone. Is taxpayer money

1 to be used, even only partially to subsidise this
2 venture? As this government has a habit of subsidising
3 foreign companies to create jobs here?

4
5 Does this apply in this case? Are the Irish taxpayer 10: 26
6 not having their revenues spent to create local
7 indigenous and clean friendly industry for ourselves?

8
9 When I asked John Gormley in Clonmel, face-to-face, if
10 the proposed LNG terminal in Tarbert would require a 10: 26
11 strategic environmental assessment, he said yes. As
12 far as I am aware, this has not happened. Minister
13 Eamon Ryan said that his goal was to have Ireland's
14 energy needs supplied by renewable, sustainable,
15 natural sources such as wind, tidal, solar, geothermal 10: 26
16 and hydroelectric. We are still waiting for the 42
17 percent he promised. This is a very credible and
18 technological possibility in these modern times, if
19 only there was enthusiastic support across all party
20 lines. 10: 27

21
22 Local, in today's terms, means labour can be sought
23 from any and all 27 countries in the EU, who have equal
24 rights as our own workers here in this locality, the
25 only stipulation being that they must be paid the 10: 27
26 minimum wage that is relevant in Ireland.

27
28 After the ECG rolling in mainland Europe concerning the
29 Laval case judgment. Now that our climate has

1 changed irreversibly, we can expect heavy rainfall in
2 all seasons into the next decades at least. It has
3 been proven beyond all reasonable doubt by honest and
4 uncompromised scientists and climatologists, that the
5 burning of coal, oil and noxious gas is largely
6 responsible for atmospheric warming, polar ice cap
7 melting and ocean pollution, and therefore vast areas
8 of seas declared dead zones.

10: 28

9
10 The fossil fuel providers, being very powerful
11 financially, are able to maximise their self-interested
12 monopolies to the exclusion of time honoured health,
13 safety and environmental and consumer rights of
14 citizens in many parts of our planet. Our citizens in
15 the more westernised world, we also have the urgent
16 responsibility, individually and collectively and
17 institutionally to halt unnecessary depletion of all
18 our finite resources, and leave some for future
19 generations instead of a silent and arid spring and
20 summer, in fact, all seasons, including the now
21 pristine nature of our estuary. Now I'll just -- I
22 went into the -- what will I call it -- that
23 dictionary, I got you know, the -- for hydrology.

10: 28

10: 28

10: 29

24
25
26 Hydrology. The signs dealing with the
27 occurrence, circulation, distribution
28 and properties of the waters of the
earth and its atmosphere.

10: 29

29 Hydrogeology, the science dealing with
the occurrence, circulation,
distribution and properties of the

1 waters and of the earth and its
2 atmosphere.

3 Now, I would like to make one more point. This is
4 water coming from our reservoir in Tarbert, and I was
5 out of other day and I asked for a bottle of water out 10: 30
6 here in the Arms. I was charged 4.80 -- I mean 2.80.
7 Four of them would hardly fill this. So that was €10.
8 Now, there has been no mention of our water supply in
9 Tarbert, especially from the reservoir. So the thing
10 is, as this pipeline would go south of this kilometer 10: 30
11 wide, I am sure it would have a negative and adverse
12 effect on our reservoir, and it is very -- it is very
13 rare that we can now take water from, you know, from
14 natural sources. We have to either buy it or boil it,
15 and that is my completed submission. Thank you, Madam 10: 30
16 Inspector.

17
18 **MR. O' DONOVAN CONCLUDED HIS REMARKS**

19
20 **INSPECTOR:** Thank you very much, Mr. 10: 30
21 O' Donovan. We will now
22 move on to the submission by the Killorgan Residents
23 Association, and Safety Before LNG. Mr. McElligott.

24
25 **MR. McELLI GOTT ADDRESSED THE ORAL HEARING AS FOLLOWS:** 10: 31

26
27 **MR. McELLI GOTT:** Good morning, Ms.
28 Inspector.
29

1 I have several different submissions and witnesses 40
2 call, and the first one is from a Mr. Steve Goldthorpe,
3 an energy analyst from New Zealand. Mr. Goldthorpe
4 offered his services as follows to the Oral Hearing, An
5 Bord Pleanála, by e-mail of the 30th of November 2008. 10: 31
6 "Dear sirs . . . "

7 **INSPECTOR:** Sorry. Mr. McElligott --
8 Mr. Fitzsimons, would you
9 have you a view on --

10 **MR. FITZSIMONS:** I have an objection to that 10: 31
11 evidence being tendered in
12 circumstances where the evidence is hearsay, and in
13 particular, where the person who is purporting to
14 provide the opinion is not being tendered for
15 cross-examination. 10: 31

16 **MR. McELLI GOTT:** I'll read out the letter
17 that to wrote to An Bord
18 Pleanála beforehand on the 30th of November, offering
19 his services, to which An Bord Pleanála did not reply.
20 So I think it is important this is read into the 10: 32
21 record. He cannot comment on something that he doesn't
22 know what I am going to say.

23 **INSPECTOR:** Well, if it is a matter of
24 giving evidence to the
25 hearing, anyone who gives evidence has to be available 10: 32
26 for questioning. That is a basic principle of any
27 hearing in terms of natural justice.

28 **MR. McELLI GOTT:** That is covered in the
29 letter as well. I can give

1 his summary letter to the hearing, and you can decide
2 whether you want to accept his evidence afterwards.

3 **INSPECTOR:** That is what we will do.
4 If you are in agreement
5 with that, Mr. Fitzsimons. 10: 32

6 **MR. FITZSIMONS:** It is in your hands,
7 Inspector.

8 **MR. McELLI GOTT:** Okay.

9
10 Dear Sirs, 10: 32

11 I understand that a hearing will be
12 heard in the Listowel Arms Hotel this
13 week concerning aspects of the Shannon
14 LNG proposal and associated
15 infrastructure. I also understand that
16 the hearing is open to submissions by
17 people who have not previously been
18 involved in the planning process for
19 this proposal. 10: 32

20 I am an independent energy analyst from
21 New Zealand with a strong interest in
22 LNG issues. I have prepared the
23 attached short submission to provide An
24 Bord Pleanala with an international
25 perspective on the matter. I hope this
26 submission will be received by An Bord
27 Pleanala and will be useful. 10: 33

28 I would like to present this submission
29 to the hearing and to answer questions
30 on it but I am unable to travel from
31 New Zealand to Ireland to attend the
32 hearing. In view of the distance
33 involved, I hope that special case
34 arrangements can be made for me to
35 present this submission and answer
36 questions on it via audio or video
37 communication technology. I will be
38 pleased to make myself available at any
39 time to suit the hearing panel, and to
40 participate in the necessary technical
41 arrangements here in New Zealand. I
42 suggest that Skype might be an
43 appropriate technology to use. 10: 33

44 If it is not possible for me to make
45 this submission to the hearing in

1 person, then I authorise Mr. Johnny
2 McElligott or his nominee to read my
3 submission on my behalf.

4 If you require a signed copy of this
5 submission then I would gladly fax a
6 signed copy to you. I look forward to
7 your acknowledgment of this e-mail and
8 to be of assistance to An Bord Pleanála
9 in their deliberations. 10: 34

10 Yours faithfully, Steve Goldthorpe,
11 Energy Analysts Limited, 25 St. Mary's
12 Road, Whi tepool, Post Office Box 96,
13 Whi tepool, 0545, New Zealand.
14 Telephone: + 64 9432 0532, or + 64 274
15 849764.

16 **INSPECTOR:** Mr. Fitzsimons, do you have 10: 34
17 anything?

18 **MR. FITZSIMONS:** Ms. Inspector, I renew on
19 behalf of my client my
20 objection to that evidence being received, that
21 submission being received. The person in question is 10: 34
22 not being tendered for viva voce cross-examination or
23 cross-questioning before the Oral Hearing.

24 I would also point out that it might be slightly unfair
25 of Mr. McElligott to criticise the Board for not 10: 35
26 responding to that e-mail given the fact that it was
27 sent on the 30th of November, which was a Sunday.

28 I would also point that Mr. McElligott has obviously
29 been aware of these matters since Sunday, at the 10: 35
latest. We have been in session now for over 24 hours,
and with respect, it is a matter that should have been
brought to the attention of you, Inspector, if
provision was to be made other than the normal viva

1 voce cross-questioning process.

2 In those circumstances, my client will be prejudiced by
3 the receipt by the Inspector, and therefore by the
4 Board, of this submission, and I would ask that it not
5 be received, and that it be ruled out. 10: 35

6
7 Thank you, Inspector.

8 **INSPECTOR:** Mr. McElligott, what you
9 can do is, you can make any
10 submission on your own behalf, but you have to be 10: 35
11 available to be questioned on it. So if you would like
12 to incorporate the statements made by -- or the points
13 made by Mr. Goldthorpe, into your own submission, that
14 might be one way, but you have to be aware that you
15 would be available for questioning on the material. 10: 36

16 **MR. McELLI GOTT:** Okay. Statement of
17 Evidence of Stephen Henry
18 Goldthorpe ...

19 **INSPECTOR:** Sorry, sorry. It would
20 have to be part of your own 10: 36
21 submission, in your own words, so to speak.

22 **MR. McELLI GOTT:** Ms. Inspector, also,
23 yesterday, the Applicant
24 confirmed that they were in communications with you
25 earlier on in the week on certain aspects of the 10: 36
26 compulsory acquisition order. So I think it is unfair
27 that after the official submission of their application
28 they still had direct consultations with An Bord
29 Pleanála, which was strictly closed at the

1 pre-consultation stage.

2 **INSPECTOR:** I will ask Mr. Fitzsimons
3 if he wants to respond.

4 **MR. FITZSIMONS:** It is yet another example
5 of Mr. McElligott's 10: 36
6 misunderstanding of the position. I presume that is an
7 inadvertent misunderstanding rather than anything else.

8
9 The correspondence that I referred to yesterday, of
10 course, was not with yourself, Inspector, which is what 10: 37
11 Mr. McElligott suggested in the first occasion, but
12 rather, with the Secretary of An Bord Pleanála, and it
13 related exclusively to the application for the
14 compulsory acquisition order, it did not relate to this
15 segment of the hearing, or this application under 10: 37
16 Section 182(C) in relation to the strategic gas
17 infrastructure development.

18
19 In those the correspondences, the correspondence
20 referred to, which came also from other parties; i.e., 10: 37
21 the solicitor representing landowners along the route,
22 was merely to confirm to the Board that wayleave
23 agreements had been entered into as between Shannon LNG
24 Limited, and certain of the landowners, so as not to
25 require the Board to make a compulsory acquisition 10: 37
26 order in respect of those landowners. I expanded on
27 those matters yesterday when I confirmed to you, Madam
28 Inspector, and therefore to the Board, that in fact
29 only five orders are now being sought in relation to

1 those outstanding wayleave numbers.

2 So there was no breach of An Bord Pleanála's
3 procedures in any event, and the correspondence entered
4 into with the Board was in the context of the CAO
5 application. 10: 38

6 **MR. McELLI GOTT:** Ms. Inspector, that is not
7 right because An Bord
8 Pleanála has a duty to have an arm's distance
9 relationship with the Applicant. The preconsultation
10 phase was finished. You made a ruling that it 10: 38
11 qualified for strategic infrastructure under the -- for
12 fast track planning under the Strategic Infrastructure
13 Act. You already made that ruling. Any other
14 environmental information relating to this project
15 should be only discussed at the oral hearing, or 10: 38
16 further stages. That is my point.

17 **INSPECTOR:** Mr. McElligott, I'll just
18 draw your attention to the
19 public file on the -- our correspondence received was
20 in relation to the compulsory acquisition order and is 10: 38
21 available on the DA0003 file, and it does relate to
22 changes to the Book of Reference that the Applicant has
23 submitted, rather than to the planning application. So
24 just to confirm that for yourself, but it is all on the
25 public file, which you can examine. So if you want to 10: 39
26 proceed with your main submission.

27 **MR. McELLI GOTT:** Okay. Okay. Ms.
28 Inspector, the first
29 submission I would like to bring up is the Section 5

1 application made to Kerry County Council on the 28th
2 November. It was a declaration under Section 5 of the
3 Planning and Development Act 2000, to find out whether
4 works on the original project are or are not exempted
5 development.

10: 39

6
7 Now, this is going before the Kerry County Council at
8 the moment, but it is relevant to this hearing because
9 it deals with the exemptive status of the current
10 project. So I am going to read out this submission,
11 first of all, just so that you understand where I am
12 coming from.

10: 40

13
14 I would like to add that earlier the developer accepted
15 that there was a certain level of project splitting.

10: 40

16 **MR. FITZSIMONS:** That is wrong.

17 **MR. McELLI GOTT:** And he just that said it is
18 basically, in plain man's

19 English, it is okay if there is an EIS for each
20 separate part of the project that is split up.

10: 40

21 However, project splitting avoids a strategic
22 environmental assessment because it is giving the
23 impression that a project is so small that it is not
24 going to have a massive impact on the whole
25 environment, and the strategic environmental assessment
26 directive specifically quotes that an SEA should be
27 undertaken if there is going to be a significant impact
28 on the environment.

10: 40

1 So for us, one of the major ideas is that splitting a
2 project in which you attached an EIS which is not an
3 EIS for the whole project, is not the same thing as
4 having one EIS for the complete project. That was our
5 point there.

10: 41

6
7 The An Bord Pleanála wrote to the Applicant, and -- in
8 calling this Oral Hearing, and the An Bord Pleanála
9 gave a specific instruction to the Applicant when it
10 said:

10: 41

11 The applicant's substantive submission
12 should include a reference to the
following specific topics.

13 And I quote exactly. An Bord Pleanála wrote to the
14 Applicant and said:

15 The cumulative impacts of the quarry
16 proposal, the AGL and the pipeline, and
the permitted LNG terminal development.

10: 41

17 Now, I have to say that talking -- the developer
18 presented cumulative impacts of the pipeline, but that
19 was, I feel, a misrepresentation of what An Bord
20 Pleanála really required. It is really asking, you
21 must have a plan for the whole project. Okay.

10: 42

22
23 Now, I'll read the Section 5 submission to Kerry County
24 Council first. 28 of November 2008. To the Planning
25 Department, Kerry County Council, Council Buildings,
26 Tralee, County Kerry, by e-mail to Kerry County
27 Council --

10: 42

28 **INSPECTOR:** Sorry, if you could just
29 take it a bit easy for our

1 col league here.

2 -- kccplan@kerrycoco.ie.

3 Reference Section 5 declaration on whether changes to
4 the Shannon LNG project at Kilcolgan, Tarbert, County
5 Council Kerry granted permission under PA0002

10: 42

6 constitute work on the original project which is or is
7 not development and is or is not exempted development.

8 Dear Sir or Madam,

9
10 This is an application to Kerry County Council seeking
11 a declaration under Section 51 of the Planning &
12 Development Act 2000, on whether changes to the Shannon
13 LNG project constitute work on the original project,
14 which is or is not development, and is or is not
15 exempted development.

10: 43

10: 43

16
17 The safety before LNG group represents people from both
18 Kilcolgan and the wider community, and is advocating
19 responsible strategic siting of LNG terminals in areas
20 which do not put people's health and safety in danger.

10: 43

21 See attached signed submissions by Ms. Cathy Sennott,
22 MEP, and Mr. Tony Lewis of Friends of the Irish
23 Environment, on whose behalf this submission is also
24 therefore being made.

10: 43

25
26 Shannon LNG was granted planning permission for an LNG
27 terminal at Tarbert on March 2008, directly through the
28 fast track planning procedure of the Strategic
29 Infrastructure Act 2006, by An Bord Pleanála. Shannon

1 LNG has now applied for a 26 kilometer gas pipeline
2 from the proposed LNG terminal under planning reference
3 GA0003,
4

5 Please consider the following issues in making your
6 decision:
7

8 1. We are of the opinion that the result of
9 the European Court of Justice ruling of July 3
10 2008, regarding the inadequate environmental 10: 44
11 impact assessment, EIA at Derrybrian, is that
12 any new information on a project that has an
13 EIA would require a new EIA on the entire
14 project to assess their environmental effects
15 as obliged by the EIA directive. 10: 44
16

17 The court ruled as follows: That by failing to adopt
18 all measures necessary to ensure that projects which
19 are within the scope of Council Directive 85/337/EEC of
20 27th of June 1985, on the assessment of the effects of 10: 45
21 certain public and private projects on the environment,
22 either before or after amendment by Council Directive
23 97/11/EC of March 1997, are, before they are executed
24 in whole or in part, first considered with regard to
25 the need for a new environmental impact assessment, and 10: 45
26 secondly, where those projects are likely to have
27 significant effects on the environment by virtue of
28 their nature, size or location, that they are made
29 subject to an assessment with regard to their effects

1 in accordance with Articles 5 to 10 of Directive
2 85/337.

3
4 Ireland has failed to fulfill its obligations under
5 Articles 2, 4 and 5 to 10 of that Directive. 10: 46

6
7 An extensive programme of predevelopment archeological
8 testing has already taken place on the site, which
9 included building a road through the site. This was
10 detailed in Chapter 14.6 of Volume 2 of the EIS 10: 46
11 submitted by Shannon LNG to An Bord Pleanála for
12 planning application PA0002. Indeed, Chapter 7.2 of
13 the same volume described the archeological
14 investigation as the first of six broad areas of
15 construction activity on the site. 10: 46

16
17 This therefore means that this project is development
18 that has already begun, and any modifications to this
19 project constitute a project to which the ECJ ruling of
20 July 3rd, 2008 applies because this project has been 10: 46
21 executed in part.

22
23 A modification to the Shannon LNG project was
24 officially made by application GA0003 to construct a 26
25 kilometer pipeline from the proposed LNG terminal to 10: 47
26 the national gas grid at Foynes in County Limerick. We
27 question that the environmental report accompanying
28 this application was inadequate, as per the ECJ ruling
29 of July 3rd, 2008. We are now requesting a declaration

1 from Kerry County Council on whether or not this
2 modification is or is not exempted development.

3
4 2. An official application for a 26 kilometer pipeline
5 is a material change to the permitted LNG terminal, as 10: 47
6 it is an integral part of the project. This is a
7 perfect example of project splitting, which is contrary
8 to the EU EIA Directive. The original planning
9 permission was for a terminal only. The new
10 application is for a pipeline to this LNG terminal. 10: 48
11 Our contention is that the project is to be therefore
12 considered as a new one, a pipeline and an LNG
13 terminal.

14
15 Compared to the information available during the first 10: 48
16 assessment, we are now requesting a declaration from
17 Kerry County Council on whether or this modification to
18 the original project is or is not exempted development.

19
20 In response to a question raised by MEP Ms. Cathy 10: 48
21 Sennott, the EU Commission responded on this issue as
22 follows on November 7th, 2008:

23
24 When referring to the addition of information requiring
25 a new environmental impact assessment, EIA, the 10: 48
26 Directive does not provide for a deadline to reconduct
27 an assessment on the basis of supplementary
28 information. This process depends on the importance of
29 the new elements being brought forward, and it is for

1 the member states to appreciate if a new EIA is needed.
2 This could be the case if the project is to be
3 considered as a new one, compared to the information
4 available during the first assessment.

10: 49

5
6 In addition, the following works have not yet even been
7 considered for this project:

8
9 A. The developer has only made vague references for its
10 plans for the rest of its site on the land bank. This 10: 49
11 suggestion maybe a gas-fired power station which would,
12 they say -- I quote: "Be the subject of a separate
13 planning application and EIS," end quote. That its
14 from the EIS Volume 1 page 5.

10: 50

15
16 On November 2008, Shannon LNG announced in its
17 information booklet, issue 5, that, and I quote:
18 Shannon LNG has registered an electric industry
19 generation company with the company's registration
20 office, Ballylongford Electricity Company Limited, has 10: 50
21 been registered in order to provide a vehicle, should
22 it be required, to manage the operation of a separate
23 electricity generation business associated with the
24 proposed LNG terminal.

10: 50

25
26 B. Shannon LNG also states, EIS Volume 1, page 5, that
27 electricity to be supplied via 110 KV lines from the
28 ESB network at Tarbert will also be the subject of a
29 separate planning application.

1
2 On November 2008 Shannon LNG announced in its
3 information booklet, issue 5, that Shannon LNG has
4 accepted an offer from Eire grid for a power supply to
5 the site. The power supply -- the supply will be from 10: 51
6 Tarbert.

7
8 C. Shannon LNG goes on to state, EIS Volume 1, page 5,
9 that Kerry County Council will upgrade the coast road
10 from Tarbert, which will, "will also be the subject of 10: 51
11 a separate planning application."

12
13 3. Planning permission was given for the LNG terminal
14 without any conditions attached on the obligation to
15 first obtain all other environmental permits. For 10: 51
16 example, an integrated pollution prevention and
17 control, IPPC license from the Environment Protection
18 Agency EPA.

19
20 No EPA license had yet been obtained. It is our 10: 51
21 contention that applying for a pipeline for a project
22 that has not yet obtained an EPA license is a
23 modification to the original permission that
24 constitutes development which is not existed
25 development, and we are now asking Kerry County Council 10: 52
26 to rule on this question.

27
28 There is no integrated assessment of this project in
29 our opinion.

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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.

10: 52

In response to a question, Reference E4740 08 EN, raised by member of the European Parliament, MEP Ms. Cathy Sennott, the EU Commission responded on this issue as follows, on November 7th, 2008. I quote: Directive 85/337/EEC does not exclude the possibility that more than one authority may make a decision in respect of a proposed project.

10: 52

10: 53

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.

10: 53

The Commission is aware that in Ireland approval of certain kinds of projects requires both a planning consent, and a separate pollution control consent. I has some concerns that the current Irish legislation does not fully ensure the assessment of interactions.

10: 53

1 Infringement procedure 19974073.

2
3 In response to a question, reference E406608EN, raised
4 by a member of Member of the European Parliament, MEP
5 Mr. Pronsias de Rossa, the EU Commission responded on 10: 54
6 December 2nd, 2008, as follows: Infringement 19974703
7 is now chiefly about the conformity of Irish
8 legislation used to implement Directive 85/337/EEC on
9 the assessment of the effects of certain public and
10 private projects on the environment. The directive 10: 54
11 lays down a set of requirements to be met by national
12 authorities when submitting or determining whether to
13 submit certain projects to environmental impact
14 assessment.

15
16 As of the 31st of July 2008, the status of the 10: 55
17 procedure was that the Commission had decided to refer
18 Ireland to the European Court of Justice but had not
19 yet executed this decision.

20
21 4. The extension of the LNG project represents a 10: 55
22 broadening of the public affected by this project, and
23 therefore renders, among others, conditions 37 and 38
24 of the original planning permission unenforceable.
25 Because the local communities between Kilcolgan and 10: 55
26 Foynes have been disenfranchised and excluded from any
27 benefits or protections.

28
29 5. The original planning application permission PA0002

1 references condition 45 in condition 40, but only 40
2 conditions are listed. Conditions 41 to 45 are
3 therefore missing, and this planning permission is
4 therefore invalid as unenforceable.

5
6 6. The original planning application was for an LNG
7 terminal. The Irish Health & Safety Authority, the
8 HSA, advise to An Bord Pleanála on that project only
9 covered the risks on the land. The HSA remit for this
10 application stopped at the water's edge.

11
12 An Bord Pleanála made its planning permission without
13 obtaining any HSA expertise on any risk assessment of
14 an LNG spill on water from LNG tankers traveling in the
15 estuary. Our understanding is that the EPA did not
16 attend at the original hearing on the original LNG
17 terminal. Since the planning application has now been
18 submitted for a pipeline, gas will be able to leave the
19 site so that the transport of LNG to the site on the
20 estuary will now be able to realistically take place.
21 This represents a material change to the original
22 project, and an assessment of the risks and
23 consequences of an LNG spill on water from a moving
24 vessel on the estuary needs to be analysed.

25
26 This means that this is not a separate project, but a
27 whole new project that is work that constitutes
28 development which is not exempted development. We now
29 request that Kerry County Council rules on this

1 assertion.

2 In conclusion, we want a determination on whether
3 planning permission for part of a dangerous LNG project
4 split into its constituent parts, each of which is an
5 integral part of the one project was invalidated and 10: 57
6 therefore represents development which is not exempt
7 when permission for the next constituent part, in this
8 case the LGN pipeline, is applied for. We are
9 therefore requesting a declaration on whether or not
10 project splitting is development, which is not exempt. 10: 58

11
12 We have forwarded you the require fee of €80 and await
13 your feedback.

14
15 Okay. That was my section 5 submission to Kerry County 10: 58
16 Council, to which I am still waiting for a reply. But
17 it is pertinent to this planning application.

18
19 The second issue I would like to deal with is our
20 submission to the CER on the Shannon LNG pipeline. On 10: 58
21 the 17th of October 2008. We believe this is also
22 pertinent, even though I understand from the CER
23 representative yesterday that this will be dealt with
24 possibly in a separate oral hearing, considering what I
25 just said about interactions in a previous section 5 10: 59
26 referral. I think it is important to air these issues
27 now.

28 **MR. FITZSIMONS:** Inspector, before Mr.
29 McElligott commences that,

1 I would simply note that now, according to Mr.
2 McElligott himself, we are now going to trespass on
3 issues that are the matter of submissions to the
4 Commission of Energy Regulation on its standalone
5 statutory procedure pursuant to Section 39(A) of the 10:59
6 Gas Act as amended. No circumstances, I would simply
7 submit that while it is matter for you, of course,
8 Inspector, this cannot be relevant to the Board's
9 consideration of the Application under Section 182(C)
10 of the Planning & Development Act of 2006. 10:59

11 **MR. McELLI GOTT:** Yes, Inspector. I would
12 completely agree with that,
13 except that as we already highlighted, the initial
14 planning permission granted by An Bord Pleanála on
15 PA0002 did not include any conditions on obtaining 11:00
16 other license or permits. We want to make it very
17 clear is that it should not be an excuse of the
18 developer to say, when the CER raised serious issues,
19 that oh, we got permission for a terminal, you should
20 have raised these issues earlier on. We want An Bord 11:00
21 Pleanála, if it is to give permission, to say that this
22 permission is conditional on obtaining any other
23 permits, and if there is new information that comes
24 onboard at that stage, the developer cannot suddenly
25 say we did not know about that. You know, it is two 11:00
26 separate planning applications. So that is why I have
27 to read out this submission to the CER.

28 **INSPECTOR:** I am going to give you a
29 little bit of leeway on

1 this, Mr. McElligott, so proceed and we will see how it
2 is going.

3 **MR. McELLI GOTT:** 17th of October 2008. The
4 Commission for Energy
5 Regulation, The Exchange, Bellgard Square North, 11:01
6 Tallaght, Dublin 24, by e-mail to info@cer.ie.
7 Reference: Application by Shannon LNG for consent to
8 construct a pipeline under Section 39(A) of the Gas
9 Act, 1976 as amended.

10
11 Dear Sir or Madam, 11:01

12
13 The Killorgan Residence Association represents nearby
14 residents of the proposed LNG regasification terminal,
15 and people with close family and economic ties to the 11:01
16 area. The Safety Before LNG group represents people
17 from both Killorgan and the wider community, and is
18 advocating responsible strategic sites of LNG terminals
19 in areas which do not put people's health and safety in
20 danger. 11:01

21
22 We are hereby formally objecting to any consent being
23 given by the CER to Shannon LNG to construct a pipeline
24 under Section 39(A) of the Gas Act 1976 as amended, in
25 its entirety on health, safety and environmental and 11:02
26 strategic planning grounds. We believe that the
27 statutory bodies have dealt illegally and inadequately
28 with the issues we have raised to date, and believe
29 that it would also therefore be inappropriate and

1 illegal for the CER to record any permits until our
2 issues have been dealt with in an acceptable and
3 adequate manner.

4
5 Please consider the following issues we are now
6 raising. 11:02

7
8 1. Please consider all of the issues we raised in our
9 submission to An Bord Pleanála on October 7th, 2008
10 against the Shannon LNG pipeline. 11:02

11
12 2. Dr. Mary Kelly, Director of the Environmental
13 Protection Agency, speaking at the launch of the
14 Agency's fourth report, 2008, Ireland's Environment, in
15 Dublin on October 8th, 2008 stated: 11:02

16 In addition, strategic environmental
17 assessments, SEA's, would have to be
18 imposed on all major projects while the
state must comply with EU environmental
legislation.

19 That is what Dr. Mary Kelly said.

20
21 We are now requesting that an SEA be therefore
22 completed before any consents are given or are even
23 considered by the CER.

24
25 3. Please consider the KRA submission on the draft
26 heads of Petroleum Exploration & Extraction Safety
27 Bill, 2007. 11:03

28
29 4. Please consider the Killorgan Residents Association

1 complaint to the office of the director of Corporate
2 Enforcement on October 15th 2008, on a possible failure
3 by the auditor to comply with statutory obligations.

4
5 In summary, our complaint is that, in our opinion, the 11:03
6 accounts of Shannon LNG Limited do not give a true and
7 fair view --

8 **MR. FITZSIMONS:** ... (INTERJECTION)

9 Inspector. Inspector. I
10 have to intervene, Inspector. That has no conceivable 11:03
11 relevance to the decision by An Board Pleanal a of the
12 applications before it. None.

13 **INSPECTOR:** I am afraid I have to
14 agree, Mr. McElligott. Can
15 you -- if you want to continue with relevance sections 11:04
16 of that letter, it is fine, but really try and confine
17 yourself to the issues that might be relevant to the
18 hearing.

19
20 Miss Griffin, perhaps Mr. McElligott will finish and 11:04
21 then you.

22 **MR. McELLI GOTT:** Also, Ms. Inspector, we did
23 not intervene when they
24 were speaking because you made an instruction that we
25 should not intervene. 11:04

26 **MR. FITZSIMONS:** I dealt with relevant
27 material.

28 **INSPECTOR:** Okay. Let's just proceed.

29 **MR. McELLI GOTT:** Okay. We believe that the

1 statutory criteria for the
2 determination of consents under Section 39(A) of the
3 Gas Act 1976 as amended, are not complied with.
4 Section 2(A) of this Act states:

5 If it grants the consent, no activity
6 carried out under it will adversely
7 affect the safety and security of the
8 natural gas system. 11:05

9 The developer is a foreign-owned operator, owned by a
10 company registered in the Cayman Islands. We are of
11 the opinion that the -- 11:05

12 **INSPECTOR:** Again, Mr. McElligott --

13 **MR. McELLI GOTT:** No, this is very relevant.

14 **INSPECTOR:** Okay. Really, really, you
15 need to -- to --

16 **MR. McELLI GOTT:** ... (INTERJECTION) The
17 point is -- the point is -- 11:05

18 **INSPECTOR:** -- get to the point.

19 **MR. McELLI GOTT:** The point is that yesterday
20 Mr. Peter North asked the
21 CER in their submission, in their assessment of this, 11:05
22 do they have in-house safety expertise. They do not
23 have the expertise to assess this. They are going to
24 outsource it.

25 **INSPECTOR:** Well, and at the time I did
26 make the point that that 11:05

27 was a matter for the CER and not a matter for this
28 hearing. And it is not something that An Bord Pleanála
29 has any control over. So I would ask you to please --
to draw out the conclusion of your points to the CER in

1 summary.

2 **MR. McELLI GOTT:** Okay. We are concerned
3 about the different origins
4 of the LNG that will enter the system. We believe that
5 if some of the safety aspects are going to be assessed 11:06
6 by the CER, then that is another example of no one body
7 taking responsibility for the overall safety aspects of
8 this project.

9
10 What we were insinuating or what we were insisting on 11:06
11 yesterday, is that there has been no body taking
12 control of the assessment of an LNG spill on water from
13 a moving tanker. The CER is going to assess the
14 project under Section 39(A) of the Gas Act. They are
15 going to assess some of the safety aspects. The HSA 11:07
16 assessed some of the safety aspects as far as the land
17 is concerned. The HSA admitted yesterday that they do
18 not give -- their remit does not cover a moving danger
19 zone, which is an LNG tanker. Sorry, the "moving
20 danger," those are my words. 11:07

21
22 They also admitted that they do not assess deliberate
23 action.

24
25 Now, we are under a Constitutional right to be 11:07
26 protected under Article 40 I think of the Constitution,
27 and An Bord Pleanála is an arm of the State, and An
28 Bord Pleanála has a duty to protect people, and the
29 point in our submission to the CER, bringing it up

1 here, is that there are issues in relation to safety
2 and health and safety issues which are falling through
3 the cracks. And in this submission to the CER, we are
4 pointing out that the CER is supposed to deal with some
5 of those safety issues, and they are not able to deal 11:08
6 with all of them. So who coordinates everything?
7

8 The one body which really should coordinate it is An
9 Bord Pleanála, with the advice of the HSA. The HSA has
10 insisted that their obligation only covers as far as 11:08
11 what is obliged under the SEVESO 2 Directive, and
12 SEVESO 2 regulations. But what we are saying, in the
13 interest of the safety of people, the State, one of the
14 arms of the State, either An Bord Pleanála or the HSA,
15 must protect us, and there has to be somebody that is 11:08
16 ultimately responsible. That is why we are having a
17 problem with the different consent processes, and the
18 lack of interactions between the different decision-
19 making bodies, which is now the subject of an
20 infringement procedure in the European Commission. 11:09
21 That's the point there.

22 **INSPECTOR:** Thank you.

23 **MR. McCELLIGOTT:** There is one other issue
24 that I raised with the CER
25 which is also relevant to this issue here. It is that 11:09
26 according to media reports, an internal CER memo has
27 stated that gas prices will soar by about 15 percent if
28 Corrib and Shannon LNG start production.
29

1 The Sunday Independent reported it as follows on August
2 24, 2008.

3 **MR. FITZSIMONS:** Inspector, I cannot see the
4 relevance of a report from
5 the Sunday Independent in relation to gas prices for 11:10
6 the Board's consideration.

7 **MR. McELLI GOTT:** No, it is a CER memo that
8 was reported in the media.

9 **MR. FITZSIMONS:** In fairness, it should
10 have been put to the CER 11:10
11 representative who was here yesterday. Mr. McElligott
12 was given the opportunity to put questions to the CER
13 representative. How the Board can be expected to
14 consider this issue when the matter was not put to the
15 representative, in my view, would be unfair to the CER 11:10
16 and irrelevant from the Board's consideration.

17 **MR. McELLI GOTT:** Ms. Inspector, I am not
18 talking about for this to
19 be considered by the CER. Not only, Mr. Paddy Power
20 yesterday in his presentation, he discussed about the 11:10
21 security of supply and the price. There is an internal
22 CER memo which says that when Corrib and Shannon LNG
23 comes on line, they expect gas prices to increase by 15
24 percent, and that CER, which is another statutory body,
25 has stated in its own internal memo, which is reported 11:10
26 in the media that because this has to do with the less
27 use being made of the interconnector from the U.K., the
28 charges from that interconnector will still have to be
29 used and paid for. And the consumers will pay that

1 extra money. So the Sunday Independent article
2 explained it better than I can in plain English, so
3 that is the relevance of this submission.

4 **INSPECTOR:** Well, I am going to allow
5 it in relation to the issue 11:11
6 of need for the pipeline, and will if -- as long as it
7 stays within that remit.

8 **MR. McELLI GOTT:** Okay. Sunday Independent,
9 August 24th, 2008, by Maeve
10 Sheehan. 11:11

11 Once gas production comes on stream
12 from the Corrib gas fields off
13 Belmullet, County Mayo next year, the
14 price of gas to Irish consumers is set
15 to shoot up by 15 percent. Consumers
16 are already facing a 20 percent
17 increase in gas bills from September.
18 However, an internal memo from the
19 energy regulator warns that price will
20 sore even higher once production starts
21 in the Corrib gas fields next winter.
22 The memo attributes the rising costs of
23 gas to the declining use of two
24 interconnectors linking the U.K.'s gas
25 supply with Ireland. At the moment,
26 Ireland gets 90 percent of its gas from
27 the U.K. Once production starts at
28 Corrib and a second producer, Shannon
29 LNG, starts distributing gas from 2012,
less gas will be imported. 11:12

21 The interconnectors, which must meet
22 fixed costs, will subsequently become
23 more expensive. The energy regulator
24 is currently considering whether the
25 consumer should -- whether the consumer
26 should shoulder the burden of that
27 extra cost, which is estimated to
28 represent a 15 percent rise in the
29 price of gas. 11:12

26 Consumers currently foot the bill for
27 the interconnectors with the price
28 built into the twice monthly gas bills.
29 Board Gais invested in two
interconnectors in Scotland to import
gas from the U.K. when Irish gas
supplies started running out. The

1 company passed on the cost on to its
2 customers.
3 A memo circulated in July sets out
4 several options under consideration.
5 The first is a do-nothing scenario, in
6 which the price of gas would increase
7 dramatically and consumers would
8 shoulder the increased gas prices. A
9 second objection is for the government
10 to cover the additional cost to Board
11 Gais, thereby protecting the consumer
12 from an immediate price rise. 11: 13
13 A third is to allow the gas suppliers
14 to share the extra costs between them.
15 Gas suppliers are likely to resist this
16 option. However, Ireland is anxious to
17 decrease dependence on U.K. gas
18 supplies by generating its own supply.
19 That means encouraging production in
20 the Irish market. Charging gas
21 suppliers for the cost of the
22 interconnector could be seen as a
23 deterrent. 11: 14
24
25 The supply of indigenous gas is
26 unlikely to mean cheaper prices for
27 consumers. Shell and Statoil are
28 scheduled to begin producing gas from
29 the Corrib fields off the West Coast in
30 2009. Shannon LNG is due to come
31 onstream in 2012. That company will
32 ship liquified gas to Ireland, and
33 restore it to its gaseous state for
34 distribution on the Irish network.
35 According to the memo, Corrib and
36 Shannon will not provide enough gas to
37 supply the Irish market, so gas will
38 still be imported from the U.K. and
39 priced at world market levels. The
40 indigenous gas producers are likely to
41 set their prices at those market
42 levels, even though their costs may be
43 lower. Simon Cove, the Fine Gael
44 spokesman on Energy said the
45 regulator's job is ultimately to
46 protect the consumer and businesses by
47 ensuring that gas is provided as
48 cheaply as possible. 11: 14
49
50 The onus is on the regulator to ensure
51 that there is a pricing structure in
52 place so that Irish consumers benefit
53 from Ireland producing its own gas and
54 not having the extra costs associated
55 with importing gas, he said. What is
56 required is a new formula for
57 regulating gas supplies in Ireland, gas
58 prices in Ireland that can 11: 15

1 differentiate between imported gas, and
2 gas produced off the coast of Ireland.
3 Okay.

4 Okay, Mrs. Inspector,

5 11: 15

6 MR. McELLI GOTT CONCLUDED HIS REMARKS

7 INSPECTOR: Actually, I might propose
8 at this point that we take
9 a brief 15 minute break to allow people to catch their
10 breath. We will be back here at half past 11.

11 11: 16

12 THE HEARING RESUMED AS FOLLOWS:

13
14 INSPECTOR: Hello everyone. We are
15 going to resume now, so
16 Mr McElligott, if you would like to continue your
17 submission.

18 11: 35

19 MR McELLI GOTT: Ms Inspector, I would like
20 to call Peter North as my
21 next witness, please.

22 11: 35

23 MR PETER NORTH THEN ADDRESSED THE ORAL HEARING AS
24 FOLLOWS:

25 MR NORTH: My name is Peter North,
26 a consulting chemical
27 engineer of 38 years experience. My qualifications
28 include a bachelor's degree in natural sciences and a
29 masters in chemical engineering from Cambridge

11: 35

1 University, a bachelors in mathematics from the Open
2 University and a certificate in management studies from
3 John Dalton, Manchester. I am a fellow of the
4 Institute --

5 **INSPECTOR:** Sorry, Mr North, can you 11: 35
6 just draw the microphone
7 closer to your mouth?

8 **MR NORTH:** Is that better?

9 **INSPECTOR:** That is fine. Thank you.

10 **MR NORTH:** I am a fellow of the 11: 36
11 Institute of Chemical
12 Engineers and a chartered engineer. I have spent some
13 35 years with engineering design and construction
14 companies and consulting engineer, and three years in
15 chemical s manufacturi ng. 11: 36

16
17 In the last 29 years I have been in based in Ireland
18 and I have handled the engineering aspects of some
19 1,200 studies and projects in Ireland and abroad.
20 During this time, I have also managed projects and 11: 36
21 operated as technical director for a small fine
22 chemical s research and manufacturi ng operati on.

23
24 My areas of expertise are in process design and
25 engineering, including environmental and safety studies 11: 36
26 and design which are strictly part of the process
27 engineering functi on.

28
29 Indeed, I was one of the first, if not the first,

1 engineers to undertake HAZOP and HAZAN studies in
2 Ireland outside ICI. I have also expertise in
3 multi-disciplinary analysis and have undertaken
4 an number of incident investigations and advised on
5 explosive and other high hazard materials. 11: 37

6 **INSPECTOR:** Sorry, Mr North, just the
7 microphone again. It is
8 difficult for the stenographer to pick up.

9 **MR NORTH:** It will be my mouth soon. 11: 37

10
11 I have covered almost every area of industry, including
12 offshore and onshore oil and gas installation and
13 design and safety studies, cryogenics and large
14 liquified gas installations. Over the last two to
15 three years, I have been involved in studies regarding 11: 37
16 fossil fuel depletion and biomass conversion. I am
17 a shareholder in the McKindler Alternative Energy
18 Centre in Wales and recently founded a new company to
19 develop a new biomass conversion and related
20 technologies that arose out of these studies. 11: 38

21
22 My presence here is as a genuinely independent
23 engineer. As a matter of principle I do not charge
24 NGOs for advice and assistance. However, I would be
25 quite happy to send a bill to An Bord Pleanála, the 11: 38
26 HSA, EPA, CER or whoever.

27
28 My purpose is to properly analyse and explain, where
29 required, to non technical observers the submissions

1 and application in accordance with the rules under
2 which projects should be examined and general good
3 engineering practice. I am, therefore, not against an
4 LNG or natural gas in principle. Indeed, the LNG does
5 have a good safety record, although this should be 11: 39
6 tempered by the knowledge that it is still small and is
7 a technically simple process.

8
9 In considering the information presented by the
10 applicant, I have endeavoured to put myself in the 11: 39
11 place of those entrusted with examining the project in
12 order to better see what could or should have been
13 done. The first step, as discussed by Mr Power, is
14 justification for the need for LNG. With that I can
15 find no real argument. Alternative identification 11: 39
16 methods exist in nature, they are called -- have only
17 been posited as possible alternatives to LNG.

18
19 The second step is then the location of the LNG
20 facilities. Here I would have given greater emphasis 11: 40
21 to co-location, proximity to markets, security and
22 capital or operating costs analyses and would have
23 considered locations from Spain to Scotland as well as
24 Ireland, especially the site in Cobh.

25 11: 41
26 The applicant's analysis appears too cursory in the
27 absence of full back up reports and suggests
28 a pre-ordained location. If this were the case, it
29 would be contrary to various directives, laws,

1 regulations and good engineering practice. It would
2 also make statements regarding the site selection
3 process false. This also applies to the gas pipeline
4 selection process, which again appears somewhat cursory
5 and over simplified. It is strange that the gas 11: 41
6 pipeline route study was not an integral part of the
7 LNG facility siting study, since the two are
8 inextricably intertwined.

9
10 I would like to comment at this point on the use of the 11: 42
11 terminal. Mr Power has noted the value of this to
12 Ireland and Kerry. This may not be entirely accurate.
13 Hess LNG will have greater LNG unloading capacity than
14 LNG supply capacity for obvious commercial reasons. If
15 gas prices in the USA or Europe are higher than 11: 42
16 Ireland, gas supply may be diverted and Ireland
17 starved. This is a justification for a "use it or lose
18 it" condition on the planning or use of the terminal.
19 If Shannon LNG are not using the terminal to capacity,
20 others should be able to avail of undersea our control. 11: 43
21

22 Second, if the gas prices are higher in the UK, gas
23 will be diverted to the UK through the Bord Gais
24 pipeline and Irish prices will have to follow. Again
25 if somebody else can supply LNG or gas to the Irish 11: 43
26 market at reduce costs whilst paying reasonable
27 terminal charge, then again they should be free to use
28 the terminal. If Shannon LNG have access to Bord Gais
29 pipeline system, then Bord Gais should have access to

1 the LNG terminal. The capacity of this terminal at
2 a thousand million cubic feet a day. I would estimate
3 between 40 and 60% of that capacity would be for the
4 Northern Ireland or UK markets.

11:44

5
6 Back to the third step. The third step would be
7 preliminary design of the installation for the purposes
8 of the EIS and QRAs. Whilst I could undoubtedly
9 improve the design, it is not strictly relevant and the
10 design for the moment are very standard.

11:44

11
12 The fourth step is the EIS. Much of this is outside of
13 my areas of interest and does appear to have covered
14 most of the areas reasonably thoroughly, with some
15 minor exceptions. Generally, Environmental Impact
16 Statements are poorly done because of cost constraint
17 and are very cursory. Many also cover standardised,
18 many also are over standardised missing, for example,
19 critical species of interests to naturalists and
20 biologists, such as invertebrates and fungi. I would
21 be more critical of the air quality in Ireland if it
22 were a chemical facility, but metrological data and
23 modelling is of critical importance in gas dispersion
24 modelling and use of Shannon airport data is
25 unacceptable. There has been time to locate a weather
26 station on the site for a year or more, such data would
27 be of considerable value for local airflow modelling.

11:45

11:45

11:45

28
29 The final step is the QRA and this is a critical

1 document whose quality or lack of it is a serious
2 concern. First, a specific QRA for the pipeline
3 structure of the QRA. The correct structure is to
4 undertake a proper HAZAD or HAZOP, for example a HAZOP,
5 whereby specific event pathways are posited and 11: 46
6 evaluated by an experienced team. These events or
7 major accident scenarios are evaluated using standard
8 event or consequent treat technology to determine
9 probabilities of occurrence and probabilities of damage
10 or harm. Such work may then be checked by reference to 11: 46
11 published generic analyses or instant data sets.

12
13 This QRA depends solely on reference to generic
14 analysis and published data sets and not site or system
15 specific. It is in that regard inadequate. It also 11: 47
16 references generic analysis that are by no means
17 universally accepted or properly validated and data
18 sets are highly generalised. The modelling software --
19 I will come on to modelling later.

20
21 Presentation.

22 The presentation of this QRA is dreadful. It is more
23 or less a list of references which are not supplied
24 even in -- [INTERJECTION]

25 **INSPECTOR:** Sorry, Mr North, the QRA is 11: 47
26 not before us at the
27 planning hearing today. Are you referring to the QRA
28 that has been submitted to the CER in respect of the
29 Section 39 consent to construct?

1 So I mean, if you say that all the environmental
2 information is not available, then you should cancel
3 this oral hearing and make all that information
4 available. Otherwise you are going to make a decision
5 without this information being available to the public. 11:51

6 **INSPECTOR:** Well I will draw your
7 remarks to the Bord's
8 attention and it will be the Bord's decision then as to
9 whether sufficient environmental information is before
10 it to allow it to make its decision. So Mr North, 11:51
11 perhaps if you continue.

12 **MR FITZSIMONS:** I wonder, Inspector, if
13 I could make a brief
14 submission in relation to what has been made to you?

15 **INSPECTOR:** Briefly. 11:51

16 **MR FITZSIMONS:** Mr McElligott has
17 misrepresented the
18 situation as occurred at the last oral hearing. There
19 is a transcript of all eight days of the oral hearing
20 which the Bord has. The situation in relation to the 11:51
21 QRA was that there was no statutory requirement
22 whatsoever on the developer to submit the QRA with the
23 planning application made under the Strategic
24 Infrastructure Act to the Bord in respect of the
25 terminal. What was done was because the major accident 11:51
26 hazard regulations required it, was that a summary of
27 the important aspects were included as part of the
28 documentation. On a voluntary basis and at the request
29 of the Inspector, Shannon LNG made available a hard

1 copy of the QRA which was placed on the documents
2 table.

3
4 The other issue that the Bord should bear in mind and
5 it is well aware of it, is that these issues were 11: 52
6 raised by parties who challenged the Bord's decision to
7 grant permission for the terminal in the Judicial
8 Review proceedings that were determined in October.

9 There was much made of the alleged deficiencies of the
10 interaction between the Bord and the HSA around the QRA 11: 52
11 issue and it is relevant that the Bord would note the
12 judgment of McMenamin J given on 17th October 2008
13 where, upon the abandonment of the proceedings, two
14 sets of proceedings by the applicants McMenamin J noted
15 that the action was misconceived from the beginning. 11: 52

16 And it is quite clear that notwithstanding the ruling
17 of the High Court in relation to the misconceived basis
18 of objections around the QRA issue, those
19 misconceptions are being carried forward today at this
20 oral hearing. And I would reiterate my central point 11: 53
21 to you, Inspector, that it is simply not relevant to
22 the Bord because it is not a material consideration the
23 Bord can have regard to.

24 **MR McELLI GOTT:** Ms Inspector, the High
25 Court Judge also ruled, 11: 53
26 well he also stated at the oral hearing that
27 information that put on the table during the oral
28 hearing by the HSE, a list of 20 questions that had
29 also not been made available to the public was accepted

1 as information being made available at the planning
2 stage. Now, we are saying that this QRA is available
3 at the planning stage at the oral hearing on the table
4 in front of us for us to analyse. So that is
5 information that has to be accepted.

11:53

6 **INSPECTOR:** Mr McElligott, I have made
7 my ruling on this and your
8 comments have opinion noted and form part of the public
9 record.

10
11 So Mr North, I would invite you to continue your
12 submission.

11:53

13 **MR NORTH:** Well I am delighted with
14 that. It gives me more
15 time to prepare for the CER. I reserve my position for
16 cross-examination of the applicant's speakers. I was
17 brought here to talk about safety issue. If we are
18 excluding safety, I have nothing really further to say.

11:54

19
20 **MR NORTH CONCLUDED**

11:54

21
22 **MR McELLI GOTT:** Ms Inspector, that is
23 disgraceful. How can you
24 not allow environmental information that is supposed to
25 be available, a quantitative risk assessment, that is
26 the only way we can analyse if this project is safe or
27 not. You have already refused to rule at the
28 previous -- by you I mean An Bord Pleanála, has already
29 refused to assess the LNG dangers caused by a moving

11:54

1 danger zone. They have already refused to look at
2 deliberate action. Now they are refusing to accept
3 a QRA report because a different statutory body is
4 going to examine this statutory report. It means that
5 you are not capable here in this oral hearing of having 11:55
6 an assessment, a proper safety assessment of the
7 issues.

8
9 Our main objection is even in the name "safety before
10 LNG". We did not say we were against LNG. But you do 11:55
11 not have the expertise to make a ruling on it. If you
12 go back up to Dublin it will not be you that makes
13 the decision. You might agree with me, but then it
14 will be the Bord of An Bord Pleanála, who are not
15 present here, who are going to make that ruling, but 11:55
16 you are leaving yourself wide open for a legal
17 challenge. It is obvious.

18 **INSPECTOR:** Okay, your point has been
19 noted Mr McElligott. Would
20 you like to proceed then with your submission, I think 11:56
21 Mr North has indicated that he is finished.

22 Mr McElligott.

23 **MR McELLI GOTT:** I would like another
24 clarification. Can we
25 cross-examine the Applicant on any of the issues they 11:56
26 have raised by using information from the QRA?

27 **MR FITZSIMONS:** Inspector, I can certainly
28 indicate that as was asked
29 of me yesterday to put up my witnesses who were dealing

1 with any issues that could have touched on the HSA or
2 CER and identified in that context in particular the
3 evidence of Mr Bowdoin on design, operations,
4 maintenance and health and safety, and also the
5 evidence of Mr Breen in relation to IS 328 and 11:56
6 construction. Both those witnesses will be tendered
7 for any cross questions that arise. But, of course, as
8 you are well aware, Inspector, and as the Bord will
9 ultimately rule, it is the relevance of those questions
10 to the matters before the Bord that this oral hearing 11:56
11 is being convened to hear and not extraneous matters
12 that will go to another decision maker under an
13 entirely separate consent procedure. But certainly
14 those witnesses will be tendered for examination in
15 relation to the contents of their statement. 11:57

16 **INSPECTOR:** You can ask questions of
17 any of the applicant's
18 witnesses.

19 **MR McELLI GOTT:** But that is meaningless.
20 That is completely 11:57
21 meaningless. If you cannot ask all questions based on
22 the QRA on studies done by the Applicant, we question
23 already whether the Applicant is giving all
24 environmental information at the planning decision
25 stage. 11:57

26 **INSPECTOR:** But Mr McElligott --
27 [INTERJECTION]

28 **MR McELLI GOTT:** We can't take part any
29 more. If that is the case

1 how can we take part in this process? I think you need
2 to get information from up in Dublin, because you need
3 to get information from the head office of An Bord
4 Pleanal a, because if we cannot use the information that
5 is made available to us by the CER, the CER attended 11: 57
6 the oral hearing yesterday, they made that information
7 available to us. We are analysing it at very short
8 notice. At the last oral hearing they pulled the same
9 trick. They threw the QRA on the table and said that
10 information was available. The HSA threw 20 questions 11: 58
11 on the table and said that was available at the oral
12 hearing. The High Court Judge says that information
13 was available, you should have used it, you should have
14 analysed. All the HSA did was say: We do not advise
15 against the project and they used the basis of the 20 11: 58
16 questions being available to lose on a point of law in
17 the High Court that that information was available.

18
19 We have that information, if you cannot use it, you are
20 doing an illegal act. The illegal act is that we do 11: 58
21 not have the environmental information available.
22 Environmental information includes health and safety
23 information. This is critical. You are already --
24 Ireland has already been taken to the European Court of
25 Justice on the infringement procedures that I just 11: 58
26 mentioned beforehand and because of the lack of
27 interaction between the government bodies. This is
28 wide open for legal challenge now. That is all I say.

29 **INSPECTOR:** Okay. Do you want to

1 continue with your
2 submission, your main part of your submission.

3 **MR McELLI GOTT:** I will continue with my
4 main submission and I think
5 we will have to confer on whether we withdraw from the 11:59
6 planning process.

7 **INSPECTOR:** Thank you.

8 **MR McELLI GOTT:** Okay, Ms Inspector, I am
9 going to read our main
10 submission into the planning procedure here and then we 11:59
11 are going to have to consult on whether we are going to
12 have to withdraw under protest from the oral hearing.

13 **INSPECTOR:** Thank you.

14 **MR FITZSIMONS:** Inspector, just before
15 Mr McElligott commences 11:59
16 reading in his submission into the record. If it is
17 the submission that has been formally made to the
18 Board, then there are issues in that that I will take
19 objection to because they are totally irrelevant. In
20 fact, there are scandalous aspects of the written 11:59
21 submissions being made. So I am just, through you,
22 putting Mr McElligott on notice that if those issues
23 are raised in the oral submission that an objection
24 will be taken. But obviously it is a matter for
25 himself as to the course he takes. 12:00

26 **MR McELLI GOTT:** Ms Inspector, I must also
27 put the Applicant on notice
28 that they said that an LNG leak or accident would
29 evaporate rapidly and that was a misrepresentation

1 also.

2 INSPECTOR: Okay, Mr McElligott, if you
3 can continue.

4

5 MR McELLI GOTT THEN MADE AS SUBMISSION AS FOLLOWS: 12:00

6

7 MR McELLI GOTT: Ms Inspector, Ladies and
8 gentlemen, my name is

9 Johnny McElligott and I am speaking on behalf of
10 myself, Raymond O' Mahoney, the Kilcolgan Residents' 12:00
11 Association, KRA, and The Safety Before LNG Group,
12 SBLNG.

13

14 After the previous An Bord Pleanála oral hearing into
15 the LNG terminal reference PA.0002, and prior to the 12:00
16 High Court challenge to that decision by KRA member
17 Raymond O' Mahoney and Friends of the Irish Environment,
18 FIE, I was elected PRO the Kilcolgan Residents'
19 Association at the most recent meeting of the
20 association in October. A vote of confidence in our 12:01
21 strategy of complete opposition to this LNG project in
22 its entirety was carried at this meeting with only one
23 vote opposing the strategy. I therefore have a mandate
24 to the speak for the KRA.

25

12:01

26 The Kilcolgan Residents' Association represents nearby
27 residents of the proposed LNG regasification terminal
28 and people with close family and economic ties to the
29 area. The Safety Before LNG Group represents people

1 from both Kilcolgan and the wider community and is
2 advocating responsible strategic siting of LNG
3 terminals in areas which do not put people's health and
4 safety in danger.

5
6 Ms Kathy Sinnott, MEP, and Mr Tony Lowes for Friends of
7 the Irish Environment have already signed our written
8 submissions on the pipeline and all submissions by
9 Safety Before LNG, therefore represents their view too
10 and are to be construed as such in any legal
11 proceedings that may ensue following these proceedings.

12
13 Safety Before LNG and the KRA and Raymond O'Mahoney and
14 Friends of the Irish Environment are hereby one more
15 formally objecting to the proposed Shannon LNG natural
16 gas pipeline and compulsory acquisition order reference
17 GA0003 and DA003 in their entirety on health, safety,
18 environment and strategic planning grounds.

19
20 We submitted a detailed written opposition to this
21 current application and I do not propose to read this
22 submission out in its entirety, as it is already part
23 of the officially submitted documentation.

24
25 There are five main problems with this planning
26 application which can no longer be ignored by An Bord
27 Pleanála if it is to comply with its statutory duties
28 in assessing this planning application and which we are
29 not claiming is illegal for them not to do so.

- 1 1. There has still been no LNG marine risk assessment
2 because the HSA's remit stops at the water's edge.
- 3 2. No strategic environmental assessment, SEA, has
4 been undertaken.
- 5 3. No consideration has been given to the consequences 12: 03
6 of an LNG accident or the consideration of an emergency
7 plan.
- 8 4. The all island strategy document for gas storage
9 study on common approach to natural gas storage and
10 liquified natural gas on an all island basis, November 12: 03
11 2007, representing an official government policy
12 document has been ignored by An Bord Pleanála in
13 addressing the question of alternative sites.
- 14 5. It is our contention that the interactions between
15 the decision making bodies such as An Bord Pleanála, 12: 04
16 the EPA, the CER, the HSA and whichever government body
17 deals with the foreshore licence -- it keeps
18 changing -- are illegally totally inadequate and
19 currently almost non-existent, cannot be assessed and
20 that the procedural requirements of the EIA directive 12: 04
21 are not being respected. This is compounded by the
22 level of project splitting of this development.

23
24 An Bord Pleanála still managed to make a decision on
25 the LNG terminal without any of these main issues being 12: 04
26 considered. We, therefore, object that An Bord
27 Pleanála is cutting corners in this planning
28 application because it based its decision on the
29 limited remit of the HSA that does not consider all

1 risks of the LNG project such as an LNG spill on water
2 beyond the shore line.

3 **INSPECTOR:** Mr McElligott, sorry. We
4 are not here today to
5 reopen the hearing into the terminal. So I would ask 12: 05
6 you to address your points to the application that is
7 before us today, because that is all the Bord will be
8 making a decision on.

9 **MR McELLI GOTT:** Yes, but our legal
10 challenge afterwards will 12: 05
11 be based on the fact of what I am saying now.

12 **INSPECTOR:** Yes, but you have had
13 a legal challenge in
14 respect of the terminal application already, so that
15 avenue has been explored. So I reiterate that you 12: 05
16 really need to keep to points that are pertinent to the
17 application for the pipeline and the AGI.

18 **MR McELLI GOTT:** The largest LNG tankers in
19 the world will be coming to
20 store LNG in the most sizeable hazard in Ireland in the 12: 06
21 world's largest LNG storage tanks. This is effectively
22 a third world project in a first world country.

23 **INSPECTOR:** Mr McElligott.

24 **MR McELLI GOTT:** All right.

25 12: 06
26 1. We have no legal support as we cannot forward it.
27 We requested Legal Aid from An Bord Pleanála for this
28 oral hearing on November 18th, 2008, but this was
29 refused by the Bord on November 20th. We therefore now

1 expect An Bord Pleanála to ensure that our legal
2 interests are represented to the maximum as we are
3 already taking part in this process at a disadvantage
4 and therefore under protest in this regard.

12:06

5
6 We have engaged the services of Peter North to examine
7 the technical and safety issues surrounding this
8 application, and he has spoken separately on his
9 findings. However now, as we have just said, we are
10 going to have to assess whether we will withdraw from
11 the oral hearing because he was not allowed to use the
12 QRA which is essential in examining this project on
13 safety grounds.

12:07

14
15 On November 19th, 2007, we lodged a formal complaint
16 with the Office of the Ombudsman concerning the refusal
17 of Kerry County Council to carry out a strategic
18 environmental assessment on variation number 7 of 2007
19 and unethical motivation of councillors --

12:07

20 [INTERJECTION]

12:07

21 **INSPECTOR:** Mr McElligott, again the
22 same point.

23 **MR McELLI GOTT:** Yes. Okay. The point
24 there was that we expect An
25 Bord Pleanála to at least await the outcome of that
26 submission to the Ombudsman before making its decision
27 because we think you are legally obliged to await the
28 outcome of this issue.

12:07

1 We have also made a petition to the European Parliament
2 under Articles 21 and 194 of the EEC treaty and under
3 Article 44 of the Charter of Fundamental Rights of the
4 European Union. We are petitioning of condemnation of
5 breaches of EU Directives by An Bord Pleanála and the 12: 08
6 Irish Planning and Development (Strategic
7 Infrastructure) Act 2006 in their planning application
8 for this pipeline and LNG terminal. The above ground
9 installation is still on a top tier Seveso II site.

10 We are petitioning of condemnation of breaches of the 12: 08
11 SEA Directive. A result is still awaited on this
12 petition and we now state that we are of the opinion
13 that An Bord Pleanála is legally obliged to await the
14 outcome of this petition also before making any
15 decision. 12: 08

16
17 On January 23rd, the KRA highlighted that the LNG
18 terminal is a significant and pipeline AGI will be in a
19 top tier Seveso II establishment which, by its very
20 designation, is accepted in law as a hazardous 12: 09
21 installation with the consequence area of a worst case
22 scenario accident of 12.4 km. In addition, world
23 renowned LNG expert Dr Gerry Havens stated on record at
24 the An Bord Pleanála oral hearing in Tralee in January
25 2008: 12: 09

26 *If an LNG container -- I can talk about that because*
27 *that still has not been assessed -- were to be attacked*
28 *in the proximity of the shore line either while docked*
29 *at the terminal or in passage in or out of estuary and*

1 *cascading failures of the ship's containments were to*
2 *occur, it could result in a pool fire on water with*
3 *magnitude beyond anything that has been experienced tod*
4 *my knowledge and, in my opinion, could have the*
5 *potential to put people in harm's way to a distance of* 12: 09
6 *approximately three miles from the ship. I have*
7 *testified repeatedly that I believe that the parties*
8 *that live in areas where this threat could affect them*
9 *deserve to have a rational, science based determination*
10 *made of the potential for such occurrences no matter* 12: 10
11 *how unlikely they may be considered.*

12 We now state that we are of the opinion that An Bord
13 Pleanala is legally obliged to consider the issues of
14 the consequences of an LNG accident on the water and
15 a deliberate action before making any decision. 12: 10
16

17 Okay, the all island strategy document for gas storage,
18 Study on Common Approach to Natural Gas Storage and
19 Liquefied Natural Gas on an All Island Basis - November
20 2007, jointly commissioned by the Department of 12: 10
21 Communications Energy and Natural Resources and the
22 Department of Enterprise Trade and Investment Northern
23 Ireland which was published in November 2007 was
24 finally only released in executive summary format to
25 the general public in April 2008. This was after 12: 11
26 planning permission was given for the LNG terminal. We
27 also believe that this was politically motivated
28 because the report contained valuable information on
29 how high potential -- [INTERJECTION]

1 document now because this has to do with the supply of
2 LNG on the market, if they consider that the argument
3 of the Applicant is that it is a separate project. We
4 are saying that this document should be used to analyse
5 the separate project. Okay, they say we need 12: 12
6 a terminal, but if it is not project splitting, it
7 means you must now assess the pipeline in regard to
8 this document. That is the point there.
9

10 On September 20th, 2008 Radio Kerry quoted the Minister 12: 13
11 for Environment John Gormley as stating that the best
12 route for the pipeline has already been chosen as
13 follows: *Best route chosen for Shannon LNG says*
14 *Minister.*

15 *The Environment Minister is confident the planning 12: 13*
16 *authorities have chosen the best route for the Shannon*
17 *LNG gas pipeline. John Gormley was speaking on the*
18 *final day of the Green Party think-ning in Tralee. In*
19 *July plans for the 26km pipeline on the Tarbert*
20 *Ballylongford land bank passed the pre application 12: 13*
21 *stage. The facility will bring 50 jobs to the area.*
22 *During an oral hearing on the pipeline in January the*
23 *company said the biggest obstacle to the €500 million*
24 *facility was public concerns over safety, but Minister*
25 *Gormley says the route has been carefully planned. 12: 14*
26

27 On September 22nd, 2008 the Kilcolgan Residents'
28 Association wrote to the Minister to ask him if there
29 is any point in the Kilcolgan Residents' Association

1 Lodging a submission on the pipeline if, as he has
2 already been quoted as stating by Radio Kerry "the
3 route has been carefully planned", and "the planning
4 authorities have chosen the best route for the Shannon
5 LNG gas pipeline". A reply to this question is still
6 awaited. We now state that we are of the opinion that
7 An Bord Pleanála is legally obliged to await the
8 outcome of this issue before making any decision.

12: 14

9
10 Now I do note that on the order given by An Bord
11 Pleanála to the Applicant and to all of the submissions
12 -- [INTERJECTION]

12: 14

13 **INSPECTOR:** Just a point, just so
14 everyone is aware, that is
15 a letter that went out to all parties. It was not
16 addressed to the Applicant.

12: 14

17 **MR McELLI GOTT:** Yes. Okay. So the
18 Applicant's substantive submission should include
19 reference to the following specific topics:

20 1. The criteria for route selection and, in
21 particular, the issues relevant to the possibility of
22 linking to the ESB generating stations at Tarbert and
23 Moneypoint.

12: 15

24
25 Now our argument here is that in general the planning
26 authorities look to government policy in deciding
27 whether or not they should accord or refuse planning
28 permission on certain topics. And I know from reading
29 documents they look at pronouncements by the relevant

12: 15

1 ministers. If the relevant minister has already said
2 that the best route has been chosen, then this is also
3 meaningless. The question is: Did An Bord Pleanála
4 include the route, the criteria for route selection
5 when the Minister has already stated that the best
6 route has been chosen. That is the point there. 12: 15

7 **INSPECTOR:** Okay. Mr McElligott, we
8 are here today to discuss
9 any concerns or any objections that you have to the
10 route as proposed by the Applicant. 12: 16

11 **MR McELLI GOTT:** Yes.

12 **INSPECTOR:** So anything that you have
13 to say in that regard that
14 is what I am here to do, to listen to and to gather
15 information and to furnish that to the Bord. But you 12: 16
16 need to provide that information to me in order for me
17 to be able to do that.

18 **MR McELLI GOTT:** That is what I am doing.
19 So what I am telling you is
20 also in your letter to all parties, you said that the 12: 16
21 Applicant's substantive submission must also include
22 reference to the following specific topics, the
23 cumulative impacts of the current proposal, the AGI and
24 pipeline and the permitted LNG terminal. So you have
25 stated that you are looking at the cumulative impacts. 12: 16
26 So every time I am referencing something about the
27 terminal and issues that have not been raised to date,
28 you are saying we can't talk about that because it is
29 already permitted.

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The cumulative impacts means you must look at it as one project and impacts on both, which is why we are saying you need to look at an LNG ship, you need to look at the route selection. It is the whole, it is the lack of a strategic environmental assessment. There has been no strategic planning on this project and this is just one more example of it.

12: 17

On September 30th we lodged a formal complaint to the Standards and Public Office Commission on a possible breach of ethics and conflict of interests by two county councils -- [INTERJECTION]

12: 17

INSPECTOR: Once again I am not going to allow that because, as I need to reiterate myself again, we are here today to discuss the pipeline and the AGI. Now any issues in relation to those type of matters are outside the remit of the Bord's hearing. They are not material considerations.

12: 17

12: 17

MR McELLI GOTT: Okay. And if can -- can the Bord a question? If some of the decisions made by the Bord were based on illegal acts permitted or misrepresentations -- [INTERJECTION]

12: 18

MR FITZSIMONS: Inspector, there is no evidence whatsoever, aside from the point that you have made, Inspector, as to the fact that the Bord does not have a statutory remit to

1 deal with the issues, these are the scandalous
2 submissions to which I referred at the outset of the
3 Mr McElligott's oral presentation and in respect to the
4 parties who are not present to whom he refers, although
5 he has not named them, and I think that should remain 12: 18
6 the case, it is simply, as a of matter fair procedures
7 for them, unethical for him to bring these matters
8 before you in circumstances where there is no evidence
9 in respect of same and in circumstances where the
10 appropriate body is looking into those matters insofar 12: 18
11 as they are relevant.

12 **MR McELLI GOTT:** And I would agree with
13 the counsel, but what I am
14 also saying is that you cannot make decision without
15 getting the result of that statutory body, the 12: 18
16 Standards and Public Office Commission which is
17 relevant to this application. We are saying all along
18 there has been no strategic environmental assessment.
19 It is quite evident that you need one for this project
20 for the above ground installation. If a statutory 12: 19
21 bodies is analysing or is studying a complaint made,
22 you cannot make a fast-track decision without this
23 information being available. I understand that maybe
24 there will be no error, but how can you in all, in all
25 semblance of natural law, protection of people and the 12: 19
26 constitution and in just general prudence in the
27 planning process, how can you refuse to await an
28 outcome of a procedure that is directly related to the
29 development of the land bank. That is that submission.

1 *de facto* on the southern banks of the Shannon estuary.
2 You can require a strategic assessment. You have the
3 power to do that. They might use red tape and they
4 might use finer points of law to say you should have
5 objected eight weeks after such and such a decision was 12: 21
6 made in 2007. But the project has not started yet,
7 apart from the first phase of the development, which
8 was archaeological works. You have still have the
9 power to stop this and do a strategic assessment.

10
11 Okay. Also, as I said before, we believe that the
12 accounts lodged by the, we have lodged a complaint to
13 Office of Director of Corporate Enforcement on failures
14 by the auditor of Shannon LNG accounts --

15 [INTERJECTION] 12: 21

16 MR FITZSIMONS: Inspector, you have already
17 ruled this out irrelevant.

18 MR McELLIOTT: No, actually the point is
19 -- [INTERJECTION]

20 MR FITZSIMONS: And I objected at the time 12: 21
21 and you sustained my

22 objection.

23 MR McELLIOTT: We need to know.

24 MR FITZSIMONS: In relation to this being
25 irrelevant. 12: 22

26 MR McELLIOTT: There is a very strong
27 relevance actually,
28 Inspector, and the relevance is this, there is no
29 a final crisis. We are worried that this project will

1 start but it will not get the funding to complete. All
2 projects now that are going for funding from banks are
3 now subject to much stronger due diligence. The
4 Applicant, we do not know if the Applicant can actually
5 pay at the moment to get the job done. They have 12: 22
6 applied for planning permission over ten years, so they
7 could start next week and spend ten years. Now they
8 have said in all their submissions to date that the
9 effects of construction is going to be adverse on the
10 local environment to the local people, but it is going 12: 22
11 to be temporary. Do you think that a condition given
12 for the initial terminal to do works over a ten year
13 period is acceptable?

14
15 Now the whole point of what we have done about our 12: 22
16 complaint to the Director of Corporate Enforcement is
17 that we do not know whether or not they have the money
18 to build it. That is the point. So we are saying we
19 are asking the Bord to -- that they have a legal
20 obligation to await the outcome of this issue also 12: 23
21 before making a decision.

22
23 On October 17th we lodged a detailed submission to the
24 CER on the application by Shannon LNG to construct
25 a gas pipeline under Section 39(a) of the Gas Act 1976. 12: 23
26 We are now asking that An Bord Pleanála is legally
27 obliged to await the outcome of this decision as well
28 before making any decision.
29

1 On November 2nd, 2008, at the Green Party convention
2 held in Clonmel, Co Tipperary, John Gormley, TD,
3 Minister for the Environment Heritage and Local
4 Government, informed Thomas O'Donovan of the Green
5 Party in North Kerry that the Shannon LNG Ltd would 12: 23
6 require a strategic environmental assessment. This is
7 recent news. We have written to the Minister asking
8 him to confirm. We asked him as follows:
9 *Could you please confirm that it is indeed your*
10 *position that an SEA is required of the energy* 12: 24
11 *development projects on the Shannon Estuary".*
12 **INSPECTOR:** Mr McElligott, the Minister
13 is not here before us at
14 the hearing today, so, I think we will exclude
15 references to any statements that he may have made -- 12: 24
16 [INTERJECTION]
17 **MR McELLI GOTT:** However, you are under
18 a duty -- [INTERJECTION]
19 **INSPECTOR:** -- on an informal basis to
20 any party as he is not here 12: 24
21 today.
22 **MR McELLI GOTT:** Exactly. But we are saying
23 that we are asking An Bord
24 Pleanal a that you have a legal obligation to await our
25 response from the Minister and you can accept 12: 24
26 environmental information at any stage before you make
27 a decision. If the Minister, who is the Minister for
28 the Environment, says that this project would require
29 an SEA you have an obligation at least to await to see

1 is that what he really thinks. That is that point.

2
3 On October 2008, Finance Minister Brian Lenihan
4 announced details of a tax incentive to promote the
5 relocation of Seveso-listed industrial facilities which 12: 24
6 hinder the residential and commercial regeneration of
7 Cork docklands. Goulding Fertilizers has an exclusion
8 zone of 400 metres in a radius surrounding the plant
9 there. Why, therefore, can it now be argued that the
10 establishment of a Seveso II LNG site would encourage 12: 25
11 development when this is the opposite in Cork
12 Docklands?

13
14 Now what we are saying is the AGI is on a Seveso II
15 site which they are now applying for planning, we are 12: 25
16 saying that that should be removed to another
17 alternative site in Cork, IFA, the IFI site in Cork and
18 that has not been considered.

19 **INSPECTOR:** The AGI should be moved?

20 **MR McELLI GOTT:** Yes. Okay, irrespective of 12: 25
21 the fact there is
22 a terminal here, but that is a possible site and we are
23 now saying that you should consider this alternative
24 site also.

25
26 As I have mentioned before -- sorry, Ralappane House is
27 only 300 metres from the above ground installation on
28 the site. This proximity has not been considered in
29 any risk contours as defined by the HSA. All the risk

1 contours in the original planning application emanate
2 from the LNG storage tanks. Our argument here is that
3 if you are considering the above ground installation to
4 be a completely separate project from the Shannon LNG
5 terminal, then all risk contours on a Seveso II site, 12: 26
6 which that is, should have the risk contours based on
7 the above ground installation.

8
9 We are also saying that Kerry -- that An Bord Pleanála
10 is legally obliged to await the outcome of the 12: 26
11 infringement procedure in the European Commission on
12 the interactions between the decision making bodies
13 being totally inadequate and currently almost
14 non-existent in Ireland and we are asking that before
15 An Bord Pleanála can make a decision on this 12: 27
16 application, they should await the outcome of that
17 infringement proceedings.

18
19 Point 16. Following the recent highjacking of oil
20 tankers by pirates off the coast of Somalia, there has 12: 27
21 been no risk assessment, no assessment of the risk of
22 highjacking of an LNG tanker as this has not --

23 [INTERJECTION]

24 **INSPECTOR:** Again you recall talking
25 about the LNG tankers, and 12: 27
26 straying outside the scope of the application that is
27 being discussed today.

28 **MR McELLI GOTT:** Yes, but the pipeline is to
29 bring LNG sourced natural

1 gas to the pipeline. I am not talking about the
2 terminal. I am saying the ships are going to bring it
3 to the pipeline via the terminal. Now this is the
4 first time ever that a tanker has been hijacked.
5 They are saying wait until an LNG tanker is hijacked. 12: 27
6 That is why you have to take deliberate accident into
7 your assessment. Okay.

8
9 Inspector, we would now just like to ask you one
10 question. What does, what is your understanding of the 12: 28
11 cumulative impacts of the current proposal and the
12 permitted LNG terminal development? What did you
13 understand by how that was supposed to be discussed
14 today in their substantive submission?

15 **INSPECTOR:** Well all I can do is refer 12: 28
16 you to the EPA guidance
17 documents in relation to Environmental Impact
18 Assessment and they, I believe, set out quite clearly
19 the scope of what is considered to be cumulative
20 impacts and I would just draw your attention to that. 12: 28

21 **MR McELLI GOTT:** Okay. I would like to
22 point to you, Ms Inspector,
23 is that the EPA is a separate decision making body, so
24 I am asking you why are you referring now to the EPA
25 when you say that that is a completely separate 12: 28
26 statutory body? So what documents in An Bord Pleanála
27 says that you have to take the cumulative impacts of
28 the current proposal on board?

29 **INSPECTOR:** I just again reiterate

1 my -- your question in
2 relation to cumulative impacts is best answered in that
3 EPA guidance document.

4 **MR McELLI GOTT:** Okay. So then I believe
5 you are legally obliged to 12: 29
6 await the outcome of the EPA decision making process
7 before you can make any decision. Okay.

8
9 Now, I am just talking about the need for an SEA is now
10 more obvious than ever given the following new 12: 29
11 information.

12 A. Kerry Deputy Jimmy Deenihan, TD, in the Kerryman
13 newspaper on November 19th -- [INTERJECTION]

14 **INSPECTOR:** Again -- [INTERJECTION]

15 **MR McELLI GOTT:** This is relevant. 12: 29

16 **INSPECTOR:** That gentleman is not with
17 us here today. He has not
18 given evidence to the hearing and therefore I am going
19 to omit, I would ask you to omit any reference to him.

20 **MR McELLI GOTT:** Okay, I won't admit 12: 29
21 a reference to him, but

22 there has been a call in the public domain for the
23 establishment of the energy power status for the land
24 bank. That should be considered as part of this
25 project because it requires a strategic assessment. 12: 30

26 How can you have integrated development when there are
27 other projects that could take place on this site which
28 could be prejudiced by an LNG terminal and pipeline and
29 above ground installation?

1
2 Secondly, as part of this application, separately the
3 Department of Agriculture has confirmed that Shannon
4 Development has made enquiries about a tree felling
5 licence in order to destroy approximately 200 acres of 12: 30
6 trees on the land bank. Now the previous oral hearing
7 heard how residents could hide behind trees if there
8 was an accident, so the removal of these trees must not
9 be assessed -- [INTERJECTION]

10 **INSPECTOR:** Again, Mr McElligott, 12: 30
11 I think we are straying
12 outside of the scope of the hearing.

13 **MR McELLI GOTT:** However I would agree with
14 that normally, but an
15 accident also, the QRA that was, the Environmental 12: 30
16 Impact Assessment has been referenced in this project,
17 in this planning application today because the above
18 ground installation was considered in the Environmental
19 Impact Assessment that was submitted for the LNG
20 terminal. Now, if as part of that assessment of the 12: 31
21 above ground installation the experts provided by
22 Applicant, the HSA nor An Bord Pleanála on had their
23 own independent LNG experts or gas experts on that
24 issue, but if they said hide behind a tree, and if now
25 the intention of Shannon Development is to destroy 12: 31
26 every tree in the 200 acres surrounding the
27 development, which would include the above ground
28 installation, then we are asking that you have to
29 assess what is the need for cutting down those trees.

1
2 Endessaa, the Spanish company, plans to build
3 a separate gas powered power station adjacent to the
4 current power station, not a replacement. It was
5 announced on November 19th, 2008 that the Spanish 12: 32
6 company is undertaking to build a gas fired power plant
7 along side the existing plant within the next four or
8 five years, within the next four years could mean even
9 more jobs. Now we are saying that this gas power
10 station is two miles, the current ESB station is two 12: 32
11 miles from the proposed pipeline. Endessa, on November
12 19th, have said that they are going to build another
13 power station adjacent to the current fuel generated
14 power station. We are saying that if the current
15 pipeline is two miles away from that power station, how 12: 32
16 do you plan to link it up? Now, the Applicant
17 yesterday said you can have a few spurs and have
18 another pipeline, but this does not represent
19 integrated development either. The idea is that if you
20 are going pipeline that is two miles away from possible 12: 33
21 suppliers, that should be assessed as part of an
22 integrated project, which is once more a reason to have
23 a strategic assessment.

24
25 Another reason for a strategic assessment is that 12: 33
26 SemEuro have a proposal for a Whiddy Island like oil
27 tank farm adjacent to the LNG terminal and that is
28 still at pre consultation stage for over one and a half
29 years with An Bord Pleanála. This is the cumulative

1 impacts of these projects as well. So to assess only
2 the above ground installation and the pipeline without
3 taking the SemEuro Whiddy Island installation on board
4 means that it could steralise other developments like
5 this if you do not strategically assess the whole 12: 33
6 project. Now Whiddy Island blew up in 1979 and killed
7 49 people, so it is a credible risk.

8
9 Furthermore, there is a large oil storage facility
10 catering for up to 15% of the country's oil being built 12: 34
11 in Foynes and the impacts and risks of this and
12 corresponding tanker movements, they are all within
13 a danger zone and this has not been assessed either as
14 the effects from this project. That is why we are
15 saying we need a strategic assessment. 12: 34

16
17 On November 2008, and issue 5 of their newsletter,
18 Shannon LNG said that they have now formed a gas power
19 station company, a company has been formed for the
20 proposed gas power station that it plans to build in 12: 34
21 the land bank maybe at a future date which would be
22 subject to planning permission. We are saying that
23 this should all be part of a strategic assessment.

24
25 Furthermore, if they are going to build a power 12: 34
26 station, there is going to have to be high powered
27 electricity cables travelling the three miles to
28 Tarbert to link up with where all the power cables are
29 there. This is a cumulative impact of that project as

1 well. So this means that you have the power before you
2 give any decisions to have a strategic environmental
3 assessment of the development of an oil and gas storage
4 hub, energy hub on the southern shores of the Shannon
5 estuary. If a person is building a house in the middle 12: 35
6 of a town or out in the country and that is planned for
7 some other use in the future, you are at least going to
8 look to see what are the other possible developments
9 that that could have in the future. For example,
10 between Tralee and Killarney a lot of people were 12: 35
11 complaining about planning permission was given for
12 houses that were too close to the main road and now to
13 build a new road, you cannot widen that road any
14 further any more because there is too much development
15 one-off housing on that road. Now they have to build 12: 35
16 a new road straight across the country. It is the same
17 with this. If you allow an LNG project to go ahead
18 without assessing the impacts on the other types of
19 developments that could take part in this deep water
20 port facility, now the Kerry County Development Plan 12: 36
21 said that this was supposed to be a deep water port
22 facility. If it is going to steralise the whole area
23 then you cannot give permission without at least
24 calling for a strategic assessment.

25
26 The above ground installation is still on a Seveso II
27 top tier site. No account has been taken of any
28 emergency planning. We do not know if an emergency
29 plan can be implemented on the given site. The EIS

1 that was submitted at the original planning stage was,
2 it mentions a 12.4 km consequence zone of a worst case
3 scenario. Any emergency plan that takes place under
4 Seveso II regulations will at least have to consider
5 12.4 km radius around for an emergency plan to be 12: 36
6 implemented. That means that any emergency plan will
7 have to include Kerry County Council, Limerick County
8 Council and Clare County Council.
9

10 Now I understand that normally the emergency plans for 12: 37
11 a site do not have to be implemented until before
12 construction or before operation takes place. However,
13 I am also under the understanding that in Wales, where
14 they have built two LNG terminals, they are building
15 two LNG terminals in Milford Haven they are having 12: 37
16 a big problem with the emergency plan now because they
17 realise that it is almost impossible to do a proper
18 emergency plan. So we are saying that in the interests
19 of safety you must go beyond Seveso II to the letter
20 and you must say: Can an emergency plan be properly 12: 37
21 implemented and what would be the effects?
22

23 My aunt lives about one mile from the site. She is
24 a high dependency multiple sclerosis sufferer. We
25 can't move her in an emergency. How are they going to 12: 37
26 plan to move a high dependency 85 year old women? Will
27 an ambulance come and find her and search for her?
28 These are the type of issues. How many old people are
29 living nearby? Can you actually get people out of the

1 danger zone in time? I think the schools as well.

2
3 I think there is one place in America where they have
4 an emergency plan in place where everybody gets called,
5 it goes on the media and everything. We need to know
6 who would be affected by an emergency plan. 12: 38

7
8 Also we note that the Tarbert Chamber of Commerce that
9 supported the original application no longer exists.

10 12: 38
11 We object to the selective application by An Bord
12 Pleanala of the EU Habitats Directive. Dredging for
13 mussels seed in Castlemaine Harbour was forbidden
14 earlier this year due to the designated status of the
15 area, putting the livelihoods of 70 families in Cromane 12: 38
16 alone at risk and we ask how can this above ground
17 installation, which is not far and part of the project
18 is on 20 acres of SAC waters, how this project cannot
19 be affected by the Habitats Directive given that it is
20 on a much greater scale than mussel seed dredging. 12: 39

21
22 Finally, we want to note that MEP Ms Kathy Sinnott is
23 the only public representative to have publicly
24 defended the people of North Kerry from the threats
25 faced by this LNG project. She is the only local 12: 39
26 politician to have respected and fought for our
27 Constitutional rights.

28
29 The Irish Constitution Bunreacht na hEireann states in

1 Article 40(1) that all citizens shall, as human
2 persons, be held equal before the law. It states in
3 article 43(1) that the State guarantees in its law to
4 respect and as far as practicable by its laws to defend
5 and vindicate the personal rights of the citizen. And 12: 39
6 in article 43(2) it states that the State shall in
7 particular, by its laws, project as best it may from
8 unjust attack and in the case of injustice done,
9 vindicate the life, the person, good name and property
10 rights of every citizen. 12: 40

11
12 So we expect that An Bord Pleanála and the HSA, as
13 organs of the State, should uphold those aforementioned
14 Constitutional rights which prime above all other acts.
15 If another act of law is instigated that it is 12: 40
16 anti-Constitutional, then we are saying your obligation
17 is to follow the Constitution.

18
19 Residents of a sparsely populated area must be afforded
20 the same degree of protection from danger as residents 12: 40
21 of a more densely populated area such as Dublin would
22 be as obliged by Article 41.

23
24 Now I think, Ms Inspector, we are going to have assess
25 whether we are going to withdraw from the oral hearing 12: 40
26 on the previous grounds so we need a break.

27
28 **MR McELLI GOTT THEN CONCLUDED**

1 explained our history, where we came from and what our
2 objectives are.

3 **INSPECTOR:** Yes.

4 **MR FOX:** We are in favour of this
5 project, subject to proper 12: 42
6 planning and sustainable development. We come from and
7 are the of people in Tarbert village. We are out there
8 working with them. We know that we have their support.
9 There was some questions that arose at an earlier
10 hearing. People had concerns. But we are more than 12: 42
11 satisfied that the vast majority of their complaints or
12 their concerns were addressed by An Bord Pleanála then.

13
14 We have listened with some interest to the spokesperson
15 behalf of the Kilcolgan residents and I am inclined to 12: 42
16 request who, in fact, they represent and who are they.
17 We have heard them being linked to Safety Before LNG.
18 My understanding is that twelve months Safety Before
19 LNG was merely a signed on the side of the road
20 indicating that had some people had concerns. It then 12: 43
21 became a website and now it appears to be an
22 organisation.

23
24 Mr McElligott went to great lengths to quote cuttings
25 and clippings from the paper and we know who the 12: 43
26 chairman of the Kilcolgan residents are, is I should
27 say. In a statement in the paper in September 2008 of
28 this year the chairman of the Kilcolgan Residents
29 Association distanced himself from the statements that

1 were being issued by Mr McElligott allegedly on behalf
2 of the residents in Kilcolgan. I'm aware of quite a
3 number of the residents in Kilcolgan who may initially
4 at the first hearing have had concerns, but have
5 certainly withdrawn themselves from the kind of 12: 44
6 statements that Mr McElligott is making, allegedly on
7 their behalf.

8
9 In relation to the public representatives who are not
10 here to defend themselves, we have worked with the 12: 44
11 public representatives from all of north Kerry; TDs,
12 politicians, council officials, the lot in trying to
13 improve things that have been happening in Tarbert. We
14 have worked very hard because we are a voluntary
15 organisation and I am extremely disappointed to hear 12: 44
16 the kind of language that is being used by
17 Mr McElligott against those public representatives.
18 They have been elected. They put themselves forward
19 for election and they are subjected to the normal
20 constraints of an election. It is very easy for 12: 44
21 somebody to come in here and to defend the name of good
22 people who are working hard on our behalf.

23 **MS GRIFFIN:** Ms Inspector, we weren't
24 allowed to get our point
25 across about the elected -- 12: 44

26 **STENOGRAPHER:** Sorry, I can't hear.

27 **INSPECTOR:** No. Right. Continue
28 please, Mr Fox.

29 **MR FOX:** In relation to this project

1 INSPECTOR: Mr O' Sullivan, you are
2 aware that there is €50
3 fee?

4 MR O' SULLIVAN: I am.

5 INSPECTOR: Thank you very much.
6

7 MR O' SULLIVAN MADE A SUBMISSION AS FOLLOWS:
8

9 MR O' SULLIVAN: I listened with interest
10 over the last two days and 12: 46
11 I had concerns like everybody. I live in Ballybunion
12 and any development in the region Ballybunion benefits
13 massively out it, so I would be speaking on behalf of
14 businesses, hotels, guest houses, construction workers,
15 which I worked in for many years myself, I listened 12: 46
16 with interest and I have to say I was very, very
17 impressed with the professional people on this side
18 here. Any concerns I would have had were more than
19 answered. I worked in every aspect of construction
20 over my life. 12: 47

21
22 I found some of the residents, I sympathise to a
23 certain degree, but I found them a bit mischievous, you
24 know, the pirate aspect and all this kind of thing.
25 Explosions. That aspect of it I found it a bit scary, 12: 47
26 scari fyi ng. I mean if Sellafiel d goes we are all gone.
27 So it is a bit of joke really bringing these things in.

28
29 I would be concerned basically for jobs and for this

1 project to go ahead. It means so much to the region.
2 And I am speaking mainly, as I say, on behalf of the
3 area, for people for jobs, for accommodation, for
4 businesses. And for 40 years we have been waiting for
5 something to happen on this land bank and finally I can 12: 47
6 see a bit of light at the end of the tunnel and
7 hopefully, I appreciate the way you have handled it,
8 you have given everybody courtesy, myself included, and
9 I just hope it comes to a good conclusion. Thank you
10 Madam. 12: 48

11 **MR O' SULLIVAN CONCLUDED**

12
13 **INSPECTOR:** Okay. Thank you very much.
14 We are now approaching ten
15 to one. Mr O' Donovan, sorry. Sorry, the mic, if you 12: 48
16 could just move the mic. Thank you very much.

17
18 **MR O' DONOVAN MADE A SUBMISSION AS FOLLOWS:**

19
20 **MR O' DONOVAN:** Before this room gets the 12: 48
21 impression that all of
22 Tarbert people or at least the vast majority of them
23 are in favour of this project, I would say that there
24 would be no assessment of all the different views in
25 Tarbert on this. I come from a little bit outside 12: 48
26 Tarbert, about half a mile. I am concerned about, as
27 I mentioned before, the interference with the water
28 inlet into the reservoir because we do have the last,
29 you know, probably good water in this area and that is

1 one of my main concerns.

2

3 Now jobs was mentioned. Now maybe Tarbert Development
4 are not fully aware, but the thing is that any
5 contractor from Europe has the same rights as any 12: 49
6 contractor in Ireland and he has the same right to
7 bring in -- [INTERJECTION]

8 **INSPECTOR:** Sorry, I think you have
9 made that point.

10 **MR O' DONOVAN:** Maybe I have, yes, sorry 12: 49
11 about that.

12 **INSPECTOR:** If you have anything new
13 that you want to say, feel
14 free to go ahead.

15 **MR O' DONOVAN:** I will say this much. 12: 49
16 Mr Paddy Power over here
17 did mention Mr Eamon Ryan. Now Mr Eamon Ryan is not
18 here either. So he quoted him as saying something
19 which, you know, he was not here to either validate or
20 go against. So, the thing is I do believe that in the 12: 49
21 interests of equality I think that, you know, that our
22 client can think a little bit about their own
23 representatives.

24

25 And another thing, just on that point alone, some 12: 49
26 people seem to believe that these representatives were
27 elected to supply jobs. There was no mention of jobs
28 when they went door to door. There was several issues.
29 And I'm a worker myself, you know what I mean. I am

1 pretty much retired now, but the thing is I do
2 understand, you know, the need for jobs, but I do
3 believe that there is, you know, that safety and
4 environment and health has to come well before jobs.
5 That's all I have to say. Thank you. 12: 50

6
7 MR O' DONOVAN CONLCUED

8
9 INSPECTOR: Thank you very much,
10 Mr O' Donovan. So we will 12: 50
11 break for lunch and we resume afterwards with
12 cross-questi oning.

13
14 Sorry we will back at two o'clock if that suits
15 everyone. 12: 50

16
17 LUNCH ADJOURNMENT

1 THE HEARING RESUMED AFTER LUNCH AS FOLLOWS:

2
3 **INSPECTOR:** Good afternoon, everybody.
4 So we will resume where we
5 left off before lunch. Mr. McElligott, sorry, just 14: 03
6 give me a moment.

7
8 You indicated before lunch that you would make a
9 decision on whether you wanted to withdraw from the
10 oral hearing or not. 14: 03

11 **MR. McELLI GOTT:** Yes, Ms. Inspector.
12 Can you hear me? Yes, I
13 have just one comment from Catriona Griffin, who has
14 made a separate submission. So it says:

15 I Catriona Griffen, am withdrawing from 14: 04
16 this oral hearing, as I said in my
17 submission. I believe that this
18 hearing is a complete waste of time,
19 money and energy. In my opinion, this
20 decision has already been made, and
whatever is said here will not make the
slightest difference. Not being
allowed to use the QRA is proving my
point in not allowing us participation
in this process. Catriona Griffin. 14: 04

21 So that is from Catriona, who is a separate observer.

22 **INSPECTOR:** Okay. Well, obviously, Ms.
23 Griffin isn't here to
24 deliver that herself, so we will take that into
25 account. And yourself? Your organisation are staying 14: 04
26 within the oral hearing?

27 **MR. McELLI GOTT:** Yes.

28 **INSPECTOR:** I have had an indication --
29 I believe there is a

1 representative from An Taisce who joined us late in the
2 proceedings. Would you like to come forward? You can
3 either use the standing mike, or whichever is more
4 convenient.

14:05

5
6 Perhaps you might give your name and --

7
8 MS. CATHERINE McMULLEN ADDRESSED THE ORAL HEARING AS
9 FOLLOWS:

14:05

10
11 **MS. McMULLEN:** Yes. I am Catherine
12 McMullen of the Kerry
13 Association of An Taisce. Now, I should say that I am
14 only representing the Kerry side of the border, so I
15 don't know anything about the pipeline on the Limerick
16 side. My colleagues in Limerick have not given me any
17 indication that they wanted me to speak on their
18 behalf.

14:05

19
20 Now, I am sorry I wasn't here yesterday. I would have
21 liked to have been here to hear the Applicant's
22 submission, so I hope you'll forgive me if I start
23 repeating things that were already dealt with. But I
24 have read the EIS, so I have a general idea of what the
25 development is about.

14:05

14:05

26
27 Now, An Taisce is a voluntary organisation that was set
28 up to protect the physical heritage of the Irish
29 nation, sorry our main interest in this would be the

1 protection of the heritage. So I am not going to go
2 into any of the many other factors that are obviously
3 important in this oral hearing.

4
5 I am also at a disadvantage. I wouldn't have the local 14:06
6 knowledge to be able to have looked at the pipeline
7 route and say to you, oh, you forgot to look at
8 something here or something there. I cannot speak on a
9 field by field basis. There is a lot of talk this
10 morning about the QRA. Now, I myself have worked for 14:06
11 many years in the chemical industry in the health and
12 safety field, and I know at the oral hearing for the
13 terminal, this was a very big disadvantage, and it is
14 something that maybe our legislators should look into.
15 The health and safety aspects really need to be dealt 14:06
16 with at the application stage.

17
18 Now, in the present case, the pipeline, I would hope
19 that it is going to be constructed according to
20 international standards. And that the appropriate 14:07
21 equipment and the appropriate precautions against
22 accidents would be taken. But in recent years what has
23 become obvious is that it is not just equipment that is
24 important. What is even more important is to have the
25 people operating that equipment to really know what 14:07
26 they are doing. So I gather that in -- the standard
27 now is, in America, they are aiming to have highly
28 reliable organisations where everything is taken into
29 account, not just the physical aspects of it, but the

1 whole field of how to manage and train staff to prevent
2 accidents.

3
4 Now, I did make a short submission to An Bord Pleanála,
5 so maybe I can just bring up what I brought up in that. 14:07

6
7 Going through the EIS, Section 10.3.7, the proposed
8 pipeline route will run through a section of rich fan
9 and flush in the townland of Dunnard Upper, and it is
10 noted that this habitat has links with the annex 1 14:08
11 habitat outlined fans. So we have asked that maybe
12 that An Bord Pleanála could look critically at that to
13 see, is it essential. It will basically be wiped out
14 if the pipeline goes through it, that is there any
15 alternative to going through it and destroying it. So 14:08
16 thank you for your attention.

17
18 **MS. MCMULLEN CONCLUDED HER REMARKS.**

19
20 **INSPECTOR:** Thank you very much, Ms. 14:08
21 McMullen. I think that
22 concludes submissions. Mr. O'Donovan. The mike.

23
24 **MR. O'DONOVAN ADDRESSED THE ORAL HEARING AS FOLLOWS:**

25 14:08
26 **MR. O'DONOVAN:** I would like to make just
27 maybe a brief comment on
28 Ri a Lyden, if I am pronouncing that correctly.

29 **INSPECTOR:** Right. Will you keep it

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brief.

MR. O' DONOVAN:

Oh, it is very brief. She says or this person says

here:

Community impact is defined in Section 16.4 of the EIS. Community impact is the addition of many smaller impacts to create one larger, more significant impact. The smaller impacts might be caused by the current project alone or by other past, present or reasonably foreseeable future projects and activities, according to together with the current project.

14:09

14:09

Now that is just one item I picked out here. And it says in another part of it here, it says: Emissions of natural gas -- I would just like to find out what the minor emissions of natural gas, but I mean, we all know that even minor emissions of natural gas in a closed environment are with human beings or wildlife close by can be very detrimental to their health. So these are two brief points that I would like to bring up, and I can answer them if they want, you know, thank you.

14:10

14:10

MR. O' DONOVAN CONCLUDED HIS REMARKS.

INSPECTOR:

Thank you, Mr. O' Donovan.
so what I would propose now

is that we move on to the questioning stage. So I think we will begin with questions for the Applicant. I would ask if any of the observers have any questions for the Applicant or any of their witnesses. Perhaps you could indicate just by raising your hand or -- any

14:10

1 questions at all for the Applicant? Mr. O' Donovan.

2
3 QUESTIONS WERE POSED TO THE APPLICANT WITNESSES AS
4 FOLLOWS:

5
6 **MR. O' DONOVAN:** Can I just ask Mr. Paddy
7 Power when, you know, in
8 what circumstances he was informed by Mr. Eamon Ryan,
9 Minister for Natural Resources, when he, you know,
10 supplied him with this information. Because you know, 14: 11
11 I do believe that the Green Party, in all areas, are
12 committed to green energy. And I would just like to
13 add that it has been noted, and it was tied in with the
14 green sources of energy, that gas is tied in with it.

15
16 Now, I would like to stipulate that gas, whether
17 natural, noxious or whatever, is not, you know, not
18 part of green energy, no matter how low on fossil fuel
19 emissions they are. So I would like to, you know, put
20 that to rest, because green energy, as far as I am 14: 12
21 concerned, as I mentioned in my submission, is you
22 know, solar, wind and the other establishments, you
23 know. So if Mr. Paddy Power could, you know, maybe
24 talk about justifying or which would he prefer, all
25 natural sources of energy, green energy or gas, because 14: 12
26 obviously, there is, you know, a self-interest here.

27 **INSPECTOR:** Do you have a copy of Mr.
28 Power's presentation there
29 that you are referring to?

1 My question to the Applicant is, if the entire power
2 generation for Ireland in 2007 is this correct figure
3 of 38 shiploads of energy per year, year do you propose
4 to do with the remaining 113 approximately, around -- I
5 think it is 125 shiploads you predict per year. So 14: 14
6 what do you -- what do you intend to do with the
7 remaining shiploads of LNG?

8 **MR. FITZSIMONS:** Inspector, this is
9 obviously an oral hearing
10 on the pipeline. So if there is a pipeline specific 14: 14
11 question that Mr. McElligott or any other party to the
12 hearing would like to have answered, we have assembled
13 over a dozen experts who gave their direct testimony in
14 relation to the pipeline, and will be happy to deal
15 with any issues in relation to the pipeline. 14: 15

16 **INSPECTOR:** Mr. McElligott, can you
17 rephrase the question if
18 there is -- if it has a relationship to the pipeline,
19 the capacity of the pipeline?

20 **MR. McELLI GOTT:** Okay. Mr. Power, in his 14: 15
21 initial submission says, in
22 Section 3.2, that he addressed the issues of the
23 broader reasons why the Shannon pipeline is needed in
24 Ireland. And he refers to volume 2, second 2.2 of the
25 EIS. So this means that this pipeline is also dealing 14: 15
26 with the need for LNG sourced natural gas. So my
27 question to him is, where does he think all the gas
28 that is going to possibly come through this pipeline is
29 going to go if it only takes 38 shiploads of LNG per

1 year to effectively supply the entire power generation
2 in Ireland in 2007?

3 **MR. FITZSIMONS:** Inspector, that is not a
4 question related to the
5 pipeline. Mr. McElligott has now referred to Mr. 14:16
6 Power's statement of evidence, where Mr. Power refers
7 to Section 2.2 of the EIS. If you actually look at
8 Section 2.2 of the EIS, under the heading of
9 Introduction, it is quite clear what the project is,
10 and what the need is. The proposed Shannon pipeline is 14:16
11 required to transport natural gas from the proposed
12 Shannon LNG terminal at Ralappane, County Kerry, to the
13 existing national gas network near Foynes, County
14 Limerick. That is what the application pertains to.
15 That is my understanding of why the Board has called an 14:16
16 oral hearing.

17
18 We will answer any question in relation to the pipeline
19 but it now appears that we are drawing in extraneous
20 issues, which is really their backdoor attempt to 14:16
21 relitigate matters, both determined by the Board on the
22 terminal application, and of course, in relation to the
23 High Court decision.

24 **MR. McELLI GOTT:** Okay. In the second
25 submission by Paddy Power, 14:17
26 Section 3.2, he talks about security and diversity of
27 supplies becoming a major concern, especially for
28 Ireland. As I will demonstrate in this evidence,
29 because Ireland is at the end of the existing gas

1 pipeline supply chain.

2
3 He goes on to state in Section 3.3, Inspector, Ireland
4 currently imports over 90 percent of its natural gas
5 requirements through the United Kingdom. So he is 14:17
6 talking about the amount of natural gas required of the
7 country. He has mentioned that in this application for
8 a pipeline, therefore I am saying to him, does he not
9 thing that to consider how much gas could come through
10 that pipeline would be well in excess of 90 percent. 14:17

11 It would only take 38 shiploads to supply the full gas
12 requirements of the country, so therefore it is a
13 relevant question. Would the Inspector please rule on
14 it.

15 **INSPECTOR:** Mr. McElligott, your 14:18
16 question really needs to
17 relate to the need for the pipeline or the capacity of
18 the pipeline. So would you like to move on or would
19 you like to rephrase the question?

20 **MR. McELLI GOTT:** The question is, does he 14:18
21 not think that the pipeline
22 is too big and too high pressure, too big for the Irish
23 supply requirements?

24 **MR. POWER:** Inspector, the answer is 14:18
25 no, the pipeline is
26 properly sized. Initially, we don't anticipate gas
27 flows -- we anticipate gas flows initially at 400
28 million cubic feet per day, possibly rising as high, on
29 a peak demand basis, as high as 600 million cubic feet

1 per day, and we have allowed for some possible future
2 expansion in the pipeline design. But the pipeline is
3 properly designed.

4 **MR. McELLI GOTT:** I would like to ask Paddy
5 Power, with the gas going 14: 19
6 through this pipeline, will it be gas for export to the
7 U.K. ?

8 **MR. POWER:** Inspector, the concept
9 behind the project
10 development is to supply gas into Ireland. 14: 19

11 **MR. McELLI GOTT:** The question I am asking
12 is, will there be enough
13 gas going through this pipeline to be exported to the
14 U.K. ?

15 **INSPECTOR:** I am going to limit this 14: 20
16 questioning now.

17 **MR. McELLI GOTT:** This is an important
18 question, Inspector,
19 because the basis of this whole application is that the
20 pipeline is dealing with a strategic necessity to have 14: 20
21 a supply of gas into Ireland. And our question is, is
22 the real reason for this pipeline for the export of gas
23 into the U.K.

24 **MR. POWER:** Inspector, I'll repeat
25 again, and I have been 14: 20
26 involved in the project from its inception, the purpose
27 of the development is the supply of natural gas into
28 the island of Ireland.

29 **INSPECTOR:** Thank you.

1 will be measurably more severe and more pressure coming
2 through that pipeline than the existing gas pipeline in
3 the national grid.

4
5 Now, correct me if I am wrong. I don't believe that 14: 22
6 that would be a high pressure coming through Ralappane
7 and Foynes.

8 **MR. POWER:** Inspector, to my knowledge,
9 Shannon -- I know that
10 Shannon LNG has no involvement with any other gas or 14: 23
11 any gas deposits in Ireland, and to my knowledge
12 neither does Hess have any interest in gas departments
13 in Ireland. Is there another question?

14 **INSPECTOR:** Well, I think there was a
15 question also regarding the 14: 23
16 pressure of the pipeline.

17 **MR. POWER:** Yes. The pipeline is
18 designed to meet of
19 standards of IS328. It is designed to that standard,
20 and it will work to that standard. I can refer that 14: 23
21 question to my colleague Leon Bowdoin if he wants to
22 add to that. But the pipeline is designed to IS328,
23 which is the standard that applies to the national grid
24 pipelines here in Ireland.

25
26 Leon, do you want to add to that?

27 **MR. BOWDOIN:** The answer that Paddy has
28 given is correct. The
29 pressure in the pipeline of the Shannon pipeline will

1 be just marginally higher than the pressure in the
2 grid, and that is only to overcome the pressure to move
3 the gas from one system to the other.

4 **MR. O' DONOVAN:** I'll follow up on that with
5 just one point. You know, 14: 24
6 obviously, then, you know, that report in the paper
7 was inaccurate because it is reported that there was
8 an interest -- I am talking about the supply. The
9 supply of gas to Ireland is vital to the Irish people
10 and you know, we are under -- we are under competition 14: 25
11 rules here from the EU to have competition. And if
12 there is just one supplier from whatever, from a gas
13 field or an LNG tanker, it doesn't matter. If that one
14 supplier is sourced and controlled by one company, it
15 goes against the European competition rules. 14: 25

16 **INSPECTOR:** I have your point. I
17 really do think that Mr.
18 Power has answered that question. Now, Mr. Fox.

19 **MR. FOX:** Madam Inspector, the
20 pipeline, how long will it 14: 25
21 take from start to finish to complete it, timewise.

22 **MR. FITZSIMONS:** Inspector, Mr. Eoin Lynch
23 will answer that question.

24 **MR. LYNCH:** I am Eoin Lynch, and I am
25 the director of Arup 14: 25
26 Consulting Engineers, and I am the project director for
27 the project. The pipeline will take one season to
28 complete. I think we referred to it yesterday in one
29 of the statements, that it will be from March to the

1 end of November.

2 **MR. FOX:** And Mr. Power I think
3 mentioned in his submission
4 that there would be 200 jobs under construction phase
5 of that pipe works. Tarbert would like some assurance, 14: 26
6 if possible, that the bulk of that labour will be
7 local.

8 **INSPECTOR:** Well, I think you are
9 straying outside of the
10 powers of the hearing. I don't know whether Mr. 14: 26
11 Powers, you don't have to make a statement on that
12 respect.

13 **MR. FOX:** He respectfully declines.
14 okay. Because it is a spur
15 line 26 kilometres long, and let's assume that in five 14: 26
16 years time that there are four people being fed off the
17 four companies being fed off downstream, and the
18 pipeline goes out of service for some maintenance or
19 other, does that mean in effect that the other people
20 will also be put out of gas? 14: 27

21 **MR. BOWDOIN:** If I understand your
22 question correctly, you are
23 asking whether the LNG --

24 **MR. FOX:** The pipeline from Tarbert
25 Foynes, if that is off for 14: 27
26 maintenances, and let's assume there are five people
27 being fed from the power station, the people, and some
28 project in Listowel, and you have to isolate the line,
29 they will lose their supply as well; is that correct.

1 pigging is. Pigging.
2 **MR. BOWDOIN:** Pigging is referred to, is
3 in-line inspection
4 technique where an electronic inspection device is
5 loaded at one end of the pipeline and transported by 14: 29
6 the gas flow to the other end. As it moves through the
7 pipeline system, if it is an intelligent pig it will
8 collect data, such as the condition of the pipe walls,
9 et cetera, or check for ovality or other conditions.
10 So pigging really is -- smart pigs are referred to as 14: 30
11 those that collect data, and there are also other
12 pigging devices that are used, primarily during the
13 after construction to dewater and clean the line prior
14 to it being placed in service.
15 **MR. FOX:** Thank you very much, thank 14: 30
16 you.
17 **MR. NORTH:** Can I ask some questions?
18 **INSPECTOR:** Mr. North, are you asking
19 this question on behalf of
20 Mr. McEligott? 14: 30
21 **MR. NORTH:** Yes.
22 **MR. FITZSIMONS:** Miss Inspector, I just want
23 to point out that the
24 invariable practice of the Board at Oral Hearings is
25 that the Inspector maintains a degree of discretion. 14: 30
26 Any question are to be put through the representative
27 of the parties of the Appeal, and generally the
28 Inspector, as you are well aware, would discourage jury
29 witnesses questioning witnesses, and I'll just ask that

1 that practice be borne in mind.

2 **INSPECTOR:** Is that acceptable?

3 **MR. McELLI GOTT:** It is more time consuming,
4 Inspector, but we can do
5 that. Thank you. 14: 31

6 **INSPECTOR:** Perhaps while you are
7 conferring, I just want to
8 clear up a number of -- one or two points, question of
9 my own. Could you provide -- just provide me with some
10 clarification as regards to the overall site area of 14: 31
11 the Shannon AGI and the Foynes AGI sites. Perhaps I
12 might leave that with you and you can come back to me.

13 **MR. FITZSIMONS:** Yes, we will get that for
14 you.

15 **INSPECTOR:** I would also appreciate if 14: 31
16 you had the statistics in
17 relation to the length of the pipeline in the
18 respective counties of Kerry and Limerick.

19 **MR. FITZSIMONS:** We will do that.

20 **INSPECTOR:** Okay. And the issue of 14: 32
21 construction periods was
22 raised there earlier. I think it was Mr. Lynch, was
23 it, who answered the question. So I was just wondering
24 how that construction time period might fit into the
25 intended construction time period for the terminal? 14: 32

26 **MR. LYNCH:** Inspector, just to answer
27 your question about the
28 respective lengths within the Counties, there is
29 approximately 8 kilometres of the pipeline in Kerry and

1 18 in County Limerick. With regard to the respective
2 timing between the construction of the pipeline and the
3 terminal, it is envisaged that the pipeline will be
4 constructed in the fourth year of the construction of
5 the terminal. In other words, towards the end of the 14: 32
6 construction of the terminal.

7 **INSPECTOR:** And what other process in
8 that fourth year, what
9 stage would the terminal construction be at? What I am
10 trying to get at is, what kind of condition you could 14: 33
11 create of the traffic movements, et cetera, that might
12 be added to the construction of the terminal when the
13 pipeline has been constructed.

14 **MR. LYNCH:** Inspector, at that stage
15 of the construction you 14: 33
16 would be largely into the electrical instrumentation,
17 the testing and pre-commissioning phase. You would be
18 largely done with the main construction elements of the
19 terminal, and it would be -- it would be beyond the
20 peak traffic flows at that stage. 14: 33

21 **INSPECTOR:** Thank you very much. Just
22 the complete terminal
23 construction phase for the terminal is how many years?

24 **MR. LYNCH:** Approximately four years.

25 **INSPECTOR:** So four years in total, so 14: 34
26 the last year basically?

27 **MR. LYNCH:** Exactly.

28 **INSPECTOR:** Mr. McElligott, are you
29 ready now?

1 the QRA was submitted to the CER for their review and
2 use in evaluating the project, and that is the
3 appropriate reference to the EIS. So I think that
4 contextual reference is of course important because
5 that is the context in which Mr. Bowdoin made the 14: 36
6 subsequence reference to 4.8.

7 **MR. McELLI GOTT:** The risk is not in the QRA
8 anyway.

9 **INSPECTOR:** That is a statement.

10 **MR. McELLI GOTT:** So I am asking what is the 14: 36
11 risk in terms of
12 probability, Mr. Bowdoin.

13 **INSPECTOR:** This is in relation to the
14 pipeline, and the AGI of
15 the proposal before us today. 14: 37

16 **MR. BOWDOIN:** The risks to the pipeline
17 or along the pipeline are
18 less than 1×10^{-6} , which is the criteria that was
19 used.

20 **MR. McELLI GOTT:** Okay. So the next question 14: 37
21 is, what is the error
22 inaccuracy in this probability?

23 **MR. BOWDOIN:** Inspector, I am not sure
24 that I have that
25 information readily available. At least not on the top 14: 37
26 of my head.

27 **MR. McELLI GOTT:** How could you say that the
28 levels are broadly
29 insignificant?

1 Our submission is that the risks here are up to a
2 thousand times more because the error is a range in the
3 error -- there is an error in accuracy in the
4 probability that is stated. He has stated a precise
5 figure of the probability, so that is where our expert 14: 41
6 says that there is a range which can be 1,000 times
7 more than what they are saying.

8
9 Now, since have you not allowed the QRA to be brought
10 into the submission, you cannot possibly make a 14: 41
11 decision on whether this is acceptable.

12
13 Thank you.

14 **INSPECTOR:** Thank you, Mr. McElligott.

15 **MR. FITZSIMONS:** I think, Inspector, it is 14: 41
16 welcome, even at this late

17 stage, that there has finally been an acknowledgement
18 that the CER is the appropriate body to deal with the
19 QRA. So of course, given the fact that the QRA is a
20 CER issue and not an An Bord Pleanala issue, one would 14: 41
21 not have expected An Bord Pleanala to have based its
22 decision on the consideration of that document. So at
23 least the parties finally appear to be on the same
24 page.

25 **MR. McELLI GOTT:** However, Miss Inspector, 14: 41
26 the aboveground
27 installation is in a top tier SEVESO 2 site, and
28 obliged to advise the An Bord Pleanala. So the advice
29 -- the issue is to give evidence to An Bord Pleanala in

1 arriving at its decision should have all risks
2 assessments on that planning application. Now, the HSA
3 said they are not going to give advice but they are
4 obliged to give the advice under SERVES0 2. So if
5 there is any QRA implemented after the HSA said their
6 statement, and that QRA is provided to the CER and not
7 to the HSA, then how can the HSA give a proper
8 technical advice on An Bord Pleanála on that issue?

14: 42

9 **MR. FITZSIMONS:** Inspector, there is a very
10 simple answer to that, and
11 perhaps it would be useful to remind ourselves that
12 this was referred to yesterday. The QRA prepared in
13 respect of the terminal development included within its
14 risk assessment the AGI terminal, the above ground
15 installation. The only point of departure under this
16 application is that the planning application that was
17 made for the terminal did not include, from a planning
18 perspective, that AGI, and that clearly goes to the
19 definition of a gas infrastructure development in the
20 2006 Act, because that definition makes express
21 reference to above ground installations. Accordingly,
22 from a planning law perspective, in terms of the
23 Board's competence, the application that is currently
24 before the Board clearly includes the two AGI's from a
25 planning perspective, and that is entirely consistent
26 with the act. However, the HSA did give technical
27 advice to An Bord Pleanála on the terminal application
28 which included the risk assessment in relation to the
29 AGI.

14: 42

14: 42

14: 43

14: 43

1 Now, the terminal -- sorry, excuse me. The terminal
2 planning permission and the particular technical advice
3 given by the HSA was the main issue in the judicial
4 review proceedings that were litigated in October of
5 this year, and it was in the context of those issues 14: 43
6 that the High Court held that the proceedings were
7 entirely misconceived. And therefore we are going back
8 down that road again in circumstances where it simply
9 is not before the Board in terms of the HSA's remit on
10 this application. 14: 44

11 **MR. McELLI GOTT:** Ms. Inspector, I would
12 agree with that, except
13 that this is a new planning application. The AGI is in
14 a new planning application. It is not -- we are not
15 talking about the terminal, if that is what he is 14: 44
16 saying. We are not talking about the terminal; we are
17 supposed to separate this into another individual
18 separate project.

19 **INSPECTOR:** Okay. I think we have
20 covered much of this ground 14: 44
21 from both parties already, so if could perhaps move on
22 to the next question, please.

23 **MR. McELLI GOTT:** Okay. Daniel Garvey, in
24 his submission, talks about
25 light pollution from the AGI. The light pollution from 14: 44
26 the Cork AGI is like a Christmas tree.

27 **INSPECTOR:** Sorry, can you clarify
28 which Cork AGI?

29 **MR. McELLI GOTT:** Ballinacurragh. That is

1 compressor station, not an AGI. What is envisaged in
2 the two AGI's is entirely different to what is located
3 in Ballinacurragh.

4 **MR. McELLI GOTT:** And will there be light
5 pollution from this AGI, 14: 46
6 and what are the dimensions of it?

7 **MR. BREEN:** The AGI will generally not
8 be occupied at nighttime,
9 and the level of lighting at the AGI will be very low.

10 **INSPECTOR:** Does that answer your 14: 47
11 question?

12 **MR. McELLI GOTT:** What does very low mean?

13 **INSPECTOR:** Perhaps you could indicate
14 how many lights columns, or
15 do you have that information available at the moment? 14: 47

16 **MR. BREEN:** They found the drawings and
17 we will be able to get that
18 information.

19 **INSPECTOR:** Thank you. While Mr.
20 McElligott confers there, I 14: 47
21 would like to ask a question in relation to -- it was
22 indicated yesterday that the pipeline had a two-way
23 capacity. Perhaps someone might be able to go into a
24 little bit more detail as to what that would facilitate
25 and why it would be necessary. 14: 47

26 **MR. FITZSIMONS:** I think Mr. Bowdoin will
27 deal with that issue.

28 **MR. BOWDOIN:** Inspector, if I understand
29 your question correctly,

1 you are asking what facilities are required to ensure
2 bi directional ity?

3 **INSPECTOR:** No, what would the purpose
4 of bi directional ity be, in
5 that the proposal, the main -- I assume that the main 14: 48
6 function of the pipeline is to bring gas from the
7 terminal into the gas network.

8 **MR. BOWDOIN:** The main function of the
9 terminal for the pipeline
10 is to bring gas from the terminal to the pipeline. 14: 48
11 Initially, during startup and prior to the facility
12 being completely commissioned, there is a need for gas
13 at the terminal, and it is envisioned that that gas
14 would come from BGE to help commission the various
15 individual pieces of equipment so that gas would be 14: 48
16 flowing initially from the system to the terminal to
17 commission equipment, and then once is up and running,
18 we would expect the direction to be in the opposite
19 direction.
20 14: 49

21 But as some of the commentators have suggested, if spurs
22 were put on the pipeline, the pipeline will then be
23 capable of taking gas from either end and delivering it
24 to those spur points in the middle.

25 **INSPECTOR:** Thank you. Mr. McElligott. 14: 49

26 **MR. McELLI GOTT:** How many people will be
27 working at this AGI?

28 **MR. BOWDOIN:** The people will be visiting
29 the AGI on a regular

1 frequency. There will be no personnel permanently
2 stationed at that one location.

3 **MR. McELLI GOTT:** Okay. Does that mean that
4 the AGI will be unmanned
5 effectively? 14: 50

6 **MR. BOWDOIN:** The AGI is being designed
7 as an unmanned operation.

8 **INSPECTOR:** Anything further?

9 **MR. McELLI GOTT:** If this route selection is
10 not selected, my 14: 50
11 understanding is that the -- all the landowners that
12 got paid money so far will not have to pay back that
13 money; is that correct?

14 **INSPECTOR:** Well, I think that is
15 outside of the remit of the 14: 50
16 planning hearing. I think you suspect that yourself,
17 Mr. McElligott.

18 **MR. McELLI GOTT:** I'll make a statement. I
19 think my understanding is
20 that no landowner who has -- 14: 50

21 **MR. FITZSIMONS:** Simply not relevant to the
22 Board's consideration of
23 either aspect.

24 **INSPECTOR:** No.

25 **MR. McELLI GOTT:** Yes, but also it does have 14: 50
26 to admit that one thing is
27 that when the Applicant is giving the impression that
28 everybody has sold off their entitlements to the land,
29 they have done it on the understanding, really, that

1 the money they get they keep.

2 **MR. FITZSIMONS:** Sorry, Inspector, no such
3 impression has been given.

4 Mr. McElligott is --

5 **MR. McELLI GOTT:** ... (INTERJECTION). 14: 51
6 (Everyong speaking at once).

7 **MR. FITZSIMONS:** Shoul d attempt --

8 **I NSPECTOR:** Excuse me, sorry.

9 **MR. FITZSIMONS:** Mr. McElligott shoul d
10 attempt to faithfully 14: 51
11 reflect what has been said. If he is prone to
12 misrepresentation then he should simply not put these
13 submissions to you.

14 **I NSPECTOR:** Okay. I think the whole
15 issue is outside of the 14: 51
16 remit of the hearing.

17 **MR. McELLI GOTT:** Thank you.

18 **I NSPECTOR:** So are there any further
19 questions from any of the
20 observers? 14: 51

21 **MR. O' DONOVAN:** Madam Inspector, I woul d
22 just like -- I have Brendan
23 Mangan' s submission here, and I j ust happened to notice
24 it now, and it says in 2.6.1, page 5, he says:

25 In addition -- in addition to the above 14: 51
26 three corridors a road corridor along
27 the length of the Shannon Estuary was
28 considered. However, such a corridor
29 was ruled out at an early stage, based
on the fact that the Shannon Estuary is
a designated special area of
conservation.

1 Now, the Shannon Estuary, to my way of thinking, comes
2 from Limerick out to Ballybunion. And parts of the
3 Estuary are candidates that are special protection
4 areas, and are natural heritage areas. The engineering
5 difficulties assorted with construction pipeline along 14: 52
6 the road, my main point is that if this is a special
7 designated special area conservation, and it is a
8 candidate special protection area, and a natural
9 heritage area, how can we allow such a, you know, such
10 a development to take place? Not alone will it 14: 52
11 interfere with, you know, sea life and wildlife and
12 everything else, but the actual footprint would never
13 be negated, no matter how low fossil fuel emissions is
14 involved.

15
16 So the thing is, and especially, you know, uprooting or 14: 53
17 felling 200 acres of trees, which are essentially a
18 natural sink, to me runs counter to all natural common
19 sense. Thank you.

20 **INSPECTOR:** I think that question 14: 53
21 encompasses references to
22 the terminal as well. Is there anything in it that you
23 would like to respond to in respect to the pipeline?

24 **MR. FITZSIMONS:** No, Inspector. In relation
25 to the designated areas, 14: 53
26 that was a very important issue for An Bord Pleanála in
27 its consideration of the terminal application.
28 Extensive submissions were made by all parties on that
29 very issue, and the Board took advice in relation to

1 it, so it is a terminal issue that is being dealt with.
2 The other issue that I think was made by Mr. O' Donovan,
3 related to tree felling. There is no application of
4 any sort on behalf of Shannon LNG Limited to fell
5 trees. There may be issues in relation to other areas 14: 54
6 of the land bank. Shannon LNG are not aware of those.
7 They are matters for other bodies, but certainly in
8 relation to the land that LNG controls there are no
9 proposals to fell trees, and in fact there are no trees
10 in any meaningful quantity on that aspect of the land 14: 54
11 bank.

12 **INSPECTOR:** Any further questions? Mr.
13 McElligott?

14 **MR. McELLI GOTT:** On Brendan Mangan's
15 submission, Section 2.8.1 14: 54
16 of the routes corridor selection costings. Different
17 cost estimates on page 7 of 17, the different cost
18 estimates range from 58 million for route 1, 71
19 million for route 2, and 79 million for route 3. Our
20 expert maintains that the accuracy of those figures 14: 54
21 will be plus or minus 30 to 50 percent. So would the
22 Applicant not agree that costings cannot be an issue
23 considering that they are all much the same price,
24 given the accuracy?

25 **MR. FITZSIMONS:** Inspector, we have not 14: 55
26 heard that evidence. There
27 was an opportunity for the Killorgan Residents
28 Association to put forward their evidence. No evidence
29 was adduced by and on behalf of the --

1 be used as a basis for choosing route corridors if this
2 was the situation?

3 **MR. FITZSIMONS:** Inspector, there is
4 actually High Court law on
5 this, that costing is a relevant factor in route to 14:56
6 route allocation, and I would be more than happy to
7 deal with that in a legal submission at the end of the
8 hearing.

9 **MR. McELLI GOTT:** I am not saying --

10 **MR. FITZSIMONS:** Therefore, Mr. McElligott 14:56
11 is wrong, as a matter of
12 law in the question that he put.

13 **MR. McELLI GOTT:** No, I am only asking the
14 question since they
15 mentioned costs. I am only asking, would that be an 14:56
16 issue, or would you think that it should be an issue in
17 analyzing the route alternatives? I am not saying that
18 it is, I am saying would you think it should be?

19 **MR. MANGAN:** I mean, Inspector, the
20 costs are relevant here, so 14:57
21 I mean even they are over by 10 or 20 percent, they are
22 all over 10 or 20 percent, to the same extent, so I
23 think in comparing them, the exercise that we have done
24 is perfectly valid.

25 **MR. McELLI GOTT:** No, that's not true. You 14:57
26 cannot say --

27 **INSPECTOR:** No, I do think that the
28 gentleman had answered your
29 question. Anything further from the observers? Mr.

1 O' Donovan.

2 **MR. O' DONOVAN:** Yes, this is for Mr. Mangan
3 too, you know. There has
4 been a lot of opposition to this -- to the route of
5 this pipeline, you know. Maybe there was some for and 14: 57
6 some against but you know, is it possible that the
7 route was even marginally changed, because of people
8 basically digging their heels in, you know, and not
9 allowing it to go through after the planning
10 application was submitted. 14: 58

11 **MR. MANGAN:** I think as we say here
12 somewhere, one of the
13 considerations was landowner preference. And that
14 certainly was taken into account, Ms. Inspector. But
15 only within the particular landowners. I mean, if a 14: 58
16 particular landowner wants to move the pipeline a
17 little bit within his own holding, then we did what we
18 could to accommodate him. But we certainly did not
19 move it from one landowner to the next, if that answers
20 the question, Inspector. 14: 58

21 **MR. O' DONOVAN:** Thank you. I would just
22 like to know -- obviously,
23 there was a lot of farmers have a good bit of land, and
24 you know, they have negotiated to change a field, or
25 you know, to, you know, even a good distance, you know, 14: 58
26 so therefore you know, if the submission was put in for
27 an exact pipeline, and then come along and even
28 marginally change it, or could possibly change for, you
29 know, for a few hundred metres, that could have a

1 significant impact on water quality, which would be
2 supplying the whole area of Tarbert, as I mentioned
3 before. So it would have a huge impact. So you know,
4 if you say that you have allowed them to be flexible
5 and to have a bit of leeway, you know, I think that you 14:59
6 know, the Bord Pleanála should be aware of these
7 things. They should be aware of these changes to be up
8 front with it.

9 **INSPECTOR:** I think you have answered
10 the question. I think we 14:59
11 are straying into the realm of making statements at
12 this stage, and we have finished submission stage.

13 **MR. McELLI GOTT:** Ms. Inspector, yesterday
14 the Applicant said there
15 would be further copies handed out on the effect on 15:00
16 invertebrates, Carol Dixon, and that has not yet been
17 submitted.

18 **MR. FITZSIMONS:** That is completely
19 incorrect, but quite
20 typical of Mr. McElligott's approach. There were two 15:00
21 copies handed in yesterday afternoon. One I understand
22 was placed on the -- two were handed in to you; one for
23 you, Inspector, and one for filing on the public table,
24 so those have been handed in.

25 **MR. McELLI GOTT:** He couldn't say that I 15:00
26 should know that, because
27 yesterday during Carol Dixon's presentation they said
28 it would be handed in at a later stage. We were not
29 informed it was handed in.

1 used. Not alone in the production but in the building
2 of the pipeline as well. Because this, you know, this
3 has -- and there was two mentions on water, hydrology
4 and hydrogeology, so they are relevant. I would just
5 like to -- 15:02

6 **INSPECTOR:** If someone can answer that
7 question from the
8 Applicant's side?

9 **MR. O' DONOVAN:** And how much water will be
10 -- how much natural fresh 15:02
11 water will be used and discarded by this, you know, by
12 this project? If anybody can give me an estimate?

13 **MR. FITZSIMONS:** Is this question related to
14 the pipeline? Is that the
15 context in which the question is asked? 15:02

16 **INSPECTOR:** That is my understanding.
17 That is in relation to the
18 construction and operation of the pipeline.

19 **MR. O' DONOVAN:** Well, I suppose, if we are
20 going to limit it to that, 15:02
21 it still doesn't cover the community effect that was
22 given the okay by An Bord Pleanála, so you know.

23 **INSPECTOR:** Well, just to be clear, can
24 you clearly phrase a
25 question to the Applicant so that they can answer it? 15:03

26 **MR. O' DONOVAN:** Yes. Well, all right.
27 well, maybe stay with
28 water, you know. Put it like this. You know, we have
29 a tremendous amount of rainfall, as we all experienced

1 this year, you know? And long range forecasts --
2 depends on who you believe, I suppose, but say that
3 there will be, you know, be continuous because of
4 global warming. And the thing is, I believe this
5 pipeline -- we will stick to the pipeline -- you know, 15:03
6 if they are going to go through land, and boggy land,
7 which they will, peat land, I think it will have a
8 detrimental effect, because sometimes those bogs go
9 down 10 or 12 feet. And if you go down there with
10 heavy machinery and everything else, there is a danger 15:03
11 in Listowel, where the water quality was severely, you
12 know, it created dead zones in rivers where the fish go
13 and everything else. So those are really very
14 important questions.

15 **MS. LYDEN:** Inspector, it was explained 15:04
16 in the EIS that water is
17 used for hydrotesting the pipeline, and if you look at
18 Section 13.5.1, it gives the volume of water required
19 for hydrotesting. It is 4,300 cubic metres. And it is
20 intended to extract this from the White River. That is 15:04
21 a once-off extraction, when the pipeline is in
22 operation, otherwise there will be no use of water.

23 **MR. O' DONOVAN:** And you know, they are
24 now proposing to build a
25 pond as well, so that will be tremendous amount of 15:04
26 natural water.

27 **MS. LYDEN:** There is no pond proposed
28 for the pipeline.

29 **MR. O' DONOVAN:** Well, no. Of course, I did

1 slip into the LNG terminal
2 again, so I'm sorry about that, but at the same time,
3 while I have you here now, Miss, you mentioned about
4 the emissions, occasional emissions from the pipeline
5 once in operation. This is gas emissions, you know, so 15:05
6 I would like to, you know, just what volume or how, you
7 know, what pressure will be used?
8 **MR. MANGAN:** The emissions that may
9 occur during testing will
10 be minimum, negligible emissions of natural gas, which 15:05
11 could quickly dissipate and no significant impacts will
12 arise from that.
13 **MR. O'DONOVAN:** Well, I just have a kind of
14 a question about this
15 natural gas. I mean, if it was, you know, if it was 15:05
16 natural, I suppose we would all be able to breathe it,
17 wouldn't we? But so the thing is, you know, it is a
18 dangerous -- and you say minimal. Everything seems to
19 be minimal, but how can we qualify or quantify
20 minimalist? How can we do it? I mean minimal to you 15:06
21 might be maximum to me, so you know.
22 **MR. FITZSIMONS:** The witness said it was
23 negligible, and I think
24 they are really straying out of the area of questions
25 and into the area of submissions. 15:06
26 **MR. O'DONOVAN:** We are well entitled to
27 know these things.
28 **INSPECTOR:** Do you have any information
29 as to the exact amount of

1 emissions that you would like to furnish the Board
2 with? If you don't, you have given an answer to the
3 question, so. So only if you want to anything by means
4 of clarification.

5 **MR. FITZSIMONS:** While that is being 15:06
6 considered, Inspector, I
7 might come back to the very first question that you
8 asked in relation to the site area of the AGIs. I am
9 instructed that the site area of the AGI at the Foynes
10 end of the pipeline is 1.8 hectares, and the equivalent 15:06
11 site area of the AGI at the terminal end of the
12 pipeline near the Ralappane end is 0.6 hectares.

13 **INSPECTOR:** Thank you.

14 **MR. McELLI GOTT:** I also asked if they could
15 confirm the height of the 15:07
16 AGI.

17 **INSPECTOR:** Yes, the height of the AGI
18 that was raised earlier, do
19 you have that information now?

20 **MR. FITZSIMONS:** That is coming very 15:07
21 shortly.

22 **MR. McELLI GOTT:** I have another question.

23 **MR. LYNCH:** Inspector, if I may, we
24 have an answer on the
25 lighting question that arose earlier. 15:07

26 **INSPECTOR:** Very good.

27 **MR. LYNCH:** There will be no lighting
28 during the normal operation
29 of the AGI. The lighting will only be turned on if

1 maintenance is required at the AGI, so at all other
2 times the lights will not be on. So there will be no
3 light pollution, which is quite different to the
4 situation in Ballinacurragh. And with regard to the
5 height of the lamp standards as shown on the planning 15:07
6 drawings, the height is 6 metres.

7 **MR. McELLI GOTT:** A question for Colin Doyle.
8 In Section 3.4.6, he says
9 the following: On noise and vibration, he says, the
10 only elements of -- 15:08

11 **MR. FITZSIMONS:** Mr. Doyle is not in the
12 room at the moment, so if
13 Mr. McElligott could hold fire on that, he'll be here
14 very shortly.

15 **INSPECTOR:** We will come back to that, 15:08
16 Mr. McElligott, just in a
17 moment. Do you have anything else?

18 **MR. McELLI GOTT:** That was my last question
19 actually. Maybe somebody
20 else can answer it because it is just a general point, 15:08
21 is that they say that the only elements of the
22 completed pipeline project which has potential for
23 generating noise emissions during the operational phase
24 of the AGIs, although by industrial standards, these
25 will be minor noise sources. Now, my question is, are 15:08
26 you considering the pipeline as being in an industrial
27 area? Because there is nothing built there yet because
28 everything seems to be by industrial standards, when in
29 actual fact, at the moment, it is a rural area with no

1 noise. It is just the comparative estimation of noise.
2 Everything is being assumed, I think, that you are now
3 in an industrial zone with an LNG terminal. So we are
4 saying that, can you assume that? Or must you assume
5 that it is in a rural area because the comparison of a 15:09
6 noise in the middle of a really quiet rural area has a
7 much greater impact than the noise in the middle of a
8 busy town.

9 **INSPECTOR:** That is -- you don't have a
10 question in that regard. 15:09

11 **MR. McELLI GOTT:** The question is generally
12 are they assuming that
13 everything is this pipeline, in the AGI, when they
14 compare about the industrial standards in an industrial
15 area, are they taking it that it is not a rural area at 15:09
16 that stage of all their studies on the AGI and the
17 pipeline?

18 **MR. FITZSIMONS:** The only assumption that I
19 make at the moment,
20 Inspector, is that Mr. Doyle is on one of your 15:09
21 convenience breaks as you described it, and if Mr.
22 McElligott could just hold his fire for the moment, we
23 have asked someone to expedite Mr. Doyle.

24 **INSPECTOR:** Don't rush him. I just
25 have a few issues that I 15:10
26 might run through with you while we are awaiting.

27
28 I have a few questions for Mr. Redden. Is Mr. Redden
29 with us?

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Mr. Redden, I'll draw your attention to Section 4.3 of your submission on page 5. It relates to construction in alluvial areas. Just towards the end of that submission, on the third last paragraph, on the third last line, you talked about particular forms of construction which can be adopted to overcome the problems encountered in alluvial areas. As a matter of clarification, could you just go into a little bit more detail as to what they might be? 15: 11

MR. REDDEN: Yes, certainly Inspector. I do cover this issue later on in my statement, but essentially there are two issues to deal with construction in low lying alluvial areas. One is the fact that groundwater is -- well, the water table is typical close to the surface, so that construction of a pipeline trench or excavation of the pipeline trench will possibly encounter groundwater during excavation. And secondly, linked to that is the fact the soil conditions in alluvial areas are generally such that there is a potential for instability, side slope instability locally within the trench. And with the additional inflow of water, this instability can become a little bit more accentuated. So to deal with those two issues together, typically, dewatering is carried out prior to excavation of the trench. 15: 11

This is done by what is called well pointing, where

1 individual or groups of small wells, typically less
2 than two inches in diameter, are inserted into the
3 ground in parallel to the pipeline route where the
4 trench is going to go. Pumping from these is carried out
5 in advance of excavation, to essentially lower the
6 groundwater table to below the place intended -- the
7 basin excavation of the trench. This removal of the
8 water then, from -- groundwater from the trench both
9 removes the problem of water ingress during excavation,
10 and also increases the stability of the soil, so that
11 essentially the excavation can take place in the dry,
12 and the pipeline can be installed into the trench
13 without water being present within the trench.

15: 13

15: 13

14
15 It is a very simple and very routine method of
16 construction. It applies not only to alluvial areas,
17 but any areas where groundwater, or indeed, surface
18 water may be present in situations where the nature of
19 the material detects that there may be rapid water
20 ingress into the trench, or the risk of associated
21 instability of the site of the trench.

15: 13

15: 14

22
23 I make the point that there are generally areas along
24 the western half of the trench where this may occur. I
25 hope that answers your question, Inspector.

15: 14

26 **INSPECTOR:** Perhaps Mr. Mangan, from
27 your experience, have
28 pipelines that have been constructed in the past in
29 Ireland in similar circumstances, can you provide any

1 details of those? Or anyone else.

2 **MR. MANGAN:** I think as Mr. Redden said,
3 that is a common enough
4 method to use. Does that answer your question?
5 Inspector, in Ireland, what was your question? 15: 14

6 **INSPECTOR:** It was really if you had
7 any examples of similar
8 pipelines constructed in similar ground conditions that
9 you could draw the Board's attention to buy reference
10 of -- 15: 15

11 **MR. MANGAN:** If you'll give me a couple
12 of minutes.

13 **INSPECTOR:** That's fine.

14 **MR. O' DONOVAN:** One brief question.

15 **INSPECTOR:** No, I am going to -- at the 15: 15
16 very end. I am going to
17 ask a few questions, Mr. O' Donovan, if you don't mind.

18

19 You also make reference, Mr. Redding, to the slope of
20 ground in the peat areas, I think specifically drawing 15: 15
21 attention to the flatness, so to speak, of the
22 landscape along the pipeline route, and you mentioned a
23 figure of all of the land being less than -- the slopes
24 being less than five degrees. That is the case, isn't
25 it? 15: 15

26 **MR. REDDING:** Generally less than five
27 degrees, yes. We have
28 purposefully tried to keep the route where we cross
29 areas of peat to ground slopes of less than 5 degrees.

1 incidents or instances of slides or instability taking
2 place in blanket bog.

3
4 Now, I mentioned blanket bog. That is the type of peat
5 which we encounter along the pipeline. And it is -- I 15: 18
6 should draw a distinction between that and raised bog,
7 which tends to occur more in lowland areas. So I am
8 confident, based on my own researches and understanding
9 that the slopes that we are crossing along the
10 pipeline, where we cross peat, it will be stable, and 15: 18
11 the pipeline will not induce instability, and there is
12 unlikely to be inherent in instability of the slopes.

13 **INSPECTOR:** Thank you. I just want to
14 ask a question also in
15 relation to mitigation measures that might be used to 15: 19
16 prevent water pollution during the construction of the
17 pipeline. Would anyone like to address themselves to
18 that?

19 **MR. REDDING:** I can address that also.
20 There are perhaps two parts 15: 19
21 to your question.

22 **INSPECTOR:** Sorry, I should have maybe
23 clarified that. I am
24 thinking of surface water in particular.

25 **MR. REDDING:** Okay. Thank you. I was 15: 19
26 going to say to mean
27 groundwater or surface water. The pipeline does cross
28 three named rivers and approximately 11 streams as
29 well. Each of these crossings is likely to be -- the

1 pipeline is likely to be constructed by open cut
2 methods, which means essentially that a trench will be
3 dug across the river or stream course, and the pipeline
4 laid in the trench. Because pipeline construction will
5 be taking place during the summer, all of these water 15: 20
6 courses will be essentially under low flow conditions.
7

8 I mentioned in my statement that the rivers in this
9 area can experience very large variations in flow, but
10 typically during the summer, because of the nature of 15: 20
11 the catchment area of these rivers, they all experience
12 very low flow conditions during dry weather periods
13 during the summer. Construction will purposely take
14 place to take advantage of the low flow conditions,
15 when it will be possible to essentially divert the 15: 20
16 stream or river through either sections of steel pipe.
17 In other words, plumbing it, or form a separate adjacent
18 channel to divert the stream around the point of
19 construction of trenching across the stream or
20 riverbed. Once the construction is taking place and 15: 21
21 the stream or riverbed has been reinstated, then the
22 river or stream will be diverted back into its original
23 course. So essentially the stream or river is kept
24 completely isolated from the construction process.
25

26 There will, of course, be other measures to reduce or
27 minimise the amount of siltation. Siltation traps will
28 be installed downstream to essentially trap any
29 sediment or particulate material that finds its way

1 into the water course.

2 **MR. BREEN:** Ger Breen. If I draw the
3 Inspector's attention to
4 Section 4.9 of the EIS, which is entitled Surface and
5 groundwater issues, and there are a few key points in 15: 22
6 that. One is that all extractions and discharges of
7 water will be subject to consent from Kerry County
8 Council or Limerick County Council. It then also
9 refers to a documentation published by the construction
10 industry Research and Industry Research Information 15: 22
11 Association, and the issued a guidance note on the
12 control and management of water pollution from
13 construction sites, which is entitled Control of Water
14 Pollution from Construction Sites Guidance for
15 Consultants and Contractors. That forms the basis of 15: 22
16 control of runoff from the site into any water courses.

17 **INSPECTOR:** Thank you. In relation to
18 the crossing of the rivers,
19 was any consideration given to the use of trenchless
20 technologies at those points? 15: 23

21 **MR. BREEN:** I would just say to the
22 Inspector that the river
23 crossings involved are actually quite minor in nature,
24 and I believe they would be crossed quite simply
25 without any need for trenchless technology. 15: 23

26 **INSPECTOR:** I just have one final
27 question which relates to
28 construction compounds which were referred to in Tony
29 Lynch's submission. I really just had a question

1 regarding maybe he could go into a little more detail
2 as to the nature and extent of those compounds,
3 including parking areas and that type of thing.

4 **MR. LYNCH:** Inspector, I am probably a
5 bit better qualified to 15: 24
6 take that question. Eoin Lynch from Arup. At this
7 stage we don't have know where the construction
8 compounds are going to go. We won't know that until we
9 start the process of interaction with a contractor.
10 But generally, a construction compound would entail a 15: 24
11 number of portacabins with associated facilities, car
12 parking and laydown areas for equipment and consumables
13 that will be used during the construction of the
14 pipeline.

15 15: 24
16 It is quite likely that that may be accommodated within
17 the terminal site, but we don't know at this stage. It
18 may be somewhere along the pipeline, or it may be along
19 the Foynes end. In terms of car parking along the
20 route, as mentioned yesterday, at every road crossing, 15: 24
21 an area is reserved for car parking for the crews that
22 will be working close to that particular section of the
23 site, depending on what activity is going on at
24 whatever time. So it tends to get distributed all
25 along the pipeline, and then the only parking that is 15: 25
26 required at the compound itself would be parking for
27 admin people, engineers, secretaries, and that sort of
28 personnel.
29

1 And I believe we have gone into more detail on that in
2 Section 4.3 of the EIS. Sorry, while I have the mike,
3 if I can answer an earlier question, the question arose
4 as to the height of the AGI. Looking at the Foynes AGI
5 on our planning drawings, the tallest building at the 15: 25
6 AGI is the regulator building, which is 7 metres above
7 ground level.

8 **INSPECTOR:** Thank you. So Mr.
9 o' Donovan, I think you had
10 another question. 15: 26

11 **MR. O' DONOVAN:** Well, maybe a statement
12 too.

13 **INSPECTOR:** Well, if you can restrict
14 yourself to the question at
15 this stage. 15: 26

16 **MR. O' DONOVAN:** This might be relevant
17 here. As the expert says,
18 that is fine in practice but does it work in theory?
19 So just to ask this, you know, the last chap.

20 **INSPECTOR:** Sorry, the mike. 15: 26

21 **MR. O' DONOVAN:** Okay, yeah. He mentioned
22 summers, that all things
23 being, I think maybe he was talking about summers maybe
24 20 or 30 years ago, because obviously the summers that
25 we have now certainly don't, you know, they are not 15: 26
26 very summery. Now, the water, we are going through a
27 rural area, and the water that would be extracted in
28 order to, you know, lay this pipe, would be obviously
29 contaminated, once that returned into the ground. That

1 is basically what, you know, this is an actual -- you
2 know, it is not an actual phenomenon, it is an actual
3 fact. I'll just, you know, I would, you know, just
4 like to say a bit. Obviously, a pipe of this nature
5 would have to have solid ground under it, regardless of 15: 27
6 filling or whatever, it would have to have solid,
7 otherwise it could just, you know what I mean, collapse
8 or whatever. And especially even with the added gas,
9 it would be even heavier. So the thing is, sometimes
10 they would have to go down, I would believe in areas 15: 27
11 especially in peat areas, they would have to go down
12 maybe 10 or 11 feet. I mean, that is a tremendous, you
13 know, to find out they have to find solid ground, and I
14 don't think that there was any assessment done on the
15 line, as far as how deep they will have to go down. 15: 28
16

17 And you know, as I say, you know, with the summers that
18 we had, they would -- those trenches will fill up as
19 fast as they empty them. So I think myself, this whole
20 project of this pipeline should be thought out very, 15: 28
21 very carefully, and you know, find other alternatives.
22 It should be possible, with all of the brains we have
23 in Ireland, and 377,000 civil servants, it should be
24 possible to come up with an ingenious and imaginative
25 solution to this problem, which it is a problem and 15: 28
26 will be a problem. Thank you.

27 **INSPECTOR:** Thank you. I think you
28 have answered the question
29 really in relation to water pollution, so perhaps if

1 you could just answer Mr. O'Donovan's question in
2 relation to the issue of laying the pipeline on solid
3 ground.

4 **MR. LYNCH:** Inspector, Eoin Lynch from
5 Arup. The issue 15: 29

6 really doesn't arise. The trench that will be
7 excavated for the pipeline will be in the order of
8 about 2.5 metres deep. As Mr. Mangan alluded to
9 earlier, we worked for two years on the construction of
10 the Mayo-Galway pipeline, where we went through 15: 29
11 sections of peat, which ranged from 3 meters to about 7
12 or 8 meters, and we were able to negotiate that very
13 well. That was quite, quite much more onerous than
14 what we are looking at here. At the depth of the peat
15 in this situation is about 1 to 1.5 meters, which is 15: 29
16 relatively thin and dry, and it is more like a peaty
17 mineral soil than actually a peat bog.

18
19 So really, given that the construction of the pipeline
20 is shallow by nature, in other words, only 2.5 metres 15: 30
21 deep, there are no issues with interfering with the
22 groundwater. If I may just clarify further on the
23 river crossings, you know, it is perfectly feasible to
24 cross the rivers by either diverting them or fluming
25 the streams, without having any effect whatsoever on 15: 30
26 the streams themselves, or extracting the water or
27 anything of that nature. And again, to reiterate, the
28 only water that is required is during the hydro test
29 and that is returned to the river courses afterwards.

1 appropriate noise limits for application at an
2 industrial site, which would be the AGI site, the
3 appropriate noise limits would be the Environmental
4 Protection Agency noise limits of 55 db(A) daytime, and
5 45 db(A) nighttime at the nearest houses. Those are 15: 32
6 the only published Irish guidelines on environmental
7 noise limits.

8 **INSPECTOR:** Thank you. So I think that
9 concludes the questions by
10 the observers for the Applicant. Can I now ask the 15: 32
11 local authorities if either of you have questions for
12 the Applicant?

13 **MR. STACK:** No, from Kerry.

14 **INSPECTOR:** Limerick?

15 **MR. O' GORMAN:** No. 15: 32

16
17 **QUESTIONING OF THE APPLICANT BY THE OBSERVERS WAS THEN**
18 **CONCLUDED**

19
20 **INSPECTOR:** No, okay. Can I now ask if 15: 32
21 any of the observers have
22 questions for the local authorities for Kerry County
23 Council or Limerick County Council?

24
25 **THE COUNTY COUNCILS FOR KERRY AND LIMERICK COUNTIES** 15: 32
26 **WERE THEN QUESTIONED BY THE OBSERVERS AS FOLLOWS:**

27
28 **INSPECTOR:** Mr. O' Donovan.

29 **MR. O' DONOVAN:** Yes, I would like to ask

1 commented on. It really isn't within our remit to
2 determine, and to I suppose predetermine what may
3 happen in the future. I am sure the applicants have
4 looked at that element as well, but really all we can
5 work with is what was put in front us, which is what 15: 35
6 the applicants requested permission for, and it was up
7 to us to comment on that, and now Bord Pleanála to
8 determine on it. Maybe the applicants might like to
9 comment on it further in relation to what you just
10 said. 15: 36

11 **INSPECTOR:** I think we have had quite a
12 few questions in that
13 respect and I think the applicants have answered them.

14 **MR. O' DONOVAN:** Can I just add on, you
15 know, this was another 15: 36
16 letter that I got, you know, there would be some
17 coverage on community gain, and I would like to ask,
18 you know, Kerry County Council if there are -- if they
19 are aware that there will be money coming to you, you
20 know, that there is money there, and Limerick County 15: 36
21 Council, if you know, if they are going to gain by this
22 financially, or how much, by how much?

23 **MR. STACK:** Just again, Paul Stack.
24 the scenario there appears
25 to be that the Applicants haven't made a proposal to 15: 36
26 Kerry County Council and to Limerick County Council in
27 relation to gain. It was referred to earlier in the
28 proceedings by the Inspector. That proposal is
29 basically, I may as well take the opportunity to read

1 it into the minutes of this inquiry at this stage, and
2 I will just read out what the proposal from the
3 application in that regard is. It is:

4 Prior to the commencement of the
5 development, the developer shall make a
6 once-off community contribution to be
7 administered by Kerry County Council
8 and Limerick County Council for the
9 benefit of the local communities along
10 the route of the pipeline development.
11 The amount of the contribution will be
12 by €104,000 based on a contribution of
13 €4000 per kilometer of pipeline. The
14 said contribution shall be paid prior
15 to the commencement of development to
16 each planning authority in proportion
17 to the length of the pipeline in their
18 respective proportional areas, and
19 shall be subject to any applicable
20 provisions of the community
21 contribution at the time of payment.
22 The purpose of the said community
23 contribution is primarily to contribute
24 to community projects of an educational
25 nature. The reason it is considered
26 appropriate that the developer should
27 contribute towards the cost of
28 community projects in the vicinity of
29 the development in accordance with the
provisions of the Planning and
Development Acts, 2000 to 2006.

15: 37

15: 37

15: 37

19 Kerry County Council will accept that submission and
20 that offer of community gain and maybe Limerick would
21 like to comment.

15: 38

22 **MR. O' GORMAN:** Thank you. Yeah, we
23 were presented with the
24 same proposal, and it is very acceptable to the
25 Limerick County Council.

15: 38

26 **INSPECTOR:** Thank you.

27 **MR. O' DONOVAN:** I would just like to, you
28 know, ask this gentleman
29 here, Paul, is it? Is this in addition to the original

1 community gain that will accrue from the building of
2 the LNG terminal? Is this in addition? And will you
3 be monitoring the use of it?

4 MR. STACK: Yes, it is additional to
5 the community gain 15: 38
6 associated with the terminal itself.

7 MR. O' DONOVAN: Divided by Ballylongford
8 and Tarbert, is that
9 correct,

10 MR. STACK: I am not sure what exactly 15: 39
11 the breakdown of that
12 community gain is and how it will be proportioned out.

13 MR. O' DONOVAN: But it will be at least
14 monitored by the Kerry
15 County Council anyway? 15: 39

16 MR. STACK: Yes.

17 MR. O' DONOVAN: And was there a figure
18 given to the Kerry County
19 Council for the changing or the upgrade of the road to
20 the power station? 15: 39

21 INSPECTOR: Mr. O' Donovan, that is
22 outside of the scope. You
23 might have a word with Mr. Stack after this meeting.

24 MR. O' DONOVAN: Okay. You know, I would
25 just like to, you know, 15: 39
26 sticking with water today, I suppose, maybe because it
27 has been raining all summer maybe. But you know, will
28 you guarantee that the quality of the water that we
29 have now in Tarbert, you know, all you can do I suppose

1 is the best you can, you know. But either -- I mean I
2 have my doubts, but if Kerry County Council gives a
3 commitment to, you know, to the quality of the water,
4 drinking water, and I mean -- because as reported in
5 Kerry Radio several times, different communities, the
6 water is absolutely, you know, destroyed. 15: 40

7 **INSPECTOR:** Is that a question?

8 **MR. O' DONOVAN:** Yeah, it's a question.

9 I'll ask this man.

10 **INSPECTOR:** In relation to the impact 15: 40
11 of the pipeline?

12 **MR. O' DONOVAN:** In relation to -- could it
13 be possibly changed from,
14 you know, close proximity to our reservoir, you know,
15 which has been supplied water. But for a very long 15: 40
16 number of years, a great response, you know.

17 **MR. STACK:** Just to comment on that,
18 and I am from the planning
19 department of the local authority, and I don't have
20 anybody here this afternoon from the water section, but 15: 40
21 I do know maybe a scenario in relation to Tarbert, and
22 the majority of the water supply to Tarbert comes from
23 the River Feale, comes from the northeast Kerry scheme,
24 and it is transported by pipe to Tarbert to the
25 reservoirs in the area, and feeds the locality. 15: 40

26 However, there is a spring well adjacent to Tarbert, I
27 understand, which also contributes, but it is a small
28 contributory factor to the main supply, yet it is a
29 very significant well. I do know that water services,

1 in assessing this application and all sections of the
2 local authority did so -- they did look at the location
3 of that spring well in the context of the pipeline --
4 and they are very adamant that there will not be any
5 interference with the quality of the water associated 15: 41
6 with that well in Tarbert. The pipeline will be
7 crossing the main watermain, and feeding into Tarbert
8 from Listowel and the River Feale. But there should be
9 no issues there with that.

10 **MR. O' DONOVAN:** Well, as I say, the water 15: 41
11 that we get from Foley's
12 reservoir, I would say, is exemplary. I would also
13 like to -- it was brought up here with the -- special
14 areas of conservation and candidate status for -- I
15 forget what the name is, protected and you know, 15: 42
16 special areas, designated areas of, you know, in the
17 Shannon. I mean, how can we preserve those? How can
18 we separate those from any development, you know?

19 **INSPECTOR:** I am not sure how that
20 question -- do you want to 15: 42
21 rephrase it in relation to the pipeline?

22 **MR. O' DONOVAN:** I'll stick with the
23 pipeline I suppose. You
24 know, around Foynes, that will be coming in to join the
25 national grid, you know, and I don't know I think 15: 42
26 myself that you know interest has to be about better
27 way that is all I can say.

28 **INSPECTOR:** Okay. Mr. McElligott, do
29 you have you a question for

1 the local authorities?

2 **MR. McELLI GOTT:** Yes, I have a question on
3 forward planning,
4 considering this project. There is new draft county --
5 Kerry County Development Plan 2009 to 2015 currently 15: 43
6 under review. It is written in a new section on the
7 whole Ballylongford land bank, and I would like to read
8 out what they propose to include into the Kerry County
9 Development Plan, and then ask them questions on that
10 because this deal is for forward planning, which is 15: 43
11 also an important issue when you apply for permission
12 for something in an area to see what the forward plan
13 is.

14 **INSPECTOR:** I think you can go directly
15 to the questions. 15: 43

16 **MR. McELLI GOTT:** Okay. The new section on
17 the Ballylongford land
18 bank, you stated that the new development will
19 permanently and positively impact on improving people's
20 quality of life, based on high quality living 15: 44
21 environments, working and recreational facilities.

22
23 Do you think that listening to the submissions on the
24 health and safety issues, can you explain to me how you
25 think that this will permanently and positively impact 15: 44
26 on improving people's quality of life if you have a gas
27 pipeline going to the newest area?

28 **MR. SHEHEE:** Tom Shehee from the
29 planning policy department

1 in Kerry County Council. I think the area of North
2 Kerry over the years traditionally has suffered largely
3 from extensive unemployment. We envisage that
4 construction of this project, if it is to go ahead, may
5 act as a catalyst for additional employment
6 opportunities in North Kerry, which will provide for a
7 better quality of life for people living in the area.

15: 44

8 **INSPECTOR:** Thank you.

9 **MR. McELLI GOTT:** The proposed wording in the
10 draft county development

15: 45

11 plan, you say it will support the development of
12 large-scale industrial uses on zoned land in the
13 Tarbert-Longford area, including large marine related
14 industry and enterprise, which requires deep water
15 access. You go on to say that it will permanently and
16 positively impact on adherence to the county emergency
17 plan, and other objectives relative to human health.

15: 45

18 Could you please explain to me, how, if there is no
19 emergency plan in place for an accident at the pipeline
20 or above ground installation that -- which could have a
21 consequent area of 12.4 kilometres crossing three
22 different counties, not to mention the mental strain
23 and anguish related to living next to an LNG terminal
24 above ground installation and pipeline? How that can
25 permanently, positively impact on adherence to the
26 county emergency plan when there is none in place?

15: 45

15: 46

27 **MR. SHEHEE:** Inspector, there is
28 actually a major accident
29 emergency plan in place in the County. Paul Stack, who

1 is a member of the committee that deals with that major
2 emergency plan, so maybe Paul can inform you of how
3 that plan works.

4 **MR. STACK:** As Thomas said, we have a
5 major emergency plan in the 15: 46
6 county which deals with -- attempts, on a regional
7 basis, both within Cork and Kerry combined together to
8 deal with and advise all the other organisations within
9 the -- I suppose within the county, such as the police
10 service, the ambulance service, the hospital service, 15: 47
11 the fire brigade service, the local authority service,
12 and who all come together who then will be in a
13 position to coordinate any response to any issues, and
14 there is obviously a wide range and wide scale of
15 issues which hopefully will never occur, but if they do 15: 47
16 occur, the plan brings all those groups together, along
17 with any other plans, and we will coordinate with any
18 other major plans associated with any specific industry
19 or development out there which would have developed its
20 own plan itself. The two plans come together at that 15: 47
21 stage.

22 **MR. McELLI GOTT:** So will you have an
23 emergency plan in place, or
24 do have you an emergency plan in place already to deal
25 with this LNG development? 15: 47

26 **INSPECTOR:** With the pipeline and the
27 AGI, is that it?

28 **MR. McELLI GOTT:** Of course, yes.

29 **MR. STACK:** The emergency plan that

1 those organisation there
2 referred to earlier on is the regional plan, as I say,
3 for Cork and Kerry. That plan is a wide sweeping and
4 broad ranging plan, which is there to, I suppose at
5 this stage to address any possible scenarios which we 15: 48
6 see as maybe affecting either Cork or Kerry. The
7 development that is subject to this oral hearing is
8 obviously not in place, but in the scenario where it
9 is, and we would be communicating with the developers
10 there from the perspective of their plan and our plan, 15: 48
11 so that the two would gel together. But it would be
12 premature at this stage to effect that into our plan.

13 **MR. McELLI GOTT:** Okay. Do you realise that
14 this is a SEVESO 2 site?
15 You will have to have a major trial every three years? 15: 48
16 Every three years you have to do an emergency
17 evacuation --

18 **MR. FITZSIMONS:** Inspector, this has no --
19 **INSPECTOR:** Yes.
20 **MR. FITZSIMONS:** -- relation to the 15: 48
21 pipeline. None.
22 **INSPECTOR:** Yes, the LNG terminal is a
23 SEVESO site. The AGI is on
24 a SEVESO site.
25 **MR. McELLI GOTT:** Which means it comes under 15: 49
26 SEVESO.
27 **INSPECTOR:** So I think we are going to
28 -- I think Mr. Stack has
29 answered your questions in relation to the County

1 Council provisions.

2 **MR. McELLI GOTT:** Yes. On this development,
3 he goes on to say it will
4 have a neutral effect i b minimising greenhouse gas
5 emi ssi ons. 15: 49

6 **I NSPECTOR:** Is this the terminal or
7 the --

8 **MR. McELLI GOTT:** It is the general
9 development of the land
10 bank, so it is related to forward pl anni ng. 15: 49

11 **MR. FITZSI MONS:** I wonder, Inspector, if Mr.
12 McElli gott woul dn' t mind
13 informing the hearing exactly the section that he is
14 reading from so that the rest of us can followi ng
15 along. 15: 49

16 **MR. McELLI GOTT:** I' d offer to read it but
17 the Inspector said read the
18 questions, so now I' ll read the section so

19 **MR. FITZSI MONS:** I just need the section.

20 **I NSPECTOR:** No, just refer to it, Mr. 15: 49
21 Fitzsimons has it in front
22 of hi m.

23 **MR. McELLI GOTT:** It is 10 lines. It is
24 probably easi er if I read
25 it. 15: 49

26 **MR. FITZSI MONS:** I woul d be very grateful
27 if it coul d just be
28 identi fi ed exactly what porti on of the document is
29 bei ng read from.

1 development will not impact significantly as suggested
2 in the question and I don't think I can comment beyond
3 that really.

4 1 Q. **MR McELLI GOTT:** You go on to say that it
5 will meet the requirements 15: 51
6 of the river basin management plan. Now our
7 understanding is that the river basin management plan
8 for the Shannon basin district is yet to be published.
9 So I am wondering how can you assess how the
10 requirements of such a plan can be met if they are not 15: 51
11 published?

12 **MR FITZSIMONS:** Again, Inspector, I renew
13 my objection. This is of
14 zero relevance to the pipeline.

15 **INSPECTOR:** I am inclined to agree, 15: 51
16 Mr McElligott.

17 **MR McELLI GOTT:** Okay. My last question
18 involves the rezoning of
19 more lands to the east of the proposed development.

20 **INSPECTOR:** And again perhaps you could 15: 51
21 illuminate us as to the
22 relevance of this to the pipeline.

23 2 Q. **MR McELLI GOTT:** I am just saying, the
24 question is: Do you they
25 think that this pipeline and AGI will affect the 15: 52
26 proposed intention to rezone other lands industrial in
27 the other areas if there is to be an exclusion zone
28 around that AGI site.

29 A. Inspector, again I don't think it is relevant to the

1 pipeline but anyway. The answer is no.

2 **INSPECTOR:** Okay, thank you.

3 Mr O' Donovan.

4 **MR O' DONOVAN:** I just have a couple of

5 questions maybe for the 15: 52

6 Limerick contingent here. Since we are on the topic of

7 community gain, Limerick County Council or Limerick

8 City, Limerick County Council, I suppose, will they be

9 in receipt of any financial gain for this proposed

10 pipeline? 15: 53

11 **INSPECTOR:** I think that question has

12 been answered before.

13 **MR O' DONOVAN:** By Kerry.

14 **INSPECTOR:** Yes. I think the terms

15 that Mr Stack read out were 15: 53

16 clear in that they applied to both Kerry County Council

17 and Limerick County Council proportionately according

18 to the length of the pipeline in their respective

19 jurisdictions. So I think that question has, in all

20 fairness, been answered. 15: 53

21 **MR O' DONOVAN:** Do you find that you are in

22 total agreement with the

23 amount of community gain that Mr stack has?

24 **INSPECTOR:** I think you already have.

25 They already have. 15: 53

26 **MR FITZSIMONS:** Inspector, perhaps it might

27 be relevant at this point

28 that copies of the proposed condition that was prepared

29 by my client for the consideration of the Local

1 authorities would be submitted to the hearing just so
2 there is no gap in anyone's knowledge in relation to
3 it, but it is as has been read out by Mr Stack.

4 **INSPECTOR:** Thank you. Could you give
5 a copy to the observers as 15: 54
6 well, please.

7 **MR McELLI GOTT:** I have a question for
8 Limerick County Council.
9

10 **MR O' GORMAN WAS CROSS-EXAMINED BY MR McELLI GOTT AS** 15: 54

11 **FOLLOWS:**

12 3 Q. **MR McELLI GOTT:** How do they see that this
13 current proposed
14 development fits in with your forward planning for the
15 southern shores of the Shannon estuary. 15: 54

16 **INSPECTOR:** Sorry, just the mic again.
17 There seems to be problems
18 with that mic. Apologies.

19 A. The application that is in front of it, I will just
20 read from the County Development Plan. A substantial 15: 54
21 investment programme is currently underway by Bord Gais
22 to enhance and extend the natural gas transmission
23 network which runs between Limerick, Cork, Dublin and
24 Dundalk. In County Limerick natural gas is available
25 to Adare, Annacotty, Ballyneety, Castleconnell 15: 55
26 Castletroy and Patrickswell. Further extensions to the
27 gas network into County Limerick will only occur if
28 demand is shown to exist and is of a sufficient nature
29 to ensure the economic viability of such an extension.

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And later on policy INF 37 energy networks says: It is the policy of the council to facilitate the provision of energy networks in principle provided that a number of criteria can be demonstrated, which we have brought up in our submission to the Bord. So we are satisfied that it complies with.

15: 55

INSPECTOR: Thank you.

4 Q. **MR McELLI GOTT:** Another question for Limerick County Council.

15: 55

You are proposing to improve the road network beyond Adare to bypass Adare to feed into Foynes. How do you, because you figure there is going to be a huge increase in traffic to Foynes Port. Do you think that -- are you planning to improve the road network between Foynes and Tarbert as part of N69 improvement on your ...?

15: 56

A. Well I mean that is not really a matter for Limerick County Council it is more for the National Road Authority but there are no extensive plans to massively upgrade the N69, other than resurfacing programmes which are ongoing.

15: 56

5 Q. What about the bypass of Adare?

A. Well to bypass Adare is not the N69, it is N21 which takes you to Newcastle.

6 Q. Because I was just looking here at the Limerick Chamber and business for business and they have a document that they submitted to the Limerick County Council on improved connectivity key to driving economic growth, and they had proposed about the current business

15: 56

1 activity on the N69 and they were talking about, they
2 were asking for support for improving the movement.
3 Are you familiar with that, the movement on the N69?
4 A. There are a number of organisations, business
5 organisations and Atlantic corridor organisations who 15: 57
6 are very concerned with promoting links between the
7 west of Ireland and Limerick and further down to Cork.
8 A number of ideas have been put forward by these
9 organisations but they would need the support of the
10 National Roads Authority and I am not aware of any 15: 57
11 plans to link a road from Foynes on to the N21.
12 7 Q. Right. Because I was just wondering there about --
13 well it was Limerick Chamber that presented you with
14 the document, I think.
15 **MR FITZSIMONS:** Inspector, I am struggling 15: 57
16 to understand the relevance
17 to a pipeline development between Tarbert and Foynes.
18 **MR McELLI GOTT:** I will get to the point.
19 8 Q. The point is that there going to a huge increase in
20 traffic on the road going from west Limerick towards 15: 58
21 north Kerry and that the development is at the Kerry
22 side of Tarbert which has a very poor road network and
23 in the Limerick Chamber document they are predicting
24 that the oil terminal, which is currently being built
25 at the Port of Foynes is due to be opened in the next 15: 58
26 two year and this will inevitably lead to higher
27 volumes of traffic. Additionally the recent
28 independent report on the Limerick docklands initiative
29 recommended the movement of activities from Limerick

1 Docklands to Foynes Port. If this proposal is adopted,
2 it would result in an additional 42,000 HGV vehicles
3 using the N69 annually. If the spur road bypassing
4 Adare was in place, the traffic would be on Ireland's
5 primary national road grid and not the secondary N69. 15: 58
6 Shannon LNG Ltd -- have you had, do you have concerns
7 for the increased traffic on the west Limerick roads to
8 service the full development both for the pipeline for
9 construction, just the general -- is it part of your
10 future plan or do you not concern yourself because it 15: 59
11 is north Kerry?

12 A. We had a report on the pipeline from our roads
13 department, our transportation department and they
14 didn't raise any significant issues in relation to
15 construction traffic. 15: 59

16 9 Q. Okay, thank you.

17

18 **MR McELLI GOTT CONCLUDED:**

19

20 **INSPECTOR:** Thank you. Any further 15: 59
21 questions for the local
22 authorities from any of the observers? No. Sorry,
23 your name again, sir.

24 **MR O' SULLIVAN:** Padraig O' Sullivan.

25 **INSPECTOR:** Mr O' Sullivan, you are 15: 59
26 a late observer to the
27 hearing so you have slightly different status in terms
28 of -- do you have a question for the local authority?

29 **MR O' SULLIVAN:** Not a question really, it

1 is more about the emergency
2 plan.

3 **INSPECTOR:** Okay, I am afraid --
4 [INTERJECTION]

5 **MR O' SULLIVAN:** It is just an observation. 16:00

6 **INSPECTOR:** It is -- [INTERJECTION]

7 **MR O' SULLIVAN:** I was involved in
8 Listowel many years ago as
9 a fire fighter and the Co-Op had a very, very
10 serious -- it is just to reassure the people from 16:00
11 Kilcolgan and that, all the services, it was a major
12 emergency Listowel is at one stage might have had to be
13 evacuated, but all the services came together.
14 Everything was, you know, well worked out in advance
15 what every branch, civil defence, guards, ambulances, 16:00
16 everything and it worked like a dream. So I wouldn't
17 have any worries in that respect.

18 **INSPECTOR:** Thank you very much. We
19 might then ask if the
20 Applicant has any questions for the Local Authorities 16:00
21 at this stage.

22 **MR FITZSIMONS:** No questions for the Local
23 Authorities. Thank you,
24 Inspector.

25 **INSPECTOR:** I will you now move on to 16:00
26 questions that any other
27 parties might have for the observers. Do Local
28 Authorities have any questions they might like to pose
29 to the observers? No.

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Mr Fitzsimons, do you have any questions for the observers?

MR FITZSIMONS: There is only one issue that I would like to raise 16:01
through you, Inspector. You recall that in the evidence given on behalf of my client a profile of Shannon LNG Ltd was averted to Mr Power's statement at section 2. You have also heard from other observers some information in relation to the constitution, for 16:01
example, of the enterprise and development associations in Tarbert and Ballylongford respectively.

Mr McElligott, in his opening, made some reference to his position as PRO of the Kilcolgan Residents' Association, but there has been no evidence whatsoever 16:01
given as to the constitution of that association or, in particular, has there been any reference to the constitution of the group Safety Before LNG. And I think again if every other party is putting its cards on the table in terms of its constitution and its 16:01
formation, that it would be fair that both groups would be identified and particulars would be supplied in relation to the constitution and formation of Kilcolgan Residents Association and the group Safety Before LNG.

INSPECTOR: So is that a question? 16:02

MR FITZSIMONS: It is a matter that I am raising with you. It is entirely a matter for you, Madam, whether you feel it should be put.

1 INSPECTOR: Okay. What we might then
2 do is I propose we take
3 a very short ten minute break. We will come back and
4 we are hear our closing submissions.

5 THE KERRY AND LIMERICK QUESTIONING THEN CONCLUDED

16:03

6

7 THE HEARING ADJOURNED BRIEFLY

8

9 THE HEARING RESUMED AS FOLLOWS:

10

16:03

11 INSPECTOR: Hello everyone. We are now
12 going to hear closing
13 submissions in relation to the oral hearing in the
14 reverse order of which parties presented their main
15 submissions. So we will first have the observers and
16 then, because the Local Authorities have indicated that
17 they will not be making closing submissions, we will
18 have the Applicant. So if I could ask perhaps, in the
19 same -- well if it was in reverse order we would have
20 Mr McElligott first.

16:22

16:23

21

22 MR McELLI GOTT THEN MADE A SUBMISSION AS FOLLOWS:

23

24 MR McELLI GOTT: Ms Inspector, this is
25 pretty brief really for
26 a change.

16:23

27

28 We believe that this whole planning application has
29 been handled in a cavalier and superficial and illegal

1 manner. Despite the voluminous information,
2 a superficial and cursory and arbitrary analysis has
3 taken place.

4
5 We believe that the selected route has not been 16: 23
6 justified sufficiently. A number of statements have
7 been made about difficulties crossing the Shannon, no
8 supporting evidence has been put forward. We believe
9 they could have done the whole route selection in
10 a day, and that really is not good enough. There is no 16: 24
11 evidence that any serious amount of time has been put
12 into this application.

13
14 On the issue of some conditions we would like to see
15 attached to any granting of planning permission. 16: 24

16 1. We would like to see a dual carriageway bypass of
17 Tarbert.

18 We would like to see the road between Ballylongford and
19 the land bank being closed to any commercial traffic
20 except to residents. 16: 24

21 We would like to see a strategic environmental
22 assessment of energy projects in the southern shores of
23 the Shannon Estuary.

24 We believe you should add conditions subject to
25 obtaining all other environmental permits. For 16: 24
26 example, from the EPA, the CER and the foreshore
27 licence.

28
29 There has been no determination made of how it will,

1 the pipeline would link in with the ESB stations at
2 Moneypoint and at Tarbert. There has been very little
3 discussion on that. We would like to know what would
4 be a mandatory exclusion zone of all other industrial
5 development around the -- we would like a declaration 16: 25
6 of a mandatory exclusion zone around this development
7 which would be used in the preventative and
8 precautionary principle.

9
10 We would like the Bord to take on board all the 16: 25
11 recommendations that Peter North and on the issues he
12 touched on specifically. We say that the emergency
13 plan should be known before any planning permission is
14 given.

15 16: 25
16 We say there should be options to relocate residents
17 provided. We say residents should either be
18 compensated or relocated if they so wish. We say
19 farmers or land owners should get a yearly rent for use
20 of land equivalent to what is done in other energy 16: 26
21 projects such as wind farms. Gas infrastructure,
22 because it is a fossil fuel, should not be allowed, if
23 that was a wind development they would be getting a
24 yearly rent.

25 16: 26
26 All locals should have first options on jobs, if
27 possible. Local contractors should be used in
28 preference. The number of local residents on the
29 committees that is going to distribute any funds should

1 be at least two. It should not include any
2 politicians. The local area was defined in the initial
3 planning conditions as Kilcolgan, but that was not very
4 clearly defined because is that a town land? We need
5 a clearer definition of who should be the local
6 representatives. 16:26

7
8 We would like the applicants to prove they have the
9 money to build this thing. We believe that Hess
10 Corporation should underwrite any liability to 16:27
11 accidents because Shannon LNG is a company that is
12 owned by Hess LNG which is registered in the Cayman
13 Islands. We believe that any money in the community
14 projects should go towards priority projects that are
15 in direction relation to this development, such as the 16:27
16 fire brigades.

17
18 We also request that you take on board our issues that
19 we raised in our submission throughout the oral hearing
20 over the last two days. Thank you. 16:27

21
22 **MR McELLI GOTT CONCLUDED**

23
24 INSPECTOR: Thank you very much,
25 Mr McElligott. Next then 16:27
26 we have Mr O' Donovan.

27
28 **MR O' DONOVAN THEN MADE A SUBMISSION AS FOLLOWS:**
29

1 MR McELSTROM THEN MADE AS SUBMISSION AS FOLLOWS:

2
3 MR McELSTROM: Inspector, Tim McElstrom,
4 Ballylongford Association.
5 Noel Lynch had to go away so I will just read out a 16:29
6 prepared statement. Okay.

7
8 The community of Ballylongford are keeping their
9 fingers closed that permission will be granted for this
10 proposed development. In these severe economic times, 16:29
11 when already many of our young people have left for
12 work in other parts of the world, a safe, clean
13 industry such as this one proposed is most welcome.
14 And its economic benefits will bring back life back to
15 Ballylongford, north Kerry and west Limerick. 16:30

16
17 Nothing that we have heard here at this oral hearing
18 has changed our view that this will be a very good
19 development for our area. The fact, and this hearing
20 is all about facts, is that there are thousands of 16:30
21 kilometres of pipe lines safely installed around the
22 country, and has been in place for many years without
23 incident, confirms for us that this is a very safe and
24 a relatively risk free development.

25 16:30
26 Other communities around the country have benefited
27 greatly from having a gas pipeline running by their
28 areas, now it is our turn to gain some of these
29 benefits.

1
2 That is on behalf of Ballylongford Development
3 Associati on.

4
5 MR McELSTROM CONCLUDED

16:31

6
7 INSPECTOR: Thank you very much.
8 Then finally we have
9 Tarbert Development Associati on.

10
11 MS MURPHY MADE AS SUBMISSION AS FOLLOWS

16:31

12
13 MS MURPHY: Joan Murphy, Tarbert
14 Development Associati on.

16:31

15
16 Madam Inspector, Tarbert Development Associati on made
17 a number of submissions on behalf of the community to
18 An Bord Pleanala in relation to this pipeline. I have
19 been here over the last two days and I feel that any
20 concerns that we have had have been addressed by the
21 people who are best equipped to do that, and these are
22 the experts which have been -- here on my left -- which
23 have been talking to us over the last two days.

16:31

24
25 We in Tarbert Development are willing to rely on the
26 statutory bodies to ensure that any work carried out
27 during construction, if planning permission is given,
28 will be such to ensure proper planning and sustainable
29 development. We put our faith in the planning process.

16:31

1 And we thank you, Madam Inspector, for your time and
2 your patience and we assure you that we will accept the
3 decision of the Bord, whatever that might be. Thank
4 you.

16:32

5
6 MS MURPHY CONCLUDED.

7
8 INSPECTOR: Thank you very much. We
9 will now move on to the
10 closing statement by the Applicant.

16:32

11
12 MR FITZSIMONS THEN MADE A SUBMISSION AS FOLLOWS:

13
14 MR FITZSIMONS: Thank you, Madam Inspector.
15 Inspector, I will begin by
16 referring the Bord to the relevant statutory
17 provisions, in particular the amendments to Part 11 of
18 the Planning and Development Act 2000, which has been
19 effected by the insertion of Sections 182(c) and 182(d)
20 of the Planning and Development (Strategic
21 Infrastructure) Act.

16:32

16:32

22
23 In particular, Inspector, I would like to refer
24 yourself in the first instance and the Bord to the
25 definition of strategic gas infrastructure development,
26 which is now inserted into the definition section of
27 the 2002 Act, and that the concept, strategic gas
28 infrastructure development is defined as, as I quote:
29 *"Any proposed development comprising or for the*

16:32

1 *purposes of a strategic downstream gas pipeline or*
2 *a strategic upstream gas pipeline and associated*
3 *terminals, buildings and installations, whether above*
4 *or below ground, including any associated discharge*
5 *pipe".*

16: 33

6
7 Therefore, pursuant to the statutory definition as set
8 out, the pipeline and the associated above ground
9 installations form, correctly, part of the application
10 made for approval to the Bord pursuant to Section
11 182(c) of the Act.

16: 33

12
13 That submission or application was made to the Bord
14 dated 14th August 2008 and that sought the Bord's
15 approval for development described in the public
16 notices as consisting of, and I quote:

16: 33

17 *"A natural gas pipeline with associated above ground*
18 *installations, AGIs, to connect the Shannon LNG*
19 *regasification terminal at Ralappane, County Kerry, to*
20 *the existing natural gas network at Leahys, County*
21 *Limerick".*

16: 34

22 That is the development, Inspector, that the Bord is
23 considering granting approval in respect of pursuant to
24 the application made under section 182(c). And in
25 circumstances where the Bord decides to exercise its
26 discretion to grant such approval, Section 182(d)(xi)
27 provides that planning permission under either section
28 34 of the 2000 Act or Section 37(g) as inserted by the
29 2006 Act is not required for any such development so

16: 34

1 approved under Section 182(d).

2
3 Some ground has been propounded by the observers that
4 there was something inherently deficient with the
5 pre-consultation or pre-application consultations 16: 34
6 entered into between Shannon LNG Ltd and the Bord. It
7 is significant, Inspector, in its context that Section
8 182(e), as inserted into the Act, actually requires
9 a person who intends to apply for approval under
10 Section 182(d) to enter into such consultations with 16: 35
11 the Bord and the Bord is then, in turn, required to
12 give advice in relation to the proposed application
13 with particular regard to the procedures involved.

14
15 So rather than being in breach of the statutory 16: 35
16 requirements, in fact Shannon LNG Ltd has been in
17 entirely within those statutory requirements by
18 engaging in the pre-application consultations required
19 by the Statute.

20 16: 35
21 The second application that is before the Bord for its
22 consideration is under Section 215(a) of the 2000 Act,
23 sorry, excuse me, as inserted by 2006, and that section
24 simply transfers the powers of the CER to An Bord
25 Pleanála in relation to the compulsory acquisition of 16: 35
26 land in respect of strategic gas infrastructure
27 development. And it is notable that in that particular
28 respect the transfer of functions of the CER to An Bord
29 Pleanála include the transfer of, and I quote, "all

1 *necessary ancillary powers in relation to deviation*
2 *limits, substrata of land, easements, rights over land,*
3 *including wayleaves and public rights of way, rights of*
4 *access to land.*

16: 36

5
6 Of course, Inspector as you will be aware from the
7 draft order that has been submitted to the Bord under
8 its application of 1st August 2008, what is actually
9 sought by way of acquisition is wayleaves over certain
10 plots of land.

16: 36

11
12 The powers of compulsorily acquisition now vest vested
13 in the Bord emanate from the Gas Act 1976, as amended,
14 and those powers were, in the first instance, extended
15 to a person to whom a certificate of bona fide
16 intention has issued in respect of an application to
17 make an application for consent to construct or operate
18 a gas pipeline. Therefore, in those circumstances,
19 such a person is now entitled to apply to the CER in
20 ordinary circumstances or to the Bord in relation to
21 strategic gas infrastructure development for an order
22 under section 32(1)(a) of the Gas Act as amended, which
23 relates to acquiring compulsorily any land or right of
24 land which is required by the relevant person in
25 connection with the construction or operation of the
26 pipeline.

16: 36

16: 36

16: 37

27
28 A certificate of bona fide intention was issued by the
29 Commission for Energy Regulation to Shannon LNG Ltd

1 dated February 2007 and, accordingly, an application
2 for the acquisition order was made by Shannon LNG Ltd
3 to An Bord Pleanála on 1st August 2008.

4
5 As the Inspector and the Bord is aware, the proposed 16: 37
6 gas pipeline from the Shannon LNG terminal to the
7 national grid at Foynes is approximately 26 km in
8 length. The route of that proposed pipeline traverses
9 72 plots or parcels of land and by the date of the
10 submission of the book of reference to the Bord, which 16: 37
11 was 1st August 2008, wayleave agreements had been
12 entered into as between Shannon LNG Ltd and the owners
13 of 54 of the those 72 lands. Sorry, that should be the
14 owners of 56 of the 72 lands.

15 16: 38
16 Accordingly, the book of reference and the first
17 schedule to the draft order submitted to the Bord
18 identified 16 wayleaves in respect of which an
19 acquisition order was sought on 1st August. However,
20 as identified yesterday, in the period between the 16: 38
21 submission of the book of reference on 1st August and
22 the commencement of the oral hearing on 1st December,
23 wayleave agreements have been entered into between
24 Shannon LNG Ltd and the owners of eleven further lands.

25 16: 38
26 Accordingly, as of today's date, 2nd December, Shannon
27 LNG Ltd is applying to the Bord for an acquisition
28 order in respect of five wayleaves only. In that
29 respect, I would ask that Ms Carr would hand in to you,

1 Inspector, and to the parties an amended first schedule
2 to the draft order that was submitted to the Bord on
3 1st August 2008.

4
5 And you will be aware, Inspector, from the draft order 16: 39
6 originally submitted, 16 wayleaves were identified in
7 the first schedule and that has been reduced to five.
8 In those circumstances, Shannon LNG is requesting and
9 has applied to the Bord to make a compulsory
10 acquisition order in relation to CWL07A, CWL17, CWL34, 16: 39
11 CWL42 and CWL65. And this last context, namely CWL65,
12 you, Inspector, and the Bord are now on notice of an
13 application having been made pursuant to Article 10 of
14 Second Schedule to the Gas Act 1976 for an amendment to
15 the reference contained in the book of reference in 16: 40
16 that respect.

17
18 As you are also aware, Inspector, the omission of the
19 name of Mr Patrick O'Connor in respect of lands at
20 Ballynash, Clare, County Limerick, which relate to 16: 40
21 wayleave number CWL65, was due to a mistake or
22 oversight on the part of Shannon LNG Ltd whereby it had
23 considered that Mr Michael O'Connor, who is the son of
24 Mr Patrick O'Connor, was the owner or reputed owner of
25 those lands. As you are also aware, Article 10 of the 16: 40
26 Second Schedule of the Gas Act empowers the Bord to
27 correct or amend the book of reference in such a manner
28 that does not invalidate that book of reference.

1 Finally, I am instructed that the notice pursuant to
2 the provisions of Article 1 of the Second Schedule was
3 served upon Mr O' Connor at his residence on yesterday's
4 date, 1st December 2008. In those circumstances,
5 Inspector, I would ask that the application under 16: 41
6 Section 215(a) for the compulsory acquisition order
7 would be granted by An Bord Pleanála.

8
9 Turning then to certain of the submissions that have
10 been made during the course of the hearing on the 16: 41
11 second application, which is the application pursuant
12 to 182(d). There were a number of issues raised in
13 a number of different contexts and I will try and draw
14 those together as best I can.

15
16 One of the issues that was being consistently raised by
17 the speakers on behalf of the Killorgan Residents'
18 Association has been this issue of strategic
19 environmental assessment. As is made clear in the
20 leading text on the issue of planning and environmental 16: 41
21 law in Ireland, strategic environmental impact
22 assessment or SEA is required under Directive 2001/42,
23 which is a directive on the assessment of the effects
24 of certain plans and programmes on the environment.
25 Therefore, there is a very clear distinction to be 16: 42
26 drawn, Inspector, between environmental impact
27 assessment which deals with projects, and strategic
28 environmental assessment which deals with plans or
29 programmes. It is quite clear from the implementing

1 Legislation in this jurisdiction that plans and
2 programmes which are subject to SEA include, for
3 example, county development plans or national hazardous
4 waste management plans or other programmes of that ilk.
5 What is not included within the ambit of strategic
6 environmental assessment are individual projects, such
7 as a proposal to develop a 26 km pipeline in relation
8 to strategic gas infrastructure.

16: 42

10 In those circumstances, in my submission, the point
11 being made in relation to an SEA as applicable to this
12 particular project, is misconceived. It misapplies and
13 misunderstands the purpose and intent of the Directive,
14 namely Council Directive 2001/42.

16: 42

15
16 A second point that has been made relates to the
17 purported falling between stools where one has more
18 than one regulatory body dealing with various consents
19 in respect of a project or a number of projects. This
20 issue has been ventilated in a number of cases before
21 the superior courts in this jurisdiction and, in
22 particular, has been determined definitively by a full
23 Supreme Court as recently as May 2007 in the case of
24 **Martin v. An Bord Pleanála**, number 2.

16: 43

16: 43

25
26 In that case the argument had been made that because,
27 for example, the Environmental Protection Agency had
28 its own consent procedure in relation to an IPPC
29 licence that somehow there was a difficulty that issue

16: 43

1 could fall between its stool and An Bord Pleanála's
2 stool and that argument was substantively rejected by
3 the Supreme Court in the leading judgment given by
4 Murray CJ. In that decision the Chief Justice held
5 that as a matter of Irish law the decision of An Bord
6 Pleanála could not be characterised as a principle
7 decision in the sense of the Wells decision nor any
8 decision of the EPA on a licence as an implementing
9 decision.

16: 44

10
11 On the contrary, and I quote:

16: 44

12 *"A refusal to grant a licence by the EPA would mean*
13 *that there was no consent to the project and it would*
14 *not proceed. Alternatively, the EPA could impose*
15 *conditions which we reduced substantially the scope or*
16 *size of the project allowed to proceed. The Chief*
17 *Justice notes that as the respondents had pointed out in*
18 *any given case concerning a project of this nature,*
19 *a waste licence could be granted before a planning*
20 *application is decided. In short, all of the factors*
21 *referred to in Article 3 of the Directive and the*
22 *interaction between them are examined as required by*
23 *the Directive and the interaction between them at each*
24 *stage of the consent process by the relevant competent*
25 *authority, namely the Bord and the EPA respectively".*

16: 44

16: 45

16: 45

26
27 In that context, Inspector, I would submit to yourself
28 in the first instance and to the Bord ultimately, that
29 the issue of perceived falling between stools does not

1 arise given the multiplicity of consents that are
2 required before the entire project or, indeed, more
3 relevantly, before the pipeline project can actually
4 commence operation. In that context, Inspector,
5 certain submissions have been addressed to you in
6 relation to one of those parallel consent procedures,
7 namely application under Section 39(a) of the Gas Act
8 1976, as amended, to the Commission for Energy
9 Regulation for the construction of the pipeline.

16: 45

10
11 In my respectful submission, the issues attendant on
12 the QRA are matters more relevant to the CER and its
13 consideration of the Section 39(a) application than to
14 An Bord Pleanála on its consideration of the Section
15 182(d) application. But for avoidance of doubt,
16 Inspector, it is the case that the Applicant in this
17 particular application has assessed, first of all, the
18 safety aspects of the pipeline in the Environmental
19 Impact Statement, in particular with reference to Irish
20 Standard 328 and, of course, through the statements of
21 evidence that have been offered to hearing. In
22 particular, I draw your attention, Inspector, to the
23 relevant sections of the EIS as highlighted in
24 statements of evidence delivered by Mr Bowdoin and
25 Mr Breen.

16: 46

16: 46

16: 46

16: 47

26
27 So the issue of safety on the pipeline has been
28 addressed comprehensively, both in the Environmental
29 Impact Statement and in the proceedings of the oral

1 hearing.

2
3 The QRA which has been referred to, is required by at
4 CER as part of its comprehensive and ongoing assessment
5 of the design of the pipeline and, as has been 16: 47
6 intimated to this hearing, the QRA will be addressed
7 and considered by that body in due course.

8
9 In those circumstances, Inspector, in my submission, it
10 is a matter of fact there simply is no basis for the 16: 47
11 argument being made that any aspect, whether related to
12 safety or any other issue, will fall between any stools
13 in relation to the pipeline project.

14
15 Another issue that was raised was the issue of project 16: 48
16 splitting, and the European Court of Justice itself has
17 very clearly established what is meant by project
18 splitting. And, in fact, project splitting has
19 a specific meaning within the corpus of European
20 Community environmental law. In this particular 16: 48
21 respect, I would refer the Bord to the decision of
22 European Court of Justice in the case of Commission v.
23 Ireland and that is case number C-392/96. There the
24 court concluded at paragraphs 73 to 76 of its judgment
25 as follows, and I quote: 16: 48

26 *"As regards the cumulative effect of projects it is to*
27 *be remembered that the criteria and/or thresholds*
28 *mentioned in Article 4.2 are designed to facilitate the*
29 *examination of the actual characteristics exhibited by*

1 a given project in order to determine whether it is
2 subject to the requirement to carry out an assessment
3 and not to exempt in advance of that obligation certain
4 whole classes of projects listed in annex II, which may
5 be envisaged on the territory of a Member State. The 16: 49
6 question whether in laying down such criteria and/or
7 thresholds a Member State goes beyond the limits of
8 discretion cannot be determined in relation to the
9 characteristics of a single project but depends on an
10 overall assessment of the characteristics of projects 16: 49
11 of that nature which could be envisaged in the Member
12 State concerned.

13
14 So, a Member State which established criteria and/or
15 thresholds at a level such that in practice all 16: 49
16 projects of a certain type would be exempted in advance
17 from the requirement of an impact assessment would
18 exceed the limits of its discretion under Articles 2.1
19 and 4.2 of the Directive, unless all the projects
20 excluded could, when viewed as a whole, be regarded as 16: 50
21 not being likely to have significant effects on the
22 environment. That would be the case where a Member
23 State merely set a criterion project size and did not
24 also ensure that the objective of the legislation would
25 not be circumvented by the splitting of projects. Not 16: 50
26 taking account of cumulative effect of projects means
27 in practice that all projects of a certain type may
28 escape the obligation to carry out an assessment when
29 taken together they are likely to have significant

1 *effects on the environment within the meaning of*
2 *Article 2.1 of the Directive".*

3
4 Accordingly, Inspector, it is clear, in line with the
5 submission that I made to you earlier, that the 16: 51
6 European Court itself has defined project splitting as
7 an attempt to escape from the obligation to prepare an
8 environmental impact statement. Far from escaping that
9 particular obligation, Shannon LNG has now prepared two
10 separate environmental impact statements, one in 16: 51
11 relation to the terminal planning application and one
12 in relation to the pipeline proposed development and
13 therefore the issue of project splitting simply does
14 not arise on this application.

15 16: 51
16 There was also reference made to decision of the
17 European Court of Justice in the Commission v. Ireland
18 decision which related, Inspector, to the Derrybrien
19 landslide which occurred and that decision was handed
20 down by the Court of Justice on 3rd July of this year. 16: 52
21 It is quite clear from even a cursory reading of that
22 decision that it was primarily concerned with the fact
23 that retention planning applications were permitted
24 without the requirement to ensure that an Environmental
25 Impact Statement was prepared and submitted. It was on 16: 52
26 that principal context that the Court of Justice ruled
27 that Ireland was in default of its obligations pursuant
28 to the Environmental Impact Assessment Directives.
29 There were other comments made by the European Court of

1 Justice in relation to those obligations and Ireland's
2 failure to transpose them, but those comments simply do
3 not apply to this case because, of course, there is no
4 retrospective approval being sought by An Bord
5 Pleanála. Rather the approval being sought by 16: 52
6 the developer is prospective and in that context the
7 developer has submitted its Environmental Impact
8 Statement with its application for approval to ensure
9 that An Bord Pleanála, when making its decision, has
10 all the relevant environmental information before it. 16: 53
11 And, of course, while that Environmental Impact
12 Assessment is adequate for the terms of the Directive
13 and no serious challenge has been made to it in this
14 process, it is, of course, the case that that statement
15 has been expanded upon and adumbrated to a certain 16: 53
16 extent by the statement of evidence that have been
17 delivered to the hearing.

18
19 In is in that context, Inspector, that five specific
20 issues were posed by the Bord in its general circulated 16: 53
21 order of proceedings and notes for the Applicant's
22 particular attention and a review of the evidence
23 offered at this oral hearing will establish, in my
24 respectful submission, that all five of those specific
25 topics were mentioned. 16: 54

26
27 Firstly, the criteria for route selection and the
28 issues relevant to the possibility of linking to the
29 ESB generating stations at Tarbert and Moneypoint. You

1 will find, Inspector, from a review of statements of
2 evidence given by Mr Power and by Mr Mangan that those
3 issues have been dealt with in full.

4
5 Secondly, the impact of the proposed development on 16: 54
6 hydrology, hydrogeology and ground stability,
7 particularly in areas of peat land together with
8 proposed mitigation measures and consequent residual
9 impact and the potential impact of hydrology on ground
10 stability on the operation of the development have been 16: 54
11 dealt with by Mr Redding and again by Mr Breen.

12
13 Similarly, issues in relation to how and where
14 excavated peat and other materials would be stored,
15 disposed of or recovered on a temporary or permanent 16: 54
16 basis and the volume and nature of such material was
17 dealt with by Mr Breen. The cumulative impacts of the
18 current proposal, the AGI and pipeline and the already
19 permitted terminal development was dealt with in
20 considerable detail by Ms Lyden in her statement of 16: 55
21 evidence and table contained therein.

22
23 Finally, the issue community gain and, in particular,
24 the beneficiaries purpose and duration of any community
25 gain contribution have been dealt with by Mr McGann. 16: 55
26 And pursuant to the suggestion made by you, Inspector,
27 proposed wording in that respect was drafted on behalf
28 of my client, circulated to the planning authorities
29 and they have indicated that they find that wording

1 acceptable although, of course, it is a matter for An
2 Bord Pleanála in the circumstances where it grants
3 approval to decide whether to attach that condition or,
4 indeed, any other condition.

16: 55

5
6 Indeed, in relation to the issue of excavated peat and
7 other materials, I am reminded that in addition to
8 Mr Breen, Mr Mangan also addressed that particular
9 issue and solace can be found in that respect in his
10 statement of evidence.

16: 55

11
12 In those circumstances, Inspector, there remains one
13 final aspect and that is the issue of cost that was
14 raised latterly by one of the objectors as if it was
15 a difficulty when it comes to the Bord's consideration
16 of these issues. I would refer the Bord in that
17 respect to the decision of the High Court, Clarke J in
18 the decision of Lord Ballyedmond v. The Commission for
19 Energy Regulation where it is readily apparent that the
20 issue of cost is an appropriate consideration for an
21 undertaker when deciding upon which of a number of
22 alternative routes to consider. And while it is not
23 the sole criterion, it is a relevant criterion in that
24 consideration, and there is no difficulty whatsoever in
25 considering cost as one of the many issues that were
26 considered in relation to the preferred corridor route.
27 And again you will see from Mr Mangan's statement of
28 evidence, a full list of the many considerations that
29 were weighed in the balance in that regard.

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In those circumstances, Inspector, I would ask that the two applications currently before the Bord would be approved. Firstly the application pursuant to Section 215(a) relating to the compulsory acquisition of five named wayleaves. And secondly, Inspector, that the Bord would grant approval pursuant to the application made under Section 182(d) for the proposed strategic gas infrastructure, namely the pipeline, associated AGIs and other installation. Thank you for your time, Inspector.

16:57

16:57

MR FITZSIMONS CONCLUDED

INSPECTOR: Thank you, Mr Fitzsimons.

16:57

MR McELLI GOTT: Inspector, I had just --
[INTERJECTION]

INSPECTOR: I am afraid the submissions are finished now.

MR McELLI GOTT: No, it is just do you want a written copy my submissions?

16:57

INSPECTOR: Oh, sorry. Yes, I think that would be helpful for the stenographer.

16:58

INSPECTOR: Following this hearing a report will be prepared and presented to the Bord who will make a determination on the CAO and planning applications based on the

1 evidence on file and the reports submitted. No further
2 written submissions will be accepted after this
3 hearing. All parties will be notified of the Bord's
4 decision.

16:58

5
6 Finally, I would like to thank all the participants for
7 your time, which I know is not easy, and the manner in
8 which you have conducted yourselves. So, there is
9 nothing left but for me to say that the oral hearing in
10 relation to PL.08.DA0003 and PL.08.GA.0003 is now
11 closed. Thank you.

16:58

12
13 THE HEARING CONCLUDED

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