

ORAL HEARING

PROPOSED LIQUEFIED NATURAL GAS (LNG) REGASIFICATION
TERMINAL LOCATED ON THE SOUTHERN SHORE
OF THE SHANNON ESTUARY IN THE TOWNLANDS
OF RALAPPANE AND KILCOLGAN LOWER, CO. KERRY

HEARD BEFORE THE INSPECTOR,

MR. ANDREW BOYLE

ON WEDNESDAY, 30TH JANUARY, 2008

AT THE BRANDON HOTEL, TRALEE, CO. KERRY - DAY 8

I hereby certify the
following to be a true
and accurate
transcript
of recordings of the
evidence in the
above-named action.

8

APPEARANCES

KERRY COUNTY COUNCIL: MR. T. SHEEHY

FOR THE APPLICANT
(SHANNON LNG): MR. HUGH O'NEILL SC
MR. JARLATH FITZSIMONS BL

INSTRUCTED BY: NICOLA DUNLEAVY
SOLICITOR
MATHESON ORMSBY PRENTICE

OBJECTORS: MR. J. McELLI GOTT
MS. GRIFFIN
MR. NOEL LYNCH
MS. JOAN MURPHY
MR. DONNCHA FINUCANE
MS. EILEEN O'CONNOR
MR. E. McELLI GOTT
MRS. LILY O' MAHONY
MR. RAYMOND O' MAHONY
MR. TIM MAHONY
MR. THOMAS O' DONOVAN
MR. MICHAEL FINUCANE
MR. RICHARD O' SULLIVAN
MR. DES BRANIGAN

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1 THE HEARING RESUMED, AS FOLLOWS, ON WEDNESDAY 30TH
2 JANUARY, 2008

3
4 **INSPECTOR:** Good morning everybody. If
5 you could just take your 00: -52
6 seats please. This is Day 8 of the Shannon LNG oral
7 hearing. Yesterday we broke early because
8 Mr. McElligott and certain other people felt that they
9 hadn't had time to prepare their final submissions, so
10 we are now going to resume and, hopefully, they will be 00: -52
11 in a position to speak at this stage. So, I am going
12 to call on anybody else who wishes to make a final
13 submission. Mr. O' Donovan.

14
15 MR. THOMAS O' DONOVAN PRESENTED HIS CLOSING SUBMISSION 00: -52
16 AS FOLLOWS:

17
18 **MR. O' DONOVAN:** Thank you, Mr. Inspector.
19 This is my final
20 submission. It has now been accepted by the most 00: -51
21 skeptical and compromised of climatologist since Rachel
22 Carson's gloomy prediction of a silent spring that
23 global warming is here now, as summers in the last
24 eight to ten years are the hottest on record, leading
25 to great loss of human life in Southern Europe, in 2005 00: -51
26 I believe. The polar icecaps are melting at an
27 alarming rate and as this is predicted to raise sea
28 levels considerably we cannot escape this catastrophe
29 in Ireland either. Hence, all proposed major

1 structures close to coast or estuary should take
2 account of this while in the planning stages.

3
4 Competition and liberalisation are two main pillars of
5 the EU law and as we are now no longer a sovereign or 00: -50
6 independent state we must abide by those laws. Could
7 we experience a scenario where Hess LNG was partially
8 or fully constructed and brought before the European
9 Court of Justice by the oil and coal lobby for
10 violating those laws, maybe dragging on for years? As 00: -50
11 Minister Eamonn Ryan envisages energy from renewable
12 sources reaching 42%, will he be charged with trying to
13 create a monopoly from wind, tide, solar, carbon
14 neutral and wood fuel? There is also a natural and
15 moral law which should supersede human law. No amount 00: -50
16 of money or human resources can create a clean cup of
17 drinking water or recreate a species once extinct.

18
19 The Vatican is a carbon neutral state now and the
20 present Pope has made it a moral obligation on all 00: -49
21 catholics to mitigate climate change and do whatever we
22 can to keep the world as it is.

23
24 The landbank and adjacent estuary is presently
25 supporting numerous species of bird, animal and fish 00: -49
26 life and as these are the real experts in this equation
27 and as they are sensitive to minute chemical and
28 man-created changes, which haven't happened in this
29 area for at least 40 year, because it has been

1 preserved, I propose that a more extensive study be
2 done by a qualified and independent environmental
3 agency, funded by the EU, to preserve in situ this
4 unique, unspoiled and organic site.

00: -48

5
6 I want to thank you, Mr. Inspector, for allowing me to
7 speak and for being very fair in this oral hearing for
8 the planning process. Thank you.

9
10 **END OF SUBMISSION**

00: -48

11
12 **INSPECTOR:** Do we have another speaker?

13
14
15 **MARY KELLY-GODLEY PRESENTED HER CLOSING SUBMISSION AS**
16 **FOLLOWS:**

00: -48

17
18 **MS. KELLY-GODLEY:** Mr. Inspector, ladies and
19 gentlemen, my name is Mary
20 Kelly-Godley. It wasn't my intention to speak here
21 today, as I don't like public speaking, but after
22 sitting here over the last eight days I feel I need to
23 make my feelings known.

00: -48

24
25 On Friday last, when we saw photos of the LNG storage
26 tanks superimposed on our landscape, I think it really
27 hit home with me for the first time just how much the
28 residents of the Kilcolgan area will actually be giving
29 up. I feel deeply saddened that if planning permission

00: -48

1 is granted we will never again be able to get up in the
2 morning and look out of our windows without being
3 instantly reminded that Shannon LNG are here.

4
5 I have a young family and I recently had a new baby. 00: -47
6 We also built a new house last year. At the moment I
7 am maternity leave, but after that I will be looking
8 for a new job. So I think I qualify as being one of
9 the people that the various members of the Tarbert
10 Development Association, the Tarbert Chamber of 00: -47
11 Commerce and Ballylongford Enterprise Association are
12 deeply concerned about.

13
14 I am not against industry on the Landbank. In fact,
15 even as a child I always felt something should be done 00: -46
16 with it. Like everyone else in our community, I too
17 remember all the white elephant stories that came to
18 nothing. So initially, when I got over the here we go
19 again feeling, I was just as excited as everyone else
20 when I thought there was going to be a real proposal 00: -46
21 put forward for the Landbank. That was until the day I
22 typed "LNG" into my computer and it brought up a
23 phenomenal number of web sites. When I revised my
24 search to "Danger LNG" I got a list of over 789,000 web
25 sites. So, even though I am certainly in need of a 00: -46
26 job, and it would suit me perfectly to work on my own
27 doorstep, near my mother, who helps me with my
28 children, but in order to do this I have to wake up
29 every day and look at our blighted landscape, while

1 also living with the fear and uncertainty of a Roman
2 candle type catastrophe. I am the mother of two young
3 children and I am deeply concerned about their safety.
4 When I have to get up and travel to work every day I
5 will just have to hope that they will all be okay when 00: -45
6 I return home in the evening.

7
8 They said there could never be an accident at
9 Chernobyl. But there was. Tarbert power station was
10 also deemed to be totally accident proof, but from 00: -45
11 bitter experience we now know that this was an overly
12 optimistic view. I want Shannon LNG to be made to
13 admit that there is a real risk to our safety.

14
15 We have been denied funding to help bring our case to 00: -45
16 this oral hearing. We have all contributed our own
17 time and our own money to this cause. I think we need
18 to be reimbursed for our numerous expenses. This
19 project has been fast tracked through the planning
20 process and I feel we are being very unjustly treated. 00: -44

21
22 Members of Kerry County Council have remained ominously
23 silent for a lot of this hearing. Their Fire Safety
24 Officer looked visibly relieved when he knew he was not
25 going to be asked any questions. 00: -44

26
27 In 2001, Kerry County Council refused Tarbert Renewable
28 Energy Limited planning permission to construct a wind
29 farm near the current application and yet now they are

1 perfectly happy with this much more dubious
2 development. At this time Tarbert Renewable Energy
3 Limited applied to Kerry County Council for permission
4 to construct a wind farm and associated works, however
5 this application was refused by the planning Department 00: -44
6 because they felt the development would be "seriously
7 injurious to the visual amenity of the area". They
8 also felt that it would be visually intrusive and would
9 create too much noise. Members of Tarbert Development
10 Association also backed up the council's claims by 00: -43
11 adding "It would lead to a depreciation in the value of
12 property in the area, as well as cause noise
13 pollution".

14
15 At the time Tarbert Renewable Energy Limited said they 00: -43
16 would source materials locally, give 1% of their annual
17 profit back to the community and offer local people the
18 opportunity of buying shares in their wind farm. I
19 think Shannon LNG should, at least, match this offer.

20 00: -43
21 I would sincerely like to know how Kerry County Council
22 felt that 23 wind turbines were more obtrusive to the
23 landscape than four 60.5 metre high concrete tanks,
24 with various pumps and appendages attached to them. It
25 was also cited on this previous application that there 00: -42
26 would be some noise pollution within 200 metres of the
27 wind turbines. How do Kerry County Council justify
28 saying that this was unacceptable noise pollution and
29 yet now they don't feel that blasting rocks on the

1 shoreline 24 hours a day is hazardous to my family's
2 mental and physical well being? Why don't Kerry County
3 Council now feel that the massive amount of
4 inconvenience that we will have to endure doesn't
5 constitute more noise pollution than the minimal noise 00: -42
6 caused by wind turbines?

7
8 This is another quote from Mr. Dea of Tarbert
9 Development Association. In 2001 he said:

10 "1% of the profits means nothing when 00: -41
11 you are talking about quality of life.
12 Money just won't compensate for that."

13 Why aren't Tarbert Development Association now worried
14 about our view, our noise pollution or the same
15 wildlife that they felt would be adversely affected by 00: -41
16 a wind farm?

17
18 Mr. Sheehy stated yesterday that Kerry County Council
19 will be getting in excess of 12.6 million from this
20 project, before even taking into account annual 00: -41
21 commercial and water rates. The local community of the
22 Tarbert will also get 200,000 annually and yet we are
23 use losing our view, our peace of mind, our property
24 values and possibly our lives and they did not feel we
25 need anything. This makes me feel sick, as if we have 00: -40
26 now been sold out to the highest bidder.

27
28 Then when I heard Kerry County Council wanted the
29 community to have €80,000 per annum for art I felt they

1 were being ironic. Is this because we will now no
2 longer be able to enjoy our own views of the Shannon?
3 Do they think that this will help cheer us up when we
4 are feeling understandably depressed? We can look at
5 the paintings of what we once used to be able to enjoy 00: -40
6 for ourselves. I think that any money given back to
7 the community by Shannon LNG should be administered
8 through the Killologan Residents Association. We are
9 taking the biggest risks, we are going to be at a
10 financial loss due to the devaluation of our properties 00: -40
11 and our increased house insurance premiums. Not to
12 mention the mental stress this development is bringing
13 to us. Mr. Inspector, I think it is only fair that we
14 should have a large say in how community money should
15 be spent. 00: -39

16
17 My parents are retired farmers and they have valuable
18 sites, which they always knew were there if they ever
19 needed extra money for their retirement. But now who
20 is going to buy a site with a view of four 00: -39
21 monstrosities of concrete tanks, with the possible
22 bonus of an industrial gas pipeline running underneath
23 their backyard? I am deeply saddened by this. This
24 farm has been in our family for over 200 years. If
25 planning permission is granted their land becomes 00: -39
26 worthless overnight. I think my Mom and Dad deserve to
27 be adequately compensated for this.

28
29 As stated, myself and my husband have a sizable

1 mortgage, which is normal these days. If planning
2 permission is granted we are looking at a situation
3 where our mortgage will exceed the value of our house.
4 I think Shannon LNG need to compensate us for this,
5 along with everyone else in the Killorgan area.

00: -38

6
7 American studies have indicated that when an LNG
8 terminal is under construction there is an influx of
9 foreign labour into an area. For example, in Dragon
10 LNG's plant in Wales a lot of the construction workers
11 are Portuguese. This in turn can lead to an increase
12 of crime in the area. We do not have adequate policing
13 services to deal with this. Therefore, I feel research
14 needs to be done in this area and funding needs to be
15 made available by the Government or Shannon LNG to
16 provide extra security measures for this area.

00: -38

00: -37

17
18 At the moment my seven-year-old daughter gets on the
19 school bus directly across the road from one of the
20 proposed entrances to the site. I think there needs to
21 be very strict traffic conditions put in place relating
22 to the movement of heavy vehicles at the time the
23 children get on and off the school buses.

00: -37

24
25 I would like it put on record that I am totally opposed
26 to the blasting of rocks at night, as I think, with
27 everything else we are going to be forced to put up
28 with, we deserve a nights sleep.

00: -37

1 We are just a quiet rural community, who are having all
2 this forced upon us. My father has lived in
3 Carhoonakilla all his life. Now, he and my mother,
4 will have to spend their retirement putting up with
5 dust, noise, and traffic whizzing past 24 hours a day 00: -36
6 for possibly ten years. My daughter could be leaving
7 for college before the construction work finishes. My
8 son will never know the peaceful area we once lived in.
9 So now I am calling upon you, Mr. Inspector, to please
10 give us some form of justice because nobody else is 00: -36
11 listening to us or nobody else seems to care what our
12 families now have to sacrifice. Thank you very much,
13 Mr. Inspector.

14
15 **END OF SUBMISSION** 00: -36

16
17 **INSPECTOR** Thank you Ms. Kelly-Godley.
18 Do we have another
19 contributor? Mr. Kearney.

20 00: -36
21 **MR. ADAM KEARNEY PRESENTED HIS CLOSING SUBMISSION AS**
22 **FOLLOWS:**

23
24 **MR. KEARNEY:** It is pretty brief.
25 Inspector, ladies and 00: -35
26 gentlemen, I have sat here for eight days and I have
27 listened to almost all of what has been said. Having
28 reflected last evening the following comprises my
29 concluding submission.

1 The project before us is a large scale hazardous
2 development. It contains many risks and few long term
3 jobs. This LNG terminal is unnecessary for Ireland.
4 It will not guarantee security of supply but will
5 merely enhance it. What is required as part of the 00: -35
6 National Development Plan is a national gas storage
7 facility, a facility which is already in train at
8 Kinsale. As long as this can meet the stated national
9 reserve requirements as laid down by Central Government
10 it should suffice as a buffer in the event of a 00: -35
11 temporary supply interruption. Our primary supply at
12 the moment is from the UK, through interconnectors and
13 supplemented by an existing indigenous supply from
14 Kinsale. Additional supply capacity is due to come on
15 stream from the Corrib field. For all our history with 00: -34
16 the United Kingdom, I cannot envisage any credible
17 circumstance where intentional disruption to our
18 connectivity to the European gas grid will occur.

19
20 Tarbert and Money Point power stations have been 00: -34
21 mentioned on several occasions as some how mitigating
22 in favour of the siting of an LNG plant at this
23 location. It should be realised that we are at a
24 tipping point. Peak oil and gas will be upon us before
25 long and we as a nation will be forced to seek 00: -34
26 alternatives, most likely in the form of renewable
27 energy. In the next few decades Money Point and
28 Tarbert will become relics of our dependence on fossil
29 fuels. Do we want to add yet another unsightly edifice

1 destined for redundancy before it becomes operational?

2
3 The terms "Greenhouse Gas" and "climate change" are no
4 longer the reserve of environmentalist. They are very
5 real issues for the here and now. The EU have only 00: -33
6 this week published a proposed Directive, to be
7 implemented in 2010, that would see us increase our use
8 of renewable energy to 20% and, depending on what
9 transpires in Copenhagen in 2009, this may well
10 increase to 30%. These are tangible targets, but 00: -33
11 targets that will not be realised by adding further to
12 our fossil fuel based infrastructure.

13
14 With regard to the landbank, it is incumbent upon
15 Shannon Development and Kerry County Council to realise 00: -33
16 the full potential of these lands. In my opinion, this
17 can only be truly achieved by the adoption of a master
18 plan or integrated area plans to encompass all the
19 lands and the foreshore. First and foremost the zoning
20 designation should be addressed anew and only decided 00: -33
21 following a public consultation process with all
22 stakeholders. Following on from this an overarching,
23 integrated plan can then be compiled.

24
25 However, industrial zoning is not my preferred option. 00: -33
26 Primarily, and notwithstanding this current opportunist
27 proposal, Ireland's attractiveness as a location for
28 manufacturing and heavy industry has been usurped by
29 eastern Europe, China and other low cost economies. We

1 are now very much a knowledge based economy. Financial
2 services, research and development, invasion and
3 leisure and tourism are sectors that are currently
4 thriving. In light of this reality, my suggestion
5 would be for the rezoning of these lands to 00: -32
6 leisure/tourism. It is after all only a matter of
7 months since a consortium wishing to construct a golf
8 course with ancillary hotel and holiday accommodation
9 at Carrickfoyle/Ballylongford withdrew their interest
10 due to land acquisition difficulties. Surely this 00: -32
11 interest could be resurrected, with Kilcolgan as the
12 location of choice for such a labour intensive industry
13 that would complement and augment the receiving
14 environment?

15 00: -31
16 I would propose a 36 hole golf course, 200 to 300
17 bedroom hotel, with spa and conference facilities,
18 ancillary holiday village, leisure activities to
19 include, but not limited to, equestrian sports, marine
20 activities, including dolphin watching, and nature 00: -31
21 walks, etc. A newly constructed port could receive
22 cruise liners if the scale of any self-contained resort
23 was sufficient to attract such interest. This
24 proposal, in this location, could be successful and
25 would create many hundreds of jobs directly and many 00: -31
26 hundreds more indirectly, as well as attracting
27 substantial amounts of tourists into the region. It
28 would be sustainable and create a long-term revenue
29 stream. It would also attract ancillary business to

1 the area. This would accord more with the policies
2 referred to this week than would a Seveso site,
3 employing 40-odd people, at a sensitive riparian
4 location. All that is required is the vision to make
5 this happen by all concerned parties.

00: -30

6
7 In summation, Inspector, and to use the inverse mantra
8 to Mr. Power, this is the wrong project in the wrong
9 place at the wrong time. Thank you.

00: -30

10
11 **END OF SUBMISSION**

12
13 **INSPECTOR:** Thank you Mr. Kearney. Do
14 we have another
15 contributor?

00: -30

16
17 **MRS. LILY O' MAHONY PRESENTED HER CLOSING SUBMISSION, AS**
18 **FOLLOWS:**

19
20 **MRS. O' MAHONY:** We, John and Lily O' Mahony,
21 came here to the oral
22 hearing because we had serious doubts about the safety
23 of it. Our doubts have become a reality with the
24 evidence presented here. We believe it is even more
25 dangerous than ever expected. We are both now retired
26 and cannot understand why we should have to spend the
27 rest of our days living in fear. This is not
28 acceptable.

00: -30

00: -30

1 As far as we can see, issues regarding an LNG plant
2 here have been railroaded through at a tremendous rate
3 and I wonder why. We believe that the safety issues
4 that LNG have presented here are not convincing enough
5 for us to change our minds. So we are saying that the 00: -29
6 proposed LNG project, if it goes ahead, our way of life
7 as we know it will be in turmoil forever more. We also
8 believe that this project, if it was in the national
9 interest, where are our elective representatives?

10
11 Will we have to relive our fears forever? We believe
12 that LNG have no knowledge whatsoever of our local
13 area. Thank you Mr. Inspector.

14
15 **END OF SUBMISSION** 00: -29
16

17 **INSPECTOR:** Thank you Mrs. O' Mahony.
18 Did you have some
19 photographs?

20 **MRS. O' MAHONY:** My son has photographs of 00: -28
21 his house, but when he
22 gives his submission he will deal with it. Thank you.

23 **INSPECTOR:** Do you wish to speak now
24 Mr. O' Mahony?

25 **MR. O' MAHONY:** No, if someone wants to 00: -28
26 speak before me.

27 **INSPECTOR:** Anybody else? The lady at
28 the back?

29

1 MS. KATHLEEN KELLY PRESENTED HER CLOSING SUBMISSION AS
2 FOLLOWS:

3
4 MS. KELLY: Mr. Inspector, Ladies and
5 gentlemen, my name is 00: -28
6 Kathleen Kelly. Early this month my many husband and I
7 celebrated our ruby wedding anniversary. Those 40
8 years spent in Carrohnakilla have been very happy ones
9 for me, living in the peaceful picturesque country side
10 of the Shannon Estuary. The house were I live was 00: -28
11 built by my husband's grandfather in the early 1900's
12 and the family have lived in the area for over 200
13 years. Our three children were reared there, of whom
14 still reside in the immediate area, as do three of our
15 four grandchildren, whose ages range from 10 years to 4 00: -27
16 months.

17
18 I awake in the mornings to the sweet singing of the
19 birds and the gentle murmur of the Shannon. I always
20 presumed that things would remain so for the rest of my 00: -27
21 life. It saddens me to think that all this tranquility
22 could change in a very short time. should LNG get the
23 green light for the construction of the gas terminal
24 the bird song will be replaced by the blasting of rock.
25 I will be subjected to at least 170 trucks per day 00: -27
26 passing me in my house, in addition to the noise
27 created by the vans and cars transporting workers to
28 and from the site. My scenic view will be replaced by
29 four monstrous gas storage tanks. My safety and peace

1 of mind will be compromised by the arrival of large
2 numbers of strangers into our area. I will no longer
3 be able to enjoy a walk along the road or down to the
4 shore, which I do regularly at the moment, either on my
5 own or accompanied by my grandchildren. Prison-like 00: -26
6 fences are to replace hedgerows along the perimeter of
7 the LNG site. In addition to all this, I have been
8 told that the gas pipeline may be going through our
9 land, adjacent to our dwelling house. What a
10 nightmare. Our property will be devalued. Our home 00: -26
11 may not even be insurable. When the plant is in
12 operation the fear of an accident will be constantly
13 uppermost in people's mind.

14
15 I have been sitting here at this oral hearing listening 00: -26
16 to different views on the proposed development. On
17 Monday Karl Dixon spoke of the impact the plant would
18 have on the macro invertebrates due to loss of habitat.

19 "The impact is likely to be locally
20 moderate and regionally negligible." 00: -25

21
22 It made me wonder. If Kilcolgan was the chosen site
23 because it is an area of low population density, should
24 an accident occur a large number of people would not be
25 affected, so it really would not make a difference in 00: -25
26 the great scheme of things. Does Mr. Dixon's quote
27 equally apply to human life? Just a frightening
28 thought.

1 In recent months people are constantly sing the song
2 "we need jobs". I agree entirely with this sentiment,
3 but not with the idea of jobs at any price. On the
4 area the size of the Landbank, our Landbank, up to 50
5 jobs is not significant. If the good people of Tarbert 00: -25
6 and Ballylongford, who drive to Listowel and Tralee
7 regularly to buy their groceries and fuel their cars,
8 supported their local shops and petrol stations they
9 could go a long way in providing those 50 jobs. In
10 order for a small town to provide it needs the support 00: -24
11 of the resident community. Shopping locally would also
12 help the environment, as there would not be a need to
13 drive the 56 mile round trip to Tralee.

14
15 Should the proposed LNG project be granted planning 00: -24
16 permission nothing could compensate me for loss of
17 peace of mind and the deterioration of my quality of
18 life. I do not want this dangerous industry across the
19 road from me, but if it is forced upon me the very
20 least I should expect is to be compensated for the 00: -24
21 devaluation of my property and a decent nights sleep by
22 placing of curfew on construction work at night.

23
24 I am just an ordinary person living at the moment in
25 small, quiet rural community, I do not have the 00: -24
26 resources or the scientific knowledge to challenge a
27 multinational company like SLNG. I am placing my fate
28 and my faith in your hands, Mr. Inspector, and in An
29 Bord Pleanála to ensure that my rights as an Irish and

1 European citizen are not trodden on. Why should my
2 safety be compromised to allow Shannon LNG, Kerry
3 County Council and a few greedy property developers
4 make large sums of money, and in the process further
5 damage our ever decreasing ozone layer? Thank you for 00: -23
6 your time.

7
8 END OF SUBMISSION

9
10 **INSPECTOR:** Thank you, Ms. Kelly. Do 00: -23
11 we have another
12 contributor?

13
14 MRS. BEATRICE MAHONEY PRESENTED HER SUBMISSION AS

15 FOLLOWS: 00: -23

16
17 **MRS. MAHONEY:** Good morning,
18 Mr. Inspector, Ladies and
19 gentlemen. My name is Beatrice Mahoney and I am
20 speaking on behalf of my husband also, who can't be 00: -22
21 here, Tim Mahoney. It is my fifth day here and on
22 hearing all the different views safety is still our big
23 one. It is still very serious, we have seen it on the
24 video. We are very worried about the blasting. We
25 know North Kerry needs jobs badly, but LNG is providing 00: -22
26 50 jobs when it is finished and we feel there won't be
27 enough people qualified. As advertised on the paper,
28 they are telling us 7 to 10 years. We are also worried
29 about the traffic. 500 vehicles per hour we are told.

1 It is very hard to imagine.

2

3 One other point. A lot of them have been covered
4 already so I won't go over them again. Mainly on
5 questions from different health and safety County
6 Council planning authority. I found it very unusual
7 that nobody had a question. Thank you Mr. Inspector.

00: -22

8

9 **END OF SUBMISSION**

10

00: -21

11 **INSPECTOR:**

Thank you Mrs. Mahoney.

12

Any further contributors?

13

14 **MS. MARGARET FITZELLE PRESENTED HER CLOSING SUBMISSION**

15 **AS FOLLOWS:**

00: -21

16

17 **MS. FITZELLE:**

Mr. Inspector, my name is
Margaret Fitzelle. I have

18

19 I lived Glenkilare, Tarbert, which is adjacent to
20 Kilcolgan, for the past 32 years. When I came to
21 Tarbert it was a thriving area, with the ESB giving
22 great employment. Unfortunately, that has change with
23 the demise of the station and the subsequent loss to
24 the area. We have had many promises for the Landbank
25 over the past number of years and nothing has come to
26 fruition. I now look forward to the approval of
27 planning and I am much in favour of the proposal.
28 Thank you, Mr. Inspector.

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00: -21

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END OF SUBMISSION

INSPECTOR: Thank you Ms. Fitzelle.
Any further contributors?

00: -20

MR. ALAN FITZELLE PRESENTED HIS CLOSING SUBMISSION AS
FOLLOWS:

MR. FITZELLE: My name is Alan Fitzelle.
I live in Glenkilare,
Tarbert, which overlooks the land bank. I have lived
in the area all my life and my family have lived there
for over 300 years. I was employed in the ESB for
almost 40 years and I am well aware of the benefits
industry brings to an area. We have lived with
promises in relation to the landbank for many years and
I welcome LNG and I wish them a successful outcome to
the planning application. Thank you.

00: -20

00: -20

END OF SUBMISSION

00: -20

INSPECTOR: Thank you Mr. Fitzelle.
Anybody else? Ms. Murphy?

SUBMISSION FROM CNM SAFETY PRESENTED BY MS. MURPHY:

00: -20

MS. MURPHY: Mr. Inspector, I would like
to make a submission on
behalf of CNM Safety. Unfortunately, she had to go to

1 the hospital this morning and couldn't be here herself,
2 so she e-mailed me on this.

3
4 "I have been living and working in the Shannon Region
5 all my life. I am currently involved in training 00: -19
6 workers in safety procedures for the workplace. The
7 Health and Safety Authority and the Department of the
8 Environment regulate this training and are very
9 stringent in their approach to health and safety, in my
10 experience. 00: -19

11
12 As a native of the area, an employer and a mother, I
13 want this area to develop in a way that is good for the
14 local communities and the environment. I welcome this
15 development as it is needed by the area and needed by 00: -19
16 the country.

17
18 I attended most of the health and safety modules last
19 week, during this oral hearing, and I am satisfied that
20 this industry can be a clean, safe industry and I 00: -19
21 welcome it. I regret that due to family illness I am
22 unable to attend today".

23
24 Thank you Mr. Inspector.

25 00: -19
26 **END OF SUBMISSION**

27
28 **INSPECTOR:** Thank you, Ms. Murphy.
29 Anybody else?

1 Mr. McElligott, do you wish to?

2
3 MR. RAYMOND O' MAHONY PRESENTED HIS CLOSING SUBMISSION,
4 AS FOLLOWS:

5
6 **MR. O' MAHONY:** Raymond O' Mahony is my
7 name. In my final
8 submission I, Raymond O' Mahony, speak on behalf of
9 myself, my wife Margaret, my daughter Shannon, aged 7,
10 my son Jamie, aged 5, and Baby Molly, who is 10 months
11 old. 00: -18

12
13 We believe that if this project, this proposed LNG
14 terminal goes ahead our lives will change forever. The
15 first I heard of LNG was at a meeting in Ballylongford 00: -18
16 and at that meeting people were excited. Even myself I
17 must admit.

18
19 Ballylongford Development stated clearly at the meeting
20 that Shannon LNG would not meet individuals and that 00: -18
21 any questions or meetings would have to be brought
22 through the Bally or Tarbert Developments, and that
23 they would only meet with a group. Also at that
24 meeting it was proposed that a local farmer would be
25 put on the Committee as a representative for the 00: -17
26 locals. I heard, about a month later, a farmer who was
27 about seven miles from the site was put on the
28 Committee. Is that considered local? Not in my eyes
29 anyway.

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That is when I smelt a rat. Since that meeting to the present day I have never seen any representative of Bally or Tarbert Development call to my house to speak about the LNG terminal, as I am straight across the road from it. Whether it was their job or not, it is always easier to speak to one someone you know than someone you don't know.

00: -17

As time went by locals were not that happy. The representatives of LNG then started to call. Their visits were short and brief and booklets were given out. Questions were never really answered. The local people of the area decided that they would have their own local meetings, because we felt left out.

00: -17

Development groups on both sides were taken to LNG terminals and we were never informed on information on what happened there, either from LNG or development groups.

00: -16

I did a bit of research myself and was not impressed. At local meetings I would show my research and at first people would always say I was making it up and "who told you that?". I even fell out with my Father and Uncle over it. It was only when others did the same that things started to change, that local people did not like the idea of it. Two or three days before one of our local meetings I was visited by two LNG representatives. I told them that people were not

00: -16

00: -16

1 happy and going to object to the project. They asked
2 why and I told them, and the reasons for it.

3
4 At our local meeting on that Friday night, the same
5 week that I met with the two LNG representatives, was a 00: -16
6 free trip to Barcelona for six locals. Everybody was
7 delighted. Three only went. I didn't go because I
8 would probably rock the boat and spoil it. Since then
9 I have not had a night that LNG wasn't mentioned or
10 wasn't on my mind. I have been researching LNG 00: -15
11 morning, noon and night, meeting people, phoning
12 people, asking people about it, and we as a family
13 still believe it is not safe for us to live there.
14 My son often says "when it does come, Daddy, are we
15 going to blow up?". This is because he is so used to 00: -15
16 us going on about it all the time.

17
18 We believe that if this project comes my house will not
19 be a home anymore, because it will not feel safe and
20 the constant reminder when looking out my window, 00: -15
21 cutting the grass, painting the house, making the tea,
22 or whatever the case may be no matter what it will be
23 staring at me in the face. They are going to destroy
24 everything we are used to.

25 00: -14
26 As I have sat and listened to things that have gone on
27 here all week I believe that LNG are more interested in
28 the wildlife in this area than us. They have had
29 specialists on every animal you could think of,

1 concerned about the affects that it will have on them.
2 Animals do not speak. If they did I believe they would
3 say the same as me.

4
5 As I can speak people don't seem to listen. But the 00: -14
6 true facts remain the same: This is my home, my nest,
7 my bread and butter, it should not be overlooked and
8 ignored.

9
10 We were a lot happier in our own little world until we 00: -14
11 heard of LNG. Please leave us alone. Thank you. The
12 O' Mahony family.

13
14 **END OF SUBMISSION**

15 00: -14
16 **INSPECTOR:** Thank you, Mr. O' Mahony.
17 **MR. O' MAHONY:** I have photos to show.
18 This is my view at the
19 moment. This is what I will have to look at for the
20 rest of my life. Thank you. 00: -13

21 **INSPECTOR:** Mr. O' Mahony, I am sure the
22 applicants have a copy of
23 that photograph.

24 **MR. O' MAHONY:** They gave it to me.

25 **INSPECTOR:** Exactly. But we don't, so. 00: -13

26 **MR. O' MAHONY:** I will give you a copy.

27 (SAME HANDED TO THE INSPECTOR)

28 **INSPECTOR:** Thank you. Now,
29 Mr. McElligott, I think it

1 is down to you at this stage.

2
3 MR. JOHNNY MCELLIGOTT PRESENTED HIS CLOSING SUBMISSION
4 AS FOLLOWS:

5
6 **MR. J. McCELLIGOTT:** This is a closing
7 submission for the
8 Kilcolgan Residents Association. Mr. Inspector, Ladies
9 and gentlemen, on behalf of the Kilcolgan Residents
10 Association, the KRA, I would first of all like to 00: -12
11 thank Mr. Andrew Boyle of An Bord Pleanála for chairing
12 the oral hearing here over the last eight days. As
13 individuals he treated us with the greatest of respect.
14 His calm and patient impartiality inspired all of us.
15 I would like to thank the Brandon Hotel for providing 00: -12
16 us with excellent conference facilities. I would like
17 to thank the sound engineers of McElligott Systems, I
18 think it was -- who by the way are no relations to me
19 either, in case you are wondering -- they allowed
20 everybody to be heard, even if some people really 00: -12
21 needed no microphones at all. I would like to thank
22 the members of the statutory bodies who attended the
23 meeting for being participants and witnesses to these
24 proceedings. I would like to thank Dr. Declan Downey
25 for so eloquently showing to the outside world that we 00: -11
26 are not just a landbank, that there is a vibrant
27 community deeply rooted in the Kilcolgan area, going
28 back hundreds of years. Lastly, and most of all, I
29 would like to thank the people of Kilcolgan and the

1 surrounding townlands for their forbearance in this
2 very stressful episode. Contrary to the impression
3 that might be given by some local organisations and
4 individuals, our experience during this hearing has
5 only strengthened our confidence and resolve. We in 00: -11
6 the KRA would also like to thank all of the people of
7 Tarbert, Ballylongford and further afield who have
8 given us their full support.

9
10 This has been a truly shocking experience for us to 00: -11
11 have to endure. Out of nowhere Hess LNG had arrived,
12 announcing itself as the provider of a great source of
13 new development in our beautiful part of North Kerry,
14 bringing safe, clean industry to the landbank, with
15 lots of jobs. When we started asking questions it was 00: -10
16 like the "Emperors New Clothes". Pretend everything is
17 okay and it will be. Do not push Hess LNG too much
18 with awkward questions because they might just go away.
19 Our elected representatives could not do enough for
20 Hess LNG and did not seem willing to question them on 00: -10
21 any of the obvious safety issues that were becoming all
22 too clear.

23
24 At this oral hearing only one politician spoke out.
25 Our member of the European Parliament for Munster, 00: -10
26 Ms. Kathy Sinnott, reminded us that LNG is "both dirty
27 and dangerous" and stated quite clearly that it was not
28 in the national interest. No other politician even
29 thought the issue important enough to participate.

1
2 As for the local development associations in the nearby
3 villages, all they could see were the Euro signs in
4 their eyes. After a few enjoyable trips abroad to
5 visit other LNG terminals they could see no wrong in a 00: -09
6 company that had been the first to splash any real cash
7 around the area in a long time. Even the idea of
8 trucks driving through the centre of Tarbert during the
9 already dangerous school hours at a rate of one every
10 four to five minutes over several years does not even 00: -09
11 kick them into demanding a full dual-carriageway bypass
12 around Tarbert in the interest of safety, in case they
13 might lose some business in the town. We are dismayed
14 that the Ballylongford and Tarbert Associations could
15 not put together a fully integrated and advanced 00: -09
16 proposal for a proper dual-carriageway bypass of
17 Tarbert, as is the norm of other places.

18
19 We believe that, in addition to our written
20 submissions, the following issues have to be seriously 00: -08
21 taken on board by An Bord Pleanála in making its
22 decision on the project as they were highlighted
23 throughout the hearing:

24
25 1. The Health and Safety Authority has admitted quite 00: -08
26 clearly that there are safety issues that it is not
27 taking into consideration in its land use planning
28 advice to An Bord Pleanála and that it is currently
29 reassessing the proposed project.

1 We agree that a properly informed HSA is the competent
2 authority to make recommendations on safety, as long as
3 it takes the consequences of an accident into
4 consideration in its deliberations and not just the
5 probability of an accident. This, we believe, will 00: -08
6 require direction from An Bord Pleanála and should
7 include a marine based QRA that takes into
8 consideration an LNG spill on water and that takes into
9 consideration all other developments currently conduct
10 to project splitting. We should also consider that 00: -07
11 considering that an accident will never happen rather
12 than saying what if it happens, that is the approach
13 that should be used.

14
15 2. It is now blatantly obvious that what has come to 00: -07
16 the fore in this oral hearing is that Shannon
17 Development and Kerry County Council have absolutely no
18 regard for what happens to the remainder of the
19 landbank. No definitive report, studies or plans have
20 been completed for the landbank and none are planned. 00: -07
21 This is in direct contravention of the County
22 Development Plan, which states that these lands are:

23
24 "For a premier deep water port and for
25 major industrial development and
employment creation." 00: -07

26
27 Incidentally, the applicant tried to confuse the issue
28 yesterday by saying that a jetty, as is proposed for
29 this development, is the same as a port. However, in

1 the dictionary a port is defined as a harbour, whereas
2 a jetty is defined as a landing stage or small pier or
3 a construction built out into the water to protect a
4 harbour, river bank, etc. It must now be clearly
5 ascertained by An Bord Pleanála whether or not the 00: -06
6 proposed development will sterilise the remainder of
7 the Landbank, contrary to the aims of the current
8 Development Plans as detailed above and contrary to
9 proper and sustainable development of the entire
10 Landbank. In any case the Kilcolgan Residents 00: -06
11 Association has asked An Bord Pleanála to request that
12 Shannon Development present An Bord Pleanála with a
13 complete Development Plan for the development of the
14 entirety of the Landbank, to include all proposed deep
15 water port facilities, in the aim of creating large 00: -06
16 scale employment possibilities, as per the County and
17 Local Development Plans, so that this project may be
18 assessed in its overall context.

19
20 3. An application for development over 10 years is 00: -05
21 entirely unreasonable. The number of years given to
22 allow development should equate to the time it takes to
23 reasonably complete a development and it should not act
24 as a cushion for a "wait-and-see" approach to economic
25 considerations. 00: -05

26
27 4. We believe that the Seveso II regulations should be
28 used as the basic benchmark standard to be applied on
29 the estuary, as it does on land. The applicant made a

1 big issue during the week of where the Seveso
2 regulations applied, giving us the impression that they
3 would cut corners and safety considerations outside of
4 the establishment area covered by the Seveso directive.

00: -05

5
6 5. The area to be subjected to an emergency plan,
7 which must be tested at least every three years, should
8 be determined before deciding on the planning
9 application.

00: -04

10
11 6. In March 2007, slightly over 10 months ago, the
12 site was rezoned from secondary special amenity to
13 industrial. It is clearly expressed in the Kerry
14 County Development Plan that it is:

15 "...an objective of the Council to
16 protect the landscape of the county."

00: -04

17
18 The zoning designation of rural secondary special
19 amenity is defined as follows in section 11.2.8:

20 "The landscape of areas in this
21 designation is generally sensitive to
22 development. Accordingly, development
23 in these areas must be designed so as
24 to minimise the effect on the
25 landscape. Proposal designs should
26 take account of the topography,
27 vegetation, existing boundaries and
28 features of the area. Permission will
29 not be granted for development which
cannot be integrated into its
surroundings. Residential development
will be considered for people wishing
to establish a primary place of
residence, in accordance with the
provisions of section 3.3.7 of this
Plan."

00: -04

00: -04

1
2 Now, we would argue that just because the land was
3 questionably rezoned industrial for this project it
4 does not mean that the landscape characteristics have
5 changed, since no development has taken place on the 00: -03
6 site since the rezoning. We find it unbelievable that
7 any development 40 metres over Ralappane ridge could
8 even be considered.
9

10 7. We have petitioned the EU for condemnation of the 00: -03
11 rezoning of the land contrary to the SCA Directive. We
12 are confident that the EU will uphold our position
13 regarding the validity of the rezoning by Kerry County
14 Council. Realistically, An Bord Pleanála has a duty to
15 await the outcome of the EU petition and the 00: -03
16 corresponding complaint to the Office of the Ombudsman
17 as that will guide its decision on this application.
18

19 8. We refer the Inspector to An Bord Pleanála reports
20 on its decision R218581 on the combined waste and power 00: -02
21 facility at Ballard, Araglin, Fermoy, Co. Cork.
22

23 9. It is also obvious that the true picture of gas
24 storage in Ireland is not clearly understood. The
25 applicant fudged the issue on the storage of gas and 00: -02
26 the depleted gas fields there and it had to be pointed
27 out by us that the CER has granted a gas storage
28 licence to Marathon Oil Ireland Limited to meet the
29 full capability of its depleted Kinsale facility, which

1 has a capacity of 7 billion cubic feet available to
2 third parties. This is the first such storage facility
3 in Ireland and Bord Gáis Éireann has contracted to use
4 over 5 billion cubic feet of it.

00: -01

5
6 According to Mr. Ryan, in a Dáil debate on November
7 27th, 2007:

8 "No decision should be made without
9 having understood all these facts. We
10 are of the opinion that it is accepted
11 that from now until peak gas our my
12 primary source of foreign gas will be
13 via the interconnector from the UK,
14 which will add to our indigenous
15 supply. We question how we could even
16 consider selling this site of North
17 Kerry to an American multinational for
18 50 jobs and without even guaranteeing
19 supply."

00: -01

00: -01

15
16
17 10. We thank Shannon LNG for pointing out that the
18 site beat 17 other sites as a suitable deep water port
19 and note from yesterdays Irish Examiner that the Port
20 of Cork Authority want to move the container terminal
21 out of Tivoli, as they currently have limited space to
22 deal with a major increase in traffic. However, the
23 County Manager down there conceded he was concerned
24 because the road from the proposed new site from
25 Ringaskiddy was not updated in advance to
26 dual-carriageway standards and did not, therefore,
27 think the project should go ahead. We, therefore,
28 think that the landbank could be easily developed if
29 the supporting infrastructure was developed.

00: -01

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11. It is obvious from what we have heard all week that project splitting is still a current problem in this application and has not been dealt with to our satisfaction. This is also currently under petition to the European Union and we urge An Bord Pleanála to await its outcome before making a decision.

Dr. Jerry Havens flew over from America for this oral hearing to confirm the veracity of our reference to him on our submission confirming one unavoidable truth: LNG is a dangerous hazard. His visit in itself was an extremely powerful statement from one of the worlds most renowned LNG experts and we urge An Bord Pleanála to examine his submission very carefully, as it was not contradicted by the applicants, who clearly stated that they did not disagree with anything Dr. Havens said.

We thank Dr. Havens for the huge effort he made at such short notice and can only admire the fact that there are still people of honour around who search for the truth. He stated that for LNG tankers:

"...if cascading failures of the ships containments were to occur it could result in a pool fire on water with a magnitude beyond anything that has been experienced to my knowledge and, in my opinion, could have the potential to put people in harms way to a distance of approximately three miles from the ship. I have testified repeatedly that I believe that the parties that live in areas where this threat could effect them deserve to have a rational, science based determination made of the

1 potential for such occurrences, no
2 matter how unlikely they be
3 considered."

4 He stated that in siting terminals it was important to
5 consider the potential consequences of LNG releases 00: 01
6 from the terminal and from LNG ships.

7
8 This message was very simple and supported by video
9 evidence of the type of fire ball created by a spill of
10 less than 50m³ on the Falcon Test Series in 1987, shown 00: 02
11 by Dr. Havens for the first time ever in public.
12 The LNG container ships contain LNG 6,000 times more
13 than that.

14
15 The idea of forcing local people to live with the idea 00: 02
16 for the rest of their lives that an accident will cause
17 them certain death is a very grave proposition indeed.
18 It is certainly not something to be laughed at. The
19 CEO of Hess LNG, Gordon Shearer, certainly seemed to be
20 very amused at this hearing on Friday, January 25th, 00: 02
21 when he laughingly confirmed that he had indeed stated
22 that if there is a catastrophic accident at the LNG
23 terminal it would "be the largest Roman candle in the
24 world".

25 00: 03
26 In any case, section 12.10.3 of the County Development
27 Plan clearly states that:

28 "Any industrial or commercial
29 development shall not be injurious to
the residential amenity of adjoining

1 properti es. "

2
3 This gets to the heart of the problem in our minds.
4 Corporate social responsibility is not just another
5 buzz phrase in this modern world of ours. Hess LNG has 00:03
6 no other LNG importation terminal in the world. The
7 other site where they have been attempting to get
8 planning permission, at Fall River in the USA, has
9 stalled on safety grounds. Hess LNG has spent millions
10 of dollars trying to force this application through 00:03
11 over there in the States and we believe this arrogance
12 and willingness to contradict all safety advice on the
13 Fall River project cannot now be overlooked by An Bord
14 Pleanála.

15
16 We are, indeed, of the opinion that Gordon Shearer and
17 his company are becoming a problem from the point of
18 view of the industry itself. Hess LNG tried to rubbish
19 offshore alternatives, which are being seriously taken
20 on board by other large players in the industry, such 00:04
21 as Accelerate Energy and ExxonMobil. These companies
22 have understood all too well that their whole industry
23 will suffer if there is even one major accident at an
24 LNG terminal which kills members of the general public.

25
26 The only real way this project could be pushed through
27 over the safety concerns faced by the local residents
28 is if the project would be deemed to be in the national
29 interest. We have submitted that the near depleted gas

1 fields in Kinsale are already in use and, therefore,
2 providing a strategic supply of natural gas. We have
3 provided details of alternatives to this site, such as
4 floating storage regasification units, gravity based
5 systems, gas ports and using the LNG delivered to the 00: 05
6 UK. The British taking the risks while we take their
7 gas. In any case, the case for the national interest
8 put forward by the applicant is less than convincing
9 and has, in fact, been extremely blurred.

10 00: 05
11 Mr. Inspector, on Friday, you asked us to consider
12 conditions we would like to have imposed if this
13 application was to be granted permission. Throughout
14 this process we raised many concerns, and you have a
15 record of all of them. However, we have tried over 00: 05
16 these last few days to find ways around this issue
17 which would be acceptable to all concerned. There is
18 no way that we can work around the core problem, that
19 the very presence of the tanks full of LNG and the
20 knowledge we now all have from Dr. Havens's submission 00: 06
21 constitute a continual threat to our lives if ever
22 there is a leak. We are expected to live with that for
23 the rest of our lives.

24
25 The people of Kilcolgan have already proved their 00: 06
26 willingness to move away from their homes in the
27 interest of the greater good, but you cannot expect to
28 fool them twice when it is not clear at all in whose
29 interest this project really is for. It is not in the

1 country's interest, that is for in sure anyway. You,
2 therefore, have a real choice. Give lots of gas and
3 profit to a multinational company, with no loyalty to
4 Ireland, or cause certain deaths at a future date if
5 there is an accident. The proposed application is the 00:06
6 wrong solution for tomorrow's energy needs because they
7 go against all Government obligations and policies in
8 relation to renewable energy and CO₂ reductions.
9

10 In any case, these proceedings have left us with more 00:07
11 questions than answers. We should not be threatened
12 for the rest of our lives with the "largest Roman
13 candle in the world" for no good reason and we
14 therefore urge you, Mr. Inspector, to reject this
15 application in its entirety. Thank you. 00:07
16

17 **END OF SUBMISSION**

18
19 **INSPECTOR:** Thank you Mr. McElligott.
20 Now, I assume that 00:07
21 Mr. McElligott was the last speaker, but was I right in
22 that? I was wrong.
23

24 **MR. TIM McELISTRIM PRESENTED HIS CLOSING SUBMISSION, AS**
25 **FOLLOWS:** 00:07
26

27 **MR. McELISTRIM:** My name is Tim McElistrim
28 from Ballylongford,
29 Mr. Inspector. I just want to read out a report given

1 to me by the secretary of the GAA club. He was here
2 Wednesday, today week, and he came with this statement
3 but he just couldn't make it back again because of his
4 work commitments.

00:08

5
6 "I wish to make a statement on behalf of Ballylongford
7 GAA club, about whom certain allegations were made by
8 Johnny McElligott, spokesperson for the Kilcolgan
9 Residents Association, both here in the room and on the
10 national airwaves last Monday morning week, the first
11 morning of the hearing.

00:08

12
13 The Ballylongford GAA Club provides some of the best
14 facilities in all Kerry. We have a playing pitch
15 second to none and a fine community hall as well.
16 These facilities are no use if we cannot get people to
17 use them. Every year we are finding it more and more
18 difficult to field underage teams, mainly due to the
19 decline in our population. The young players are just
20 not there anymore. We have been waiting for many years
21 for development to come to the Landbank, which in turn
22 will bring viability back to our community. The
23 Shannon LNG is development that we welcome and we
24 welcome it.

00:08

00:08

00:09

25
26 As a club we are constantly fundraising to pay for
27 these facilities. Part of our fundraising is renting
28 our community centre, which we are very proud of. We
29 were delighted to be in a position to offer our centre

1 to Shannon LNG for their open day, which was attended
2 by over 300 people. When it came to payment for these
3 facilities we asked for the going rate and were paid
4 the same rate that was paid for the same facilities in
5 Tarbert, which was The Lanterns Hotel. No more, no
6 less. 00:09

7
8 We find it regrettable that Mr. McElligott should make
9 statements, such as the one he made last Monday, as we
10 feel it lowers the tone of a very important debate. 00:09

11
12 **END OF SUBMISSION**

13
14 Mr. Inspector, Raymond O'Mahony, who I know for years
15 and I know all the Kilcolgan people in front of me -- I 00:10
16 have no statement in front of me, I didn't intend
17 making a statement, but when I hear statements being
18 made about a rat, about a farmer put on the
19 Ballylongford and the Tarbert Committee - I am sorry, I
20 am speaking too fast. Raymond O'Mahony made a 00:10
21 statement -- I am shake now, I had no prepared
22 statement so just give me a second please -- about a
23 rat, he smelt a rat when the farmer was put on the
24 working committee for Ballylongford. I am one of the
25 four people from Ballylongford meeting LNG, like the 00:10
26 four people in Tarbert.

27
28 I will just give a small bit of history, Mr. Inspector.
29 My family is in Ballylongford village for 400 years.

1 We are dairy farmers inside in the village and 30 years
2 ago we decided to move the farming out of the village.
3 We decided that ourselves. We moved three miles out to
4 an outside farm. We live just outside the village now
5 and Raymond says I am 7 miles from the -- I am that 00:11
6 farmer, as Raymond mentioned a while ago, on the
7 Committee. We don't live 7 miles from it. I don't
8 live in Ballylongford, I just live outside
9 Ballylongford. I have five kids, the five kids went to
10 Ballylongford school, we would drive them up and down 00:11
11 everyday to school. We could go to a local school,
12 which would be closer to us, but we bring them to
13 Ballylongford.

14
15 But my family is there for years. I have been involved 00:11
16 in the Community Games of Ballylongford GAA, I have
17 been now with the Ballylongford Development. I have
18 some land in the village. More than like someone is
19 going to come back saying I have gains to make out of
20 it because I have some land there, because I moved my 00:11
21 business out of the village for the betterment of the
22 village. I feel very upset when someone makes smart
23 comments, undercutting comments, here publicly.

24
25 I have given my life for Ballylongford. I love 00:11
26 Ballylongford. But Ballylongford is dying on its feet.
27 Noel Lynch, our Chairman of Ballylongford Developments,
28 and Michael Finucane spent years fighting to bring
29 something into the Ballylongford. Now, when they are

1 doing their best, people try to knock them down and
2 make smart comments here in a public forum. How dare
3 them.

4
5 Noel gave a prediction yesterday, since from 1996 to 00:12
6 2006 Ballylongford's population fell 25%. I am a
7 selector in the under 16's and the under 18's in the
8 Ballylongford GAA, we cannot field a team. My youngest
9 boy is 9 years of age, he played under 13's this year
10 because we hadn't the team. We cannot field teams. We 00:12
11 are dying on our feet.

12
13 When this LNG project -- other projects were mooted
14 back along the years, this has been well documented for
15 the last 10 days. When LNG came on board there was a 00:12
16 couple of people asked would they go on. All those
17 people wear several caps in the village, in different
18 organisations. I was very involved with Kerry Friesian
19 breeders, I am a pedigree breeder. I am the Chairman
20 of that for a number of years. I was in the Advisory 00:13
21 Committee for the farmers. I was the same in
22 Ballylongford, in Kerry Creameries, which was part of
23 Kerry Group.

24
25 When LNG was mooted first the Committee was set up. We 00:13
26 met LNG then at a few of our meetings, through Shannon
27 Development, who have been very courteous in all they
28 have done. We met them and we said we will have to see
29 a project in building. So they took us to Milford

1 Haven. When we went to Milford Haven we were carried
2 around the site and then we got a presentation by Ian
3 Vincombe, I think, he was here with LNG, and he gave a
4 presentation. He told us that most of the workforce
5 that worked in Milford Haven were locals within 40
6 kilometres. 00: 13

7
8 Then we came back and we had more meetings with Shannon
9 LNG and Shannon Development and we said, right, we have
10 seen a plant in construction, now we would like to see 00: 13
11 a plant in operation. Then we went to Zeebrugge in
12 Brussels and we see that. And to us, we asked
13 questions around, we didn't go out and meet the locals,
14 we seen the town within four or five hundred yards of
15 it. We seen a very clean industry, there was no dirt 00: 14
16 around, no dust around. We could see nothing. I know
17 it is in (inaudible) dangerous. But we came back then
18 and we said, right, to us it looks clean, it looks like
19 something that we could maybe -- it looked okay, like.
20 I have something else to say now. Then we supported 00: 14
21 LNG going forward. The amount of jobs that would be
22 offered, like. They said they will try and get as many
23 jobs as possible in the area.

24
25 We in Ballylongford would have concerns, Noel Lynch 00: 14
26 spoke about them yesterday, about our bridge in
27 Ballylongford. The bridge is only the width enough for
28 two cars. It is going through the village, there is
29 kids going to school. We hope Kerry County Council

1 will address those in time. Equally, the road leading
2 out to the site, because as the crow flies it goes
3 through Ballylongford, most of the people from
4 Listowel, Tralee, Ballybunion, Liselton, Ballyduff all
5 will come through Ballylongford. The heavy traffic 00: 15
6 will go the opposite way but the cars will go through
7 Ballylongford, and from Ballylongford village out to
8 site that road should be upgraded a bit.

9
10 More insulting remarks were made by Johnny McElligott 00: 15
11 in saying that the sub-committee went out to Brussels
12 and we were put up in a five star hotel and we were
13 dancing on top of a table. The people who are on the
14 Committee are very concerned, they are very interested
15 in our local community and we are doing our best to do 00: 15
16 our bit. And how dare someone make statements like
17 that, off the cuff remarks.

18
19 So, Mr. Inspector, I didn't intend making statements,
20 but I feel I am a part of Ballylongford all my life, I 00: 15
21 hate people making undercutting remarks like that. I
22 hope you can understand what is I have said. I wish
23 you well and hope the proposal is granted. Thank you
24 Mr. Inspector.

25 00: 16
26 **END OF SUBMISSION**

27
28 **INSPECTOR:** Thank you. Could I just
29 have your name again?

1 MR. McELI STRIM: Tim McEl i strim.
2 MR. O' MAHONY: Sorry, Mr. Inspector, I
3 didn' t mean it to be
4 remarked at Tim McEl i strim whatsoever. What I stated
5 was that there was a farmer about seven miles from the 00: 16
6 site, I didn' t menti on no names, I didn' t say anything,
7 and that it wasn' t considered local in my eyes.
8 MR. McELI STRIM: And who is the farmer you
9 were talki ng about Raymond?
10 MR. O' MAHONY: I di dn' t. . . (INTERJECTI ON) 00: 16
11 MR. McELI STRIM: Who was the farmer you were
12 talki ng about?
13 MR. O' MAHONY: I di dn' t point fingers or
14 say names about nobody.
15 Thi s i s what I sai d. 00: 16
16 MR. McELI STRIM: It i s i nsul ti ng, Raymond.
17 MR. O' MAHONY: I am sorry if I di d i nsul t
18 you, Tim. It wasn' t meant
19 to be at you.
20 I NSPECTOR: Can we let that go. Any 00: 16
21 other speakers? The lady
22 here. Can you get a rovi ng mi ke back to her.
23
24 MS. MARY LAVERY CARRIG PRESENTED HER SUBMISSION AS
25 FOLLOWS: 00: 17
26
27 MS. LAVERY CARRIG: My name i s Mary Lavery
28 Carri g from Tarbert and I
29 represent the Tarbert Comprehensive School Parent

1 Association, of which I am the Secretary. Our concern
2 is with our student body's safety and we are neither
3 for nor against the project, nor am I personally either
4 for or against the project getting the go ahead.

00:17

5
6 Kerry County Council, it is not so much that we would
7 hope that they would address safety on the roads in
8 Tarbert, but more that we would demand it should LNG
9 get the green light.

00:17

10
11 Our children, their grandparents, we all walk the
12 roads, we cycle the roads, we are a community who live
13 there. These are our streets, these are our homes and,
14 therefore, we would consider it paramount that people
15 and peoples' safety, we would demand that as opposed to 00:18
16 hope that, that it would be given a priority. Thank
17 you, Mr. Inspector.

18
19 **END OF SUBMISSION**

00:18

20
21
22 **INSPECTOR:** Thank you. The gentleman
23 here.

24
25 **MR. LIAM O' SHEA PRESENTED HIS SUBMISSION AS FOLLOWS:**

00:18

26
27 **MR. O' SHEA:** Liam O' Shea, Ballylongford.
28 I would just like to say
29 the very same as Mr. McElistrim said, that

1 Ballylongford village is dying. It badly needs the
2 jobs and we welcome Shannon LNG to Ballylongford.
3 99.9% of the people at Ballylongford are in favour of
4 it. Thank you, Mr. Inspector.

00: 18

5
6 END OF SUBMISSION

7
8 INSPECTOR: Thank you, Mr. O'Shea.
9 Does that conclude what
10 people wish to say? Okay. It is 11:15, we will take a 00: 18
11 five minute break and then we will call on the
12 applicants to make their presentation.

13
14 SHORT ADJOURNMENT

00: 19

15
16
17 THE HEARING RESUMED AFTER A SHORT ADJOURNMENT AS
18 FOLLOWS.

00: 25

19
20
21 INSPECTOR: Okay, we have had more than
22 five minutes so if people
23 could take their allotted seats. Mr. O'Neill, are you
24 going to do the final submission?

1 MR. O'NEILL DELIVERED A CLOSING SUBMISSION TO THE
2 HEARING AS FOLLOWS

3
4 MR. O'NEILL: Good morning, Mr. Inspector
5 and good morning, Ladies 00: 38
6 and Gentlemen. I too would like to thank you,
7 Inspector, for the patience and courtesy that you have
8 shown to all of us over the past 7/8 days, they have
9 been long days, there is no doubt about that. I would
10 also like to extend my thanks to the members of the 00: 39
11 public and the various regulatory and advisory bodies
12 that have attended. It has been equally long days for
13 all of those members of the public and the
14 representatives of the regulatory bodies and I think it
15 has been a worthwhile process. From Shannon LNG's 00: 39
16 point of view it has given them an opportunity to
17 explain to the Board through the Inspector, and indeed
18 to the members of the public, the details of the
19 particular project. It has given an opportunity
20 I think to members of the public and indeed the 00: 39
21 regulatory and advisory bodies and of course the
22 Inspector to ask questions of the various experts who
23 have presented papers and to deal with issues that may
24 have been of concern to the person putting the
25 questi on. 00: 39

26
27 I am also glad to note that from the closing
28 submissions from a lot of people that the concerns that
29 those people had have been answered. There are

1 undoubtedly still some who are opposed to the scheme,
2 who have concerns and Shannon LNG recognise that it's
3 their prerogative, their right to be opposed to the
4 project, we don't doubt that. Ultimately, however, it
5 is a matter for the Board, it's a function of the Board 00: 40
6 to determine and consider those objections insofar as
7 those objections may be relevant to planning issues.

8
9 Now, we prepared some written submissions which I am
10 going to circulate. (SAME HANDED) I am not going to 00: 40
11 read verbatim through those submissions. I may delve
12 in or out of them if that's appropriate, but I hope to
13 cover the various issues referred to in them and indeed
14 make observations in relation to the evidence and
15 submissions of course there have been made by others. 00: 41

16
17 First of all, I would to put this ... (INTERJECTION)

18 **INSPECTOR:** Sorry, Mr. O'Neill, can you
19 just tell me what you have
20 given me. 00: 41

21 **MR. O'NEILL:** I have also made available
22 to you, Sir, certain
23 legislation including the Seveso Directive, the
24 regulations and I think the 2006 planning regulations,
25 the amendments to the 2001 regulations. I think you 00: 41
26 probably have the Planning Acts and probably numerous
27 copies of those all over the place.

28 **INSPECTOR:** No, it was just in case
29 anybody was concerned about

1 what the great black book is.

2 **MR. O'NEILL:** It is simply legislative
3 provisions and I am not
4 going to delve into them in any great depth, but I will
5 be referring briefly to them. 00: 42

6
7 What I would like to do initially is put into context
8 this process that has been undertaken by the Board and
9 I am doing that not only for the benefit of the Board
10 and the Inspector, who in fact has vastly more 00: 42
11 knowledge of these processes than I do, but as much for
12 members of the public to again allay fears that they
13 may have that once this hearing is over that that's the
14 end of the public participation in this project.

15 00: 42
16 What is clear, and this has come out during the
17 hearing, is that this facility both in terms of its
18 construction and operation, will be subject to a large
19 number of assessments by bodies having differing areas
20 of expertise and applying those areas of expertise to 00: 43
21 the issues before those bodies. For example, in the
22 pre-construction phase consents or approvals are
23 required first from of course An Bord Pleanála,
24 secondly, from the HSA, perhaps not consent or
25 approval, but information or advice furnished by the 00: 43
26 HSA to the Board to assist the Board in its
27 deliberations, thirdly, by the Department of the Marine
28 in the context of an application for a foreshore
29 licence and this licence is required for the

1 construction of the jetties and also for the outfall
2 pipes leading into the estuary. That assessment is
3 important because it's an assessment by the marine
4 licence vetting committee within the department and as
5 we have heard from various witnesses comprises various 00: 44
6 bodies including the Marine Survey Office, the
7 Department of Transport, the Shannon Foynes Port
8 Company, the Shannon Regional Fisheries Board. We have
9 heard from the Port Company that the Port Company
10 itself is carrying out its own QRA or has retained 00: 44
11 independent experts to carry that out and that a
12 summary of the recommendations or the assessment will
13 be made available.

14
15 In fact, I referred to the Department of the Marine as 00: 45
16 being the body which will grant the foreshore licence,
17 in fact those functions have been re-allocated to the
18 Department of Agriculture, I understand, but in any
19 event the assessment will be no less as a result of
20 that reallocation. 00: 45

21 There is also an assessment that will be carried out by
22 the OPW which has to consent to the embankment on the
23 stream within the site and this consent is required
24 under the arterial drainage legislation. If any of the
25 above bodies are not satisfied that this facility meets 00: 46
26 their criteria this project will never get off the
27 ground. After construction of the facility operation
28 can't commence unless and until the EPA has had its
29 assessment of the project and issued an IPPC licence,

1 that's an integrated pollution control licence, and has
2 issued a greenhouse gas permit. The facility cannot
3 get up and running until such time as the Shannon
4 Foynes Port Company gives the go-ahead. Obviously if
5 ships cannot come into the facility the facility can 00: 47
6 never get up and running and as you have heard from the
7 Harbour Master he is not going to let ships come into
8 the facility if he is in any way concerned on safety,
9 navigation issues arising from this facility. The HSA
10 itself has a very important part to play, the Health 00: 47
11 and Safety Authority has a very important part to play
12 in the operation of this facility. Safety reports are
13 required to be submitted to the HSA and they must give
14 their approval and as you have heard they monitor
15 facilities on a regular basis and indeed are required 00: 48
16 to do so by law. The public continue to have an
17 involvement in this process.

18
19 For example, in relation to the grant of the IPPC
20 licence, that's the licence that is required to be 00: 48
21 granted for the operation of the facility by the EPA,
22 an application has to be made by Shannon LNG for that
23 licence, that has to be publicised and members of the
24 public can make submissions to the EPA as to what their
25 views and what their concerns may be. The EPA then 00: 48
26 issues what's known as a PD, which is a Proposed
27 Decision, that's published. Let us assume it's a
28 proposed decision that we are going to grant a licence
29 subject to X number of conditions, again members of the

1 public have an opportunity to express their views on
2 those conditions. As I have already indicated the
3 Harbour Master, on a different aspect, the Harbour
4 Master intends making available a summary of the QRA
5 that he has commissioned from independent experts. 00: 49

6
7 Some parties have expressed the view that they feel let
8 down by public bodies. I don't think that's a fair
9 criticism. The HSA has done its job, and I will be
10 dealing with its obligations in a little bit more 00: 50
11 detail in a minute, it has required the preparation of
12 a QRA, it has reviewed that QRA, and it has said that
13 it will look at the further documentation that the
14 Kilcolgan Residents Association has made available to
15 it or directed it to. The Shannon Foynes Port Company 00: 50
16 as I have said is conducting its own independent QRA,
17 Kerry County Council have assessed the application and
18 they have expressed their views to this hearing to the
19 Inspector. The fact that people may disagree with the
20 conclusions of those bodies doesn't render the process 00: 50
21 unfair, doesn't mean that the public bodies haven't
22 carried out the functions that they have been called
23 upon and in some cases are obliged at law to perform.

24
25 Coming back to the role of the Board itself, the 00: 51
26 Board's role is obviously a planning role and
27 essentially to determine whether or not the proposal,
28 the LNG facility, is in accordance with proper planning
29 and sustainable development of the area. That's

1 obviously an important step in the overall processes of
2 approval, but it is important to bear in mind that
3 there are different areas of expertise which the
4 various legislative provisions recognise. First, there
5 is the demarcation between the role in the first 00: 52
6 instance of the EPA and An Bord Pleanála. Under the
7 provisions of the Planning Act, as amended by the
8 Strategic Infrastructure Act, which allows applications
9 to be made in the first instance to An Bord Pleanála
10 rather than in the first instance to the Planning 00: 52
11 Authority, the Board may ask the EPA to make
12 observations on a proposal where the operation of that
13 proposal, if planning permission is granted obviously,
14 would be such that would require an IPPC licence and
15 indeed where the Board does ask for those observations 00: 53
16 from the EPA it's obliged, it must have regard to those
17 observations in reaching its decision. Again in an
18 application which will fall under the jurisdiction of
19 the EPA in the context of an IPPC licence, a waste
20 licence doesn't arise here, arising the Board of course 00: 53
21 retains its function as a Planning Authority and may
22 refuse planning permission on environmental grounds, on
23 planning grounds, but what it may not do is impose --
24 if it does decide to grant permission on planning
25 grounds, it may not impose conditions relating to 00: 53
26 emissions during the operation of the facility and
27 indeed that is something that the Inspector has already
28 pointed out in asking for suggested conditions if the
29 Board decides to grant permission.

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Thus, the Board will refuse permission if it's of the view that even if all the emissions are properly controlled that the development itself would be contrary to proper planning and development. If it decides that permission should be granted of course the facility still cannot get off the ground without the necessary IPPC licence which of course will not be granted without a proper and full assessment by the EPA.

00: 54

00: 55

An overlap of responsibilities, expertise arises in relation to health and safety matters. The Major Accidents Directive, the Seveso II and the Irish regulations implementing in the Directive recognise the different roles of the planning authorities and the health and safety authorities. The primary objective of the Major Accidents Directive, as its name would suggest, is to prevent major accidents and to limit their consequences, but as I have said it does recognise the planning context. I think it may be helpful if I just refer to a few of the passages in the Directive and the regulations.

00: 55

00: 56

If I can refer first, Sir, to the Directive, I think it is in the folder that I have given to you, I understand it's in the first tab, I am working off a slightly different book, and if I could refer to article 12. I will be coming back in due course to the extent of

00: 56

1 the application of the Directive in relation to the
2 definition of establishment etc. in due course, but if
3 I can just first deal with the interaction between
4 health and safety and planning. Article 12.1 of the
5 Directive, this is the European Directive, states that: 00:57

6 "Member states -- that would include
7 Ireland and all the other EU members --
8 shall ensure that the objectives of
9 preventing major accidents and limiting
10 the consequences of such accidents are
11 taken into account in the land based
12 policies i.e. planning and/or other
13 relevant policies. They shall pursue
14 those directives through control on (a)
15 the siting of new establishments." 00:57

16 Then it goes on to deal with modifications to existing
17 establishments.

18 So what the Directive says is that the land use
19 policies of any member state, and that includes Ireland
20 of course, should take into account the objective of
21 the Directive i.e. to avoid or to prevent major
22 accidents and to limit their consequences in
23 consideration in the siting of new establishments. 00:58

24 It goes on then, it continues, and I am going to skip
25 down to article 12.2, it identifies there the need and
26 the desirability for consultation with the bodies
27 having expertise and it says: 00:58

28 "Member states shall ensure that all
29 competent authorities and planning
authorities, responsible for decisions
in this area, set up appropriate
consultation procedures to facilitate

1 implementation of the policies
2 established under paragraph 1. The
3 procedures shall be designed to ensure
4 that technical advice on the risks
5 arising from the establishment is
6 available either on a case by case or
7 on a genetic basis when decisions are
8 made."

00: 59

6 That is mirrored as one would expect it to be in the
7 Irish regulations which give effect to the Directive.
8 I think they are at probably divide 2 of the booklet
9 that you have, Sir. These are the European Communities
10 Control of Major Accident Hazards involving Dangerous
11 Substances, Regulations of 2006. Article 27 of those
12 regulations, which is at page 51 of the internal
13 pagination, it is headed "Advice on Land Use Planning",
14 article 27.1:

00: 59

15 "For the purpose of ensuring that
16 technical advice on the risks arising
17 from an establishment is available to a
18 Planning Authority or An Bord Pleanála
19 either on a case by case basis or on a
20 generic basis where decisions are taken
21 relating to (a) the siting of new
22 establishments."

01: 00

21 (b) and (c) deals then with existing establishments
22 which don't arise here:

01: 00

23 "The Authority may and shall when
24 requested to do so by a Planning
25 Authority or An Bord Pleanála give
26 technical advice to a Planning
27 Authority or An Bord Pleanála as the
28 case may be on the basis of the
29 information available to the
30 Authority."

01: 00

29 Now, the Authority for the purpose of the regulations

1 can be a number of bodies. In this case it is the HSA
2 and that is apparent from article 5.1. The regulation
3 itself is slightly tortuous, it defines the authority
4 as the central competent authority and then defines the
5 central competent authority as including the HSA and 01:01
6 the public authority which the appropriate minister has
7 designated as a local competent authority.

8
9 Again the legislation, the Directive and the
10 regulations recognise the differing areas of expertise 01:01
11 and the Board in seeking advice, and this is important,
12 the Board in seeking advice from the HSA is not
13 abdicating any of its responsibilities, it's not
14 letting down people. What it is doing is applying the
15 provisions of the Directive and the regulations and 01:02
16 recognising that the area of expertise in health and
17 safety lies with the Health and Safety Authority in
18 this case.

19
20 I want to turn, if I may, now to the jurisdiction of 01:02
21 the Board. As I have said the provisions whereby
22 applications in certain circumstances, strategic
23 infrastructural applications, can be made in the first
24 instance to the Board as distinct from being made to
25 the Planning Authority with an appeal to the Board are 01:03
26 new and I think it is important to spell those out and
27 I hope in so doing that I don't irritate or bore the
28 Inspector, but I am not going to do so in any great
29 length. What I would like to do is refer to the 2006

1 Planning Act, this is the Infrastructural Act which
2 inserts a number of additional sections into the 2000
3 Planning Act.

4
5 The relevant sections that we are dealing with are 01:03
6 sections 37(a), 37(b) etc. It goes up to (h) I think,
7 37(h) -- sorry, it goes further, it goes to 37(k).
8 What I wish to refer to is section 37(g). The previous
9 sections have dealt with the fact that an application
10 of this nature is to be made, it's not an option, but 01:04
11 it must be made in the first instance to the Board, An
12 Bord Pleanála, and the steps that are to be taken to
13 determine whether or not an application falls within
14 the criteria of the Act; in other words, one that must
15 be made to the Board. Section 37(g) then deals with the 01:04
16 position that arises where an application is made and
17 properly made to the Board and the decision that the
18 Board can make. Section 37 (g)(i) provides:

19
20 "When making a decision in respect of a 01:05
21 proposed development, for which an
22 application is made under section
23 37(e), the Board may consider any
24 relevant information before it or any
25 other matter to which by virtue of this
26 Act it can have regard."

27
28 Subsection 2 then says:

29
30 "Without prejudice to the generality of 01:05
31 subsection 1, the Board shall
32 consider."

33
34 And it lists out a number of matters, and I will come
35 back to those in a minute. Subsection 1 says "the

1 Board may consider", subsection 2 says "the Board shall
2 consider". I don't think, however, and I am sure the
3 Board would be of that view, that the stark distinction
4 between 'may' and 'shall' is as strong as it would
5 first appear because quite clearly if the Board doesn't 01:05
6 consider relevant information, and I will come to what
7 relevance information is, if it doesn't consider
8 relevant information it's going to leave itself open to
9 a challenge that it hasn't considered information that
10 it should have and that it had before it and, 01:06
11 therefore, its decision is flawed.

12
13 In relation to what is relevant information, relevant
14 information isn't defined, but it must be read in the
15 context of the Act as a whole and the general criteria, 01:06
16 the driving consideration is the proper planning and
17 sustainable development of the area in question, the
18 area in which the proposed development is sited.
19 Subsection 2 which says the Board is to have, shall
20 consider various matters, in fact doesn't refer to the 01:07
21 proper planning and sustainable development, but
22 I think it must be implicit in the determination of the
23 Board that that is the guiding consideration. I would
24 just note that in subsection 5, section 37(g)(v),
25 something I have covered already, that's the 01:07
26 jurisdiction of the Board to refuse an application in
27 respect of which an IPPC licence is required, it
28 refuses having regard to proper planning and
29 sustainable development of the area in which the

1 development will be situated, that is subsection 5 of
2 37(g).

3
4 Coming back to subsection 2, the matters that the Board
5 is to have regard to includes a number of matters, I am 01:08
6 not going to read down through the whole list. The
7 first, and obviously an important matter, is the
8 Environmental Impact Statement. It is also to have
9 regard at No. 3 to the provisions of the development
10 plan or plans for the area. Plan or plans covers a 01:08
11 situation in which the facility or the proposed
12 development may span the jurisdictions of one or more
13 planning authorities. The provisions of the
14 Development Plan we are hear talking about are the
15 provisions of the Kerry Development Plan. 01:08

16
17 Then at No. 7, and this is important, one of the
18 matters the Board shall consider are the matters
19 referred to in section 143. Section 143 reads as
20 follows, and that's a new section that was inserted by 01:09
21 the Strategic Infrastructure Act, section 26 of the
22 Strategic Infrastructure Act, and it substitutes the
23 existing section 143 by a new section 143. It says:

24 "The Board shall in performing its
25 functions have regard to

26 (a) the policies and objectives for the
27 time being of the Government, the state
28 authority, the minister, planning
29 a public authority whose functions have
or may have a bearing on the proper
planning and sustainable development of
cities, towns or other areas, whether

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urban or rural

(b) -- and this is a new matter that the Board must have regard to, new in the context that it wasn't in the original section 143 -- the national interest and any effect the performance of the Board's functions may have on issues of strategic, economic or social importance to the State and

01:10

(c) the National Spatial Strategy and any Regional Planning Guidelines for the time being in force."

Then turning back to the section, just to complete the jurisdiction of the Board, the Board under section 37(g)(iii) has power having heard the application, if it considered the planning application, to grant permission, to modify the permission, to grant permission in respect of part of the proposed development or of course to decide to refuse the permission. If it decides to grant in any form, a modified or a partial grant it can of course impose conditions.

01:10

01:11

Before I move on in fact it just occurs to me, on a slightly different point, Mr. McElligott raised an issue with the Planning Authority, Kerry County Council, as to the submission that they made to the Board. Now, clearly that is more a matter between Mr. McElligott and the Kilcolgan Residents Association and the Council, but to avoid any suggestion that somehow the procedures were not followed and, therefore, that taints the application, I think it is important to point out the statutory provisions to you,

01:11

01:11

1 Sir, and to the personnel here present.

2
3 In section 37(e), that is dealing with applications to
4 the Board, subsection 4 requires the Planning Authority
5 for the area, this is Kerry County Council, to prepare 01: 12
6 and submit to the Board a report setting out the views
7 of the Authority:

8 "On the effects of the proposed
9 development on the environment and on
10 the proper planning and sustainable 01: 12
11 development of the area. The
Authority, having regard to certain
specified matters."

12
13 We don't need to go into that. Subsection 5, the next
14 subsection in that section says that:

15 "Before submitting that report the 01: 13
16 manager of the Planning Authority shall
17 submit the report to the members of the
authority."

18
19 In other words, the elected members:

20 "And seek the views of the members on 01: 13
21 the proposed development."

22
23 It appears from what we have heard that that course was
24 followed. What Mr. McElligott complains of, however,
25 is that the Kilcolgan residents report, which in fact 01: 13
26 was furnished directly to the Board by the Kilcolgan
27 Residents Association, was delivered or was given to
28 one of the elected representatives who then tabled that
29 or placed the report on the table and asked that it be

1 included in the Manager's report to the Board, to An
2 Bord Pleanála. That in fact, however, ignores the
3 provisions of the Act because the very next subsection
4 deals with modifications to the manager's report and it
5 says, and I will read it, subsection 6:

01: 14

6 "The members of the Planning Authority
7 may, by resolution."

8
9 There wasn't any suggestion of a resolution in this
10 case:

01: 14

11 "May by resolution decide to attach
12 recommendations specified in the
13 resolution to the report of the
14 Authority where the members so decide
15 those recommendations together with the
16 meetings, administrator's record shall
17 be attached to the report submitted to
18 the Board under subsection 4."

01: 14

17 So if the Killybeggs Residents Association report was
18 properly to be submitted to the Board as part of Kerry
19 County Council's report, it would have required a
20 resolution of the elected members and as far as I can
21 ascertain, I wasn't at the meeting, but as far as I can
22 ascertain from what was said yesterday no such
23 resolution was ever proposed or if it was no such
24 resolution was ever passed.

01: 15

25
26 Can I now turn and deal, that was a slight tangent, can
27 I now turn and deal with the actual application itself
28 and I am not going to go through every facet of
29 evidence that we have gone through obviously. We have

01: 15

1 already spent eight days, and I think everyone wants to
2 bring this to a close, but I do want to emphasise just
3 a number of the features.

4
5 The first is the need for the facility. I have already 01:15
6 referred you, Mr. Inspector, and members of the public
7 to the provisions of section 143; in other words, the
8 obligation on the Board on considering an application
9 to have regard to the policies and objectives of the
10 Government and the national interest and of course the 01:16
11 provisions of the Development Plan. I just want to
12 refer very briefly to a number of passages in certain
13 of the précis of evidence given.

14
15 I want first to refer to Mr. Power's, Mr. Paddy 01:16
16 Power's, one of his. He gave or delivered two papers.
17 The first one dealt with the overview and need for the
18 project and I am just going to read a couple of
19 passages from page 18 of that précis of evidence where
20 he identifies what the various international and 01:17
21 national bodies have said. He refers first to the
22 International Energy Agency and he says:

23
24 "That agency in their report on Ireland
25 entitled Energy Policies of IEA
26 countries - Ireland 2007 Review made
27 the following statement: 01:17

28 A suitable and secure supply of natural
29 gas at competitive prices is of crucial
importance to Ireland. The island has
no operational indigenous source of
natural gas after the projected
completion of the Kinsale gas field
which is already operating at end of
life levels. To diversify gas supply

1 the opening of the Corrib gas field is
2 a priority and should be supported by
3 the Government. The construction of an
4 LNG terminal has been proposed by a
5 private operator and this could
6 contribute to increase the security of
7 supply and achieve and diversification
8 in supply sources. "

01: 18

6 It goes on then, and it is addressed to the Government
7 of Ireland, it goes on to suggest that the:

8 "Government should create an investment
9 friendly transparent environment in the
10 natural gas market and consider on an
11 all island basis, taking into account
12 projected demand increases, the
13 potential of natural gas storage and an
14 LNG terminal for enhancing the
15 country's security of supply. "

01: 18

14 There is also the observations by the EU Commission and
15 in fact I think the relevant part is extracted in the
16 legal submissions at page 8, paragraph No. 21. At the
17 end, in case I have skipped any bits in the submissions
18 that need to be emphasised, I will come back to them,
19 Sir. Paragraph 21 and 22 are -- in fact paragraph 20
20 I should start with. This is reading from the
21 submissions:

01: 18

01: 19

22 "20. Contrary to certain submissions
23 made on the application for the Shannon
24 LNG Terminal, EU policy does not
25 suggest the proposed facility should
26 not proceed. Rather, EU energy policy
27 indicates that the type of LNG facility
28 proposed by Shannon LNG should be
29 facilitated. For example, in the EC
30 Commission's Green Paper on an energy
31 strategy for sustainable competitive
32 and secure energy. "

01: 19

Mr. Power refers to this in his précis of evidence

1 I have just referred to:

2 "It was stated that a clear policy on
3 securing and diversifying energy
4 supplies was necessary both for the EU
5 as a whole and for specific member
6 states or regions and is especially
7 appropriate for gas. To this end the
8 Green Paper called for 'clearly
9 identified priorities for the upgrading
and construction of new infrastructure
necessary for the security of EU energy
supplies' including LNG terminals
serving markets that are presently
characterised by a lack of competition
between gas suppliers.

01:20

10 21. Moreover, in the communication
11 from the Commission to the European
12 Council and the European Parliament --
13 and of course Kathy Sinnott is a member
14 of the European Parliament -- entitled
15 'An Energy Policy for Europe', the
16 Commission concluded that energy
17 security should be promoted. One of
18 the methods suggested by the Commission
19 for promoting energy security was:

01:20

20 'Measures are needed to assist member
21 states that are overwhelmingly
22 dependent on one gas supply to
23 diversify. The Commission will monitor
24 implementation of the recently
25 transposed Gas Security Directive and
26 assess its effectiveness. Projects
27 should be developed to bring gas from
28 new regions to set up new gas hubs in
29 central Europe and the Baltic
countries, to make better use of
strategic storage possibilities and to
facilitate the construction of new
liquid gas terminals."

01:20

01:21

30 Then there is a reference generally to the advancing
31 policies of the Commission in relation to the areas of
32 security of gas supply, particularly the Gas Security
33 Directive.

01:21

34 So what we see there, what we have seen to date is,

1 first, the International Energy Agency is suggesting
2 that Ireland needs a stable and secure supply and
3 suggests that the proposed LNG terminal, it's not
4 deciding the issue, but it is suggesting that that may
5 help achieve those objectives. The EU Commission is to 01:21
6 similar effect.

7
8 Next if I can refer you to the Government White Paper.
9 The full text of the Government White Paper in fact was
10 annexed to the Kilcolgan Residents Association 01:22
11 submission and I am just going to read from three short
12 passages of that White Paper. It is dated 12 March
13 2007. Under the heading section 3 the policy
14 framework, at 3.1.5 it says:

15 "The Government's overriding policy 01:22
16 objective, therefore, is to ensure that
17 energy is consistently available at
18 competitive prices with minimum risk of
supply disruption.

19 The underpinning strategic goals are at
20 follows: Ensuring that electricity 01:23
21 supply consistently meets demands,
22 ensuring the physical security and
23 reliability of gas supplies to Ireland,
24 enhancing the diversity of fuels used
25 for power generation, delivering
26 electricity and gas to homes and
27 businesses over efficient, reliable and
28 security networks, creating a stable
29 attractive environment for hydrocarbon
exploration and production and finally
being prepared for energy supply
disruptions." 01:23

30 In expanding on those strategic goals, if I could ask
31 you to -- I am going to refer, I don't know if you have
32 this in front of you, Sir, I can make available copies

1 if you don't readily have it available, under strategic
2 goal No. 2, ensuring the physical security and
3 reliability of gas supplies to Ireland, at paragraph
4 3.3.3 it reads:

5 "While the prognosis for gas supply is 01: 23
6 relatively secure as a result -- it
7 obviously analysed the supply -- it is
8 prudent for Ireland -- this is the
9 Government policy -- to develop a
10 longer term strategy to reduce
11 overreliance on gas imports from the
12 UK. This strategy will also address
13 mechanisms to achieve greater benefits
14 from trading with a competitive UK
15 market." 01: 24

12 So what the Government is saying is we must reduce in
13 our own national interests the current high level of
14 reliance we have on the UK market to supply our natural
15 gas requirements. It's not that a cold war is going to 01: 24
16 develop between Ireland and the UK, or I suspect one is
17 not, the problem is that we are the end of the chain.
18 If there is a shortage of natural gas supplies the
19 first person to be cut off is the person at the end of
20 the supply chain and unfortunately in this case that is 01: 25
21 Ireland.

22
23 Finally then at paragraph 3.3.5 there are identified a
24 dozen or so, perhaps 15, actions which the Government
25 suggests should be taken to achieve this particular 01: 25
26 objective. One of those is, and this is a Government
27 statement:

28 "We will continue to actively encourage
29 private sector interest in investing in
gas storage facilities and LNG and

1 review the potential role for
2 Government intervention in the event of
3 market failure in light of the study's
4 findings. "

4 In other words, the suggestion that was made by some
5 people who spoke at these hearings that really if there 01:25
6 is to be an LNG facility within this jurisdiction that
7 it should be State controlled. That may well be a good
8 view to hold, but unfortunately it's not a view that is
9 shared by the Government. Of course, as is clear from
10 the legislation, even if it is a good view the Board is 01:26
11 obliged to have regard to Government policy and obliged
12 to implement that policy subject of course to proper
13 planning and sustainable development.

14
15 The submission by the Commission for Energy Regulation 01:26
16 is also instructive in that regard. It made a
17 submission to the Board on 11 January in favour of the
18 proposal and it says in paragraph 2 of that letter:

19
20 "The proposed development -- this is 01:27
21 the Shannon LNG development -- will be
22 a major commercial project with very
23 significant strategic implications for
24 the long-term future of the Irish
25 energy sector. It has the potential to
26 offer secure, stable and competitive
27 alternative gas supply and crucially to
28 reduce our reliance, currently 85%, on
29 one import point of natural gas. The
30 imminent depletion of the Kinsale field
31 and the relatively modest size and
32 projected life of the current field put
33 a particular premium on diversifying
34 our geographic sources of natural gas. "

35 Then over the page it continues, and I am skipping
36 parts of it:

1 "The Commission welcomes a project of
2 this nature and is very keen to ensure
3 it goes ahead. This is essentially on
the following grounds:

4 1. The fact that Ireland currently
5 imports over 85% of its gas
requirements from the UK. 01: 28

6 2. Depleting indigenous gas supplies
7 in Ireland, north west Europe and the
UK.

8 3. Projected continuing growth and
9 aggregate demand for gas, albeit quite
possibly at a more modest pace than in
10 the last decade. 01: 28

11 4. Continuing demand in particular for
12 gas for electricity generation and the
importance of such generation as
13 back-up to the major growth in wind
generation coming on stream."

14 It then says:

15 "We should also bear in mind the
16 potential of the project to be used for
17 strategic storage purposes." 01: 28

18 That was one of the matters in the White Paper that the
19 Government was going to look into further.

20 Having regard to all of those documents, it is quite
21 clear that the provision of an LNG facility does tie in
22 with Government policy and is in the national interest
23 as identified in section 143. Therefore, for people
24 like Kathy Sinnott, who of course are very welcome to
25 express their views to the hearing and those views 01: 29
26 obviously will be taken on board by the Inspector and
27 by the Board ultimately, but for her to suggest that
28 it's not in the national interest and that the
29

1 provision of an LNG facility in Ireland or in the
2 Shannon Estuary is a sort of a dumping ground for
3 Europe is patently wrong and is a strange observation
4 being made by a member of the European Parliament to
5 whom communications have been made by the EU Commission 01:29
6 stating quite the contrary.

7
8 Also for her, and just to concentrate on her submission
9 for the moment, to suggest that it's a dirty and
10 dangerous energy, a matter highlighted by 01:30
11 Mr. McElligott this morning, is again not true. It's
12 not a dirty industry, what we are talking about here is
13 a storage facility. That is not dirty at all. Yes,
14 when natural gas is burnt, it is a fossil fuel, it
15 emits carbon dioxide, but bear in mind it emits it at a 01:30
16 much lower level than coal and petroleum and indeed in
17 that respect helps reduce the CO₂ emissions and the
18 obligations of Ireland under the Kyoto protocol. It
19 doesn't exclude entirely CO₂ emissions, but it reduces
20 the overreliance that exists at the moment on other 01:31
21 fossil fuels with higher emissions.

22
23 I would also like to deal with the references to the
24 petition to the European Parliament, the grounds of
25 which are not particularly clear. Mr. McElligott 01:31
26 referred to that again this morning and I think he
27 referred to that petition or perhaps a separate
28 petition also being made in relation to project
29 splitting, and I will deal with project splitting in

1 due course, but from the submission made by Ms. Sinnott
2 it would appear that the petition is grounded on some
3 breach of the Habitats Directive and what Ms. Sinnott
4 had suggested in her presentation from the notes I took
5 was that the proposal, the subject of the planning 01: 32
6 application, if it was given the go-ahead would destroy
7 the ecosystem of the estuary and will kill dolphins or
8 scare them off. In fact, all of the evidence that we
9 have heard points to the complete contrary.

10
11 Just by way of general observation, and this isn't 01: 32
12 honing in on Kathy Sinnott at all, it's not intended
13 to, it is easy for people to make wild statements, it
14 is sometimes not very easy to answer those statements,
15 but the difficulty with those statements are that they 01: 33
16 are unsupported by any evidence or by any proper
17 assessment. I would have to say that those statements
18 are irresponsible and they are of no assistance
19 whatsoever to the Board. What the Board wants is hard
20 evidence where that exists and where it doesn't exist 01: 33
21 it wants informed opinion. Of course people may
22 express concerns, and I don't doubt that the majority
23 of the concerns are legitimate concerns, that's a
24 different matter, however, from making assertions which
25 are neither based on fact nor informed opinion. The 01: 33
26 suggestion this morning by Mr. McElligott that Hess LNG
27 is becoming a problem in the industry is another of
28 those wild assertions, entirely unsubstantiated and an
29 extraordinary assertion to make. It is entirely

1 without foundation and interestingly enough was never
2 suggested to any of the Hess representatives or the
3 Shannon LNG representatives so that they could be given
4 an opportunity of responding and showing that it is
5 demonstrably false. 01: 34

6
7 Another point that has been raised, and again I suppose
8 it is dealing with the various documents to which the
9 Board has to have regard, is the variation to the
10 Development Plan. I have touched on this already 01: 35
11 during the course of the hearing, but what is clear is
12 that the Board has to consider the terms of the
13 Development Plan and the Development Plan is of course
14 the Development Plan including the appropriate
15 variation, I think it was variation No. 7. The Board 01: 35
16 cannot second-guess any challenge that may be made or
17 any assertions that the necessary procedures to bring
18 about that variation were not followed. That's a
19 matter for the courts and interestingly enough it would
20 appear that no challenge has been mounted which one 01: 35
21 would suggest speaks volumes as to the merits of any
22 such assertion.

23
24 The Council, Kerry County Council, the elected members,
25 were quite at liberty to make the variation that they 01: 36
26 made. The variation they brought about in the case of
27 the Shannon LNG site was a change from rural general to
28 industrial. The variation or the change in zoning from
29 other lands to secondary special amenity to industrial

1 does not affect this site. You will have seen the
2 terms of the variation from the submission of Kerry
3 County Council and indeed Ms. Lyden in one of her
4 presentations has dealt with that issue.

01:37

5
6 Can I turn now to deal, Sir, with what we say is that
7 the provision of an LNG facility in this jurisdiction
8 is entirely in accordance with the various policy
9 documents to which the Board is obliged to have regard.

10 Can I deal with the siting of the facility and the
11 argument mainly has focussed on whether it should be an
12 offshore or an onshore facility. There has been less

01:37

13 discussion and less suggestion that assuming one goes
14 for an onshore facility that the proposed facility in
15 the Shannon Estuary is not the appropriate site of the
16 sites identified as possible sites. The offshore site
17 has been dealt with, has been considered, the

01:37

18 possibility of an offshore site has been dealt with and
19 considered in the EIS and has been dealt with in detail
20 by Mr. MacIntyre in his evidence. He has simply said

01:38

21 it is not workable having regard to the weather
22 conditions to which we are subjected to in this
23 country. You may remember the dramatic pictures of the
24 ships in the water which were included in
25 Mr. MacIntyre's report.

01:38

26
27 It is suggested that an offshore facility could be
28 accommodated to serve the needs of Ireland, but again
29 no evidence has been brought forward to substantiate

1 that claim. Again, very easy to make that assertion,
2 but it has in this case been very clearly and
3 explicitly dealt with. It simply will not function.
4 The site selection we say is properly conducted and the
5 Tarbert site has chosen after the appropriate 01: 39
6 elimination process and has all the required
7 attributes. Indeed I just quote one passage from
8 Mr. MacIntyre's report. Mr. MacIntyre told us
9 yesterday that we had practically 40 years LNG
10 experience, 40 years experience in this industry, he 01: 39
11 says and I quote:

12 "I have seen no location having a
13 better overall fit as an LNG receiving
14 terminal."

15 That is a statement made by an expert in the field and 01: 40
16 not a statement that would be made lightly and,
17 therefore, a statement we would submit that should be
18 and can be relied upon.

19
20 The other issue related to the regasification process, 01: 40
21 whether it should be a closed loop system as distinct
22 from the systems identified. Again we have seen in the
23 EIS that all the various options were considered and
24 the method chosen was identified by the experts as
25 being the best option and of significance has 01: 40
26 insignificant impacts on the environment. It was
27 suggested by the Fisheries Board that the LNG which is
28 brought in could be used to heat a system to regasify
29 the gas, but of course if gas brought into the facility

1 is used up it means more gas has to be brought in so in
2 fact such a system is inefficient and adds to the CO₂
3 emissions which the Government is obliged to reduce in
4 due course and indeed -- well, I won't go into the
5 particular figures.

01:41

6
7 Can I deal then with the health and safety issues.
8 They need to be considered in the first instance from
9 the point of view of the Major Accidents and Seveso II
10 Directive and the regulations. Those Directives apply
11 to health and safety of an establishment and the
12 effects of an accident and of course the obligation to
13 prevent the occurrence of a major accident on those
14 establishments and its impacts on adjoining lands. If
15 I can refer you back to the Directive, Sir, please.

01:41

01:42

16
17 I think the best place to start is article 5 of the
18 Directive. This identifies the obligation, article
19 5.1:

01:43

20
21 "Member states to ensure that the
22 operator is obliged to take all
23 measures necessary to prevent major
24 accidents and to limit their
consequences for man and the
environment."

25 You need to go back to the definitions to see what an
26 operator is. The definitions are in article 3 and I am
27 just going to read the first three definitions which
28 identifies what the operator is, essentially the
29 operator is the person who is in control of an

01:43

1 establishment. If I read 'establishment' first:

2 "Establishment shall mean the whole
3 area under the control of an operator
4 where dangerous substances are present
5 in one or more installations including
6 common or related infrastructure or
7 activities."

01: 43

8 Then the next definition is 'installation':

9 "Shall mean a technical unit within an
10 establishment in which dangerous
11 substance are produced, used, handled
12 or stored. It shall include all the
13 equipment, structures, pipework,
14 machinery, tools, private railway
15 sidings, docks, unloading quays serving
16 the installation, jetties, warehouses
17 or similar structures, floating or
18 otherwise, necessary for the operation
19 of the installation."

01: 43

20 Then the operator means:

01: 44

21 "The individual or corporate body who
22 operates or holds an establishment or
23 installation or provided for by
24 national legislation has been given
25 decisive economic power in the
26 technical operation thereof."

01: 44

27 What the Directive is directed towards is the objective
28 to prevent major accidents from an establishment. An
29 establishment, as you will see from the definition of
30 installation, in this case includes not only the
31 facility, there is the specific reference in
32 installation to the actual jetties.

01: 44

33 What is excluded are a number of matters and they are
34 set forth in article 4. The first two are not of any

1 relevance. The third one, No. (c):

2 "This directive shall not apply to the
3 following:

4 (c) the transport of dangerous
5 substances and intermediate temporary
6 storage by road, rail, internal 01: 45
7 waterways, sea or air outside the
8 establishments covered by this
9 directive, including loading and
unloading and transport to and from and
another means of transport docks,
wharfs or marshalling yards."

10 In other words, what is excluded from the scope of the 01: 45
11 Directive is the transportation by sea of dangerous
12 substances and dangerous substances would include LNG.

13
14 The regulations themselves follow similar definitions
15 and I don't think it is specifically necessary to refer 01: 46
16 to them, although if needs be no doubt, Mr. Inspector,
17 you will do so.

18
19 So having regard to the provisions of the Directive
20 what is included is the facility including the jetties, 01: 46
21 what is excluded are the ships and the transport to and
22 from the facility on those ships. While ships are
23 excluded the possibility of a spill from a ship during
24 unloading has of course been considered and what has
25 been determined as non-credible is the failure of a 01: 47
26 compartment as a result of an accident, some other ship
27 presumably or some other object striking the ship,
28 breaching the double hull and leading to an escape of
29 LNG. What of course is credible is a possible spill,

1 although limited obviously, a possible spill of LNG or
2 escape of LNG while the LNG is being discharged into
3 the fixed arm pipe.

4
5 Again coming back, and I touched on this, I won't go 01: 47
6 into it in too much detail, the relationship again
7 between the HSA and the Planning Authority and the
8 requirement under the Directive and the regulations to
9 have regard or for the planning bodies in the context

10 of land use to have regard to the objectives of the 01: 48
11 Directives, but again what happens at the end of the
12 day is that the HSA at the invitation of the Planning
13 Authority, and indeed there is an obligation to notify
14 the HSA of a planning obligation which falls within the
15 scope of the HSA, and we have referred to the 01: 48

16 particular article in the submissions, it also arises
17 under article 215 of the planning regulations, that's
18 one of the new articles inserted by the 2006 amendment
19 to the regulations, article 215, as well as the other
20 articles, article 137 and 141 referred to in the 01: 49

21 submissions. The technical assistance is sought in the
22 context of the siting of an establishment. What the
23 HSA required the Applicant to undertake, and there is
24 nothing unusual in this, was the preparation of a QRA
25 and that QRA has been prepared and it constitutes a 01: 49
26 thorough and complete assessment of all the risks,
27 hazards, consequences, impacts of the proposed project
28 on the surrounding environment. It has been prepared
29 in the context of the obligations of the HSA under the

1 Directive and under the regulations. It doesn't
2 extend, and it's not suggested it extends, to
3 consideration of shipping issues, which are expressly
4 excluded from the ambit of the Directive and
5 regulations. The QRA has been assessed by the HSA and 01:50
6 the HSA, having applied the appropriate standards and
7 guidelines, has expressed the view that it has no
8 objection from a health and safety point of view to the
9 proposal. Obviously it's a matter then for the Board
10 to consider the proper planning and sustainable 01:50
11 development. It has undertaken that assessment by
12 looking at the risks, it's a risk assessment which of
13 course takes into account the possibility, the
14 probability and the likelihood of an accident occurring
15 and the consequence of that accident. 01:51

16
17 It has been suggested on many, many occasions by
18 Mr. McElligott on behalf of the Kilcolgan Residents
19 Association that this facility is going to sterilise
20 the land, is going to sterilise the balance of the 01:51
21 Shannon Development land bank.

22
23 The first thing to recognise is there is no
24 sterilisation, there is no exclusion zone. There has
25 been references made to exclusion zones, there are no 01:52
26 exclusion zones. What we have are land use zones and
27 in Dr. Franks' report you will have seen the
28 application of those land use zones and in his report
29 he has taken from the QRA one of the diagrams, I am

1 looking at page 12 of his report, and you may recall
2 that particular diagram, that's the one that has the
3 red circles, they are not quite circles, but the blue
4 circle and the green circles, the limited areas, and
5 what that provides and the only impact on the adjoining 01:53
6 lands is that certain limited highly sensitive land
7 uses will be restricted such as creches, schools,
8 hospitals, nursing homes and locations of major public
9 assembly. No restriction on housing, and most
10 significantly of all in the context of this assertion 01:53
11 that the Shannon Development Land bank will be
12 sterilised, that some exclusion zone will apply to it,
13 no sterilisation, no limitation on land use in any part
14 of the balance of the Shannon Development Land bank.
15 The land uses restrictions don't even apply to the full 01:54
16 extent of the Shannon LNG lands, the subject of their
17 option agreement with Shannon Development. I would
18 refer to page 12 of Dr. Franks' report and the land
19 uses within the various zones that are limited are
20 referred to in the previous page. 01:54
21 Mr. McElligott has also suggested that no further port
22 facilities could be accommodated on the Shannon
23 Development Lands, we have heard that's not true.
24 Mr. McElligott says this morning I have looked up the
25 definition of a 'port' and it means a harbour. What we 01:55
26 are talking about is not a port, we are talking about
27 port facilities. So having examined the matter it is
28 quite clear, we would submit, that there is no
29 sterilisation, there are no restrictions on the use of

1 the balance of the Shannon Development land bank.

2
3 I want to turn to the marine aspect of health and
4 safety. Again there are no exclusion zones and
5 Dr. Havens agreed with that. There is no credible risk 01:55
6 of an accident with significant LNG spill in the
7 estuary. This arises as a result of the design of the
8 ships, the double hulled nature of those ships, the
9 navigation controls, the speed of the ships and the
10 fact that shipping traffic is not zigzagging, it's not 01:56
11 crossing. So the scenario that Dr. Havens postulated,
12 and he didn't postulate in relation to this particular
13 facility, of a failure of a compartment containing LNG
14 cascading and affecting further compartments on a
15 particular ship and giving rise to this large vapour 01:56
16 cloud is not credible. It could only arise in the case
17 of a deliberate assault on the ship, a terrorist
18 attack. Of course it does not take into account any
19 mitigation measures that would arise. For example, the
20 Harbour Master said that in the event of a heightened 01:57
21 alert in relation to security, ships would not be
22 allowed in the estuary. Mr. McElligott has referred to
23 this possibility or the possibility of this vapour
24 cloud extending up to three miles, what Mr. Havens
25 readily acknowledged during the course of his 01:57
26 submission, and indeed in answer to a question that
27 I put to him, that the Sandia Report, the American
28 report, didn't buy into that. First, it didn't accept
29 that the cascading effect, the potential cascading

1 effect would be such as to cause the failure of all the
2 compartments, I think it referred to perhaps two or
3 three compartments failing. Obviously the more
4 compartments that fail the greater the potential
5 spillage of LNG, but even in the higher levels of LNG 01:58
6 spillage Sandia did not accept that the vapour cloud
7 would extend beyond one mile. The experts involved in
8 preparing Sandia, and Sandia of course was dealing
9 predominantly with terrorist attacks rather than
10 accidents, even in the case of a terrorist attack 01:58
11 Sandia, having conducted its inquiries and having
12 listened to experts, was of the view that the extent of
13 the LNG vapour cloud would be one mile. When you look
14 at the EIS, if I could refer you, I am not going to
15 open it now, but if you turn to appendix C, volume 4 of 01:59
16 the EIS, figure 3A point 1 shows the parts of a ship
17 entering the estuary and coming up to the LNG facility.
18 It shows a navigational limit, a safety limit of,
19 I can't remember precisely what the dimensions are, but
20 it shows also a one mile line outside the course of the 01:59
21 ship on either side and there are only very small parts
22 of the coastline which would be subjected to or that
23 come within that one mile area and of course that is
24 against a backdrop where, one, there is no credible
25 risk of an accident so it could only occur as a result 02:00
26 of some deliberate act, and, secondly, doesn't take
27 into account the mitigation measures; in other words,
28 that ships would be kept out of the estuary and of
29 course that the ships are moving so the risk of any

1 vapour cloud reaching the particular part of the coast
2 would of course depend on the ship being opposite that
3 particular area when the particular incident occurred.
4

5 What is clear, and there has been a full assessment of 02:00
6 the marine issues and identified in the EIS and of
7 course in the evidence given to this hearing, LNG
8 storage facilities are safe. Yes, of course LNG is
9 potentially dangerous, but the safety features put in
10 play by the industry in accordance with the various 02:01
11 guidelines, both European, UK and American are such
12 that the industry has thankfully survived with an
13 unblemished record for the past 60 years during which
14 there has been no incident of a major spill.

15 02:01
16 Looking at the health and safety issue overall, what we
17 have are assessments by the various experts retained by
18 Shannon LNG in the preparation of the QRA and the EIS,
19 the assessment by the HSA, the assessment ongoing
20 I should say by Shannon Foynes Port Company who are 02:02
21 conducting or who are commissioning their own
22 independent report and the overall assessment by
23 Dr. Raj. Dr. Raj, as you will have heard, came in at a
24 late stage after the application is lodged, after the
25 EIS has been prepared, after the QRA has been prepared, 02:02
26 and he is asked for his view as an internationally
27 renowned expert, what do you think, and he expresses
28 the view, as do all the other experts who have looked
29 at this, that this facility is well within the safety

1 parameters laid down by the regulations and guidelines
2 that apply and also, even though the tests are done on
3 a somewhat different basis and the approach is slightly
4 different, although the objective is obviously the
5 same, comply with the US guidelines. Dr. Havens hasn't 02: 03
6 suggested that the facility located in the Shannon
7 Estuary is unsafe, he didn't express any view on the
8 facility. The Prime Time report we saw or the edited
9 version of the Prime Time report, and I am not asking
10 you to place enormous significance or indeed any real 02: 04
11 significance on views people expressed in other forums
12 for whatever reasons, but Dr. Cox, who is Dr. Havens'
13 associate, says the risks are extremely low and Dr. Cox
14 says they are risks that I and indeed any informed
15 person could and should accept. 02: 04

16
17 We are not asking the Board to second-guess the HSA,
18 the HSA is the body that provides the technical advice
19 to the Board, but the Board can be comforted by the
20 fact that it has heard a significant amount of 02: 05
21 evidence, all of which points to this facility in the
22 context of risk assessment both land based and marine
23 based as being entirely within and well within the
24 parameters set by various international bodies.

25 02: 05
26 I should before I leave this point perhaps refer
27 briefly to the legal submissions. We have dealt with
28 the Seveso and the regulations, I am not going to go
29 through that, I am going to ask you to take that as

1 read, but I just want to refer you to the Harri ngton
2 case which I am sure you are familiar with.
3 Interestingly the Harri ngton case in fact involved a
4 very similar issue that arose in this case; in other
5 words, whether or not a pipeline leading to a facility 02: 06
6 was included in the ambit of an establishment. At page
7 19 of the submissions there is a reference to the
8 Harri ngton case and the decision of Macken J in the
9 High Court. Perhaps I can just read the passages from
10 paragraphs 52 and 53 of the submissions. It deals 02: 06
11 hopefully helpfully with the relationship between the
12 Bord and the HSA. Paragraph 52:

13 "As regards the respective roles of the
14 HSA and the Board, the High Court
15 concluded, firstly as regards the
16 competent authority: 02: 07

17 'The competent authority has a peculiar
18 and very specific role to ensure that
19 all obligations imposed on the state or
20 on operators, which arise pursuant to
21 the Directive, are complied with. No
22 challenge has been raised to its
23 expertise. . .

24 I agree with the argument of the first 02: 07
25 Notice Party that it is clear from the
26 Directive and the Regulations of 2000
27 that the identification of the nature
28 and extent of an establishment requires
29 an assessment of various technical
30 matters involving the application of
31 expert judgment and that article 16 of
32 the Directive requires the appointment
33 of a competent authority in each Member
34 State with specific responsibility for
35 carrying out the duties laid down in
36 the Directive. The Health and Safety
37 Authority has been identified as the
38 body with the requisite expertise to
39 ensure that the regulations are applied
40 and enforced and that the duties placed
41 on the State by the Directive are
42 fulfilled. "

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Then paragraph 53:

"Addressing the interaction of the competent authority with the Planning Authority, Macken J concluded:

' Article 12 of the Directive certainly requires that Member States ensure that the objectives of preventing major accidents and limiting the consequences of such actions are taken into account in land use policies and of other relevant policies, including undoubtedly planning and development policies and that is done through controls inter alia on the siting of new establishments. And it was equally true that in doing so Member States are obliged to ensure that land use or other relevant policies take account of the need to maintain appropriate distances between establishments and residential or other areas. On a correct reading of the Article, however, nothing in it prohibits these matters, including the scope of the establishment, being addressed by reference to technical advice delivered by the competent authority. "

02: 08

02: 08

02: 08

In other words, what the Court is saying is that it is quite open and appropriate for the Board to rely upon the HSA not only in the assessment of the technical risks arising from the operation of the establishment, but also in relation to the extent of the establishment.

02: 08

Finally, in relation to this issue on health and safety, the HSA did indicate, and indeed again an example of these regulatory bodies not letting down people, quite the contrary. It indicated during the course of its submission to this hearing that it would

02: 09

1 review the further information provided by Killoe
2 Residents Association or information to which it was
3 directed by that association. The HSA has advised that
4 there are no health and safety reasons to refuse
5 permission; however, if having reviewed that further 02: 10
6 information changed its mind, and I have to say we
7 don't think that is likely at all because a very
8 thorough and complete investigation of the risks have
9 been carried out, but if for some reason the HSA did
10 change its recommendation we would of course ask the 02: 10
11 Board for the opportunity, I am not asking for a
12 resumed public hearing obviously, but we would ask for
13 an opportunity to respond to that submission and of
14 course that would be something that would automatically
15 arise, we would submit, by the application of the 02: 10
16 principles of natural justice.

17
18 If I can turn, and I am not going to deal in any detail
19 with the other elements of the application, but what
20 I just want to highlight is that ... (INTERJECTION) 02: 10

21 **INSPECTOR:** Mr. O'Neill, it's 1:05,
22 will your presentation take
23 much longer?

24 **MR. O'NEILL:** It will take another 15
25 minutes maybe, Sir. 02: 11

26 **INSPECTOR:** Okay, we will proceed.

27 **MR. O'NEILL:** What I want to touch very
28 briefly on are
29 environmental issues. As I say I am not going to go

1 through all the various reports and the assessments of
2 the risks that have been addressed and the mitigation
3 measures that have been proposed, but can I summarise
4 it in this way: The conclusion in respect of each of
5 the environmental topics raised and discussed is that 02: 11
6 with mitigation measures the impact on the environment
7 is minimal. That of course is in the context of the
8 siting of a facility on land which is zoned in the
9 Development Plan for industrial uses. As I say you
10 have access to all the submissions and of course the 02: 12
11 EIS which we would say confirm that environmental
12 issues have been appropriately dealt with and do not
13 constitute a concern insofar as this development is
14 concerned.

15
16 Obviously the advice that has been given depends upon
17 the operation of the facility in accordance with the
18 design and that in any event is a matter which of
19 course will be under the regular control and scrutiny
20 of the EPA and indeed the Local Authority in the 02: 12
21 context of water pollution licences etc. Concern in
22 the last day or so has been, and I don't say it arose
23 for the first time, but concern has been highlighted in
24 the last couple of days in relation to traffic issues,
25 particularly in Tarbert. That has been dealt with, but 02: 13
26 what I would just emphasise is that Shannon LNG have
27 agreed, at the suggestion of the Council, the Council
28 have identified a number of conditions which they would
29 suggest be imposed, but it has agreed to contribute to

1 the upgrading of safety features in Tarbert and I think
2 the actual provisions are identified in the Kerry
3 County Council submission. In terms of traffic safety
4 and traffic management Shannon LNG don't have any
5 traffic functions in terms of controlling traffic and 02: 13
6 in that respect they have to rely upon and will rely
7 upon Kerry County Council and the Gardaí to implement
8 and enforce any traffic restrictions or régimes that
9 may be imposed. What can be said of course is that
10 Shannon LNG will cooperate to the full with the Council 02: 14
11 and the Gardaí in the implementation of those
12 restrictions. It is not in Shannon LNG's interest that
13 traffic hazards or traffic obstructions are caused.
14 There were a number of conditions in the Kerry County
15 Council submission, conditions that it was suggested 02: 15
16 should be imposed if the Board decides it is
17 appropriate to grant permission.

18
19 All of those conditions have in fact been, and indeed
20 we suggested a couple of amendments to the 02: 15
21 certification of nickel steel and the testing of wells
22 and I think the County Council have accepted that the
23 objective which the Council sought to achieve by the
24 conditions it suggested is achieved by the slightly
25 modified conditions we have suggested. One issue 02: 15
26 outstanding relates to the upgrade or the commencement
27 of works prior to the completion of the upgrading of
28 the road and what has been suggested in Mr. Lynch's
29 submission, I think, is that the, yes, the upgrade

1 works should be completed before construction proper
2 commences, but that site preparation works should be
3 permitted and should be permitted in such a way that it
4 won't have an impact on the road; in other words,
5 materials won't be brought onto the site because the 02: 16
6 site preparation will not involve that. What we have
7 done is suggested a revised condition dealing with that
8 which I will read out perhaps.

9
10 It reads as follows: 02: 16

11 "1(a) prior to commencement of
12 development, all necessary and road
13 works shall be completed to the
satisfaction of the Planning Authority.

14 (b) In relation to the earth works
15 phase of construction, the developer
may complete this phase of the works at 02: 17
16 the same time and in conjunction with
road upgrade works to be performed by
Kerry County Council. During the
17 earthworks phase of construction and
pending the completion of the road
18 works, no material shall be exported
from the lands or imported onto the
19 site. The details of the plant
movements onto the site during the
20 earthworks phase of construction shall 02: 17
21 be agreed between the developer and the
Planning Authority as part of the
22 traffic management plan."

23 Then the reason:

24 "In the interests of proper planning
25 and sustainable development of the 02: 17
26 area, public safety, traffic safety and
public health."

27
28 We would submit that answers the concerns and genuine
29 concerns of the Council that increased traffic wouldn't

1 be brought to bear on the road before the road is
2 upgraded.

3 **INSPECTOR:** Mr. O'Neill, is that a new
4 condition?

5 **MR. O'NEILL:** It is a condition in 02: 17
6 substitution.

7 **INSPECTOR:** Yes, but it is new at this
8 moment, are you introducing
9 it at this moment?

10 **MR. O'NEILL:** Yes. 02: 18

11 **INSPECTOR:** I think we will just
12 interrupt you for a moment
13 and ask for the Planning Authority's opinion on that,
14 is that acceptable to the Planning Authority?

15 **MR. SHEEHY:** Mr. Inspector, part (a) of 02: 18
16 the proposed condition
17 states that:

18 "Prior to the commencement of the
19 development all necessary roadworks
20 shall be completed to the satisfaction
of the Planning Authority." 02: 18

21
22 This is in relation to construction work commencing on
23 the site and obviously we are in agreement with that
24 part. In relation to the earthworks part (b), in
25 relation to the earthworks phase of construction, 02: 18
26 I think, Mr. Inspector, that the condition would be
27 acceptable to us in that the details of any plant
28 movement, and there will be no material going on or off
29 the site and the details of the plant movement shall

1 still be part of a traffic management plan to be agreed
2 by the Council, I think that's a critical element of
3 that amendment, Mr. Inspector.

4 **INSPECTOR:** So you are agreeable?

5 **MR. SHEEHY:** What I am saying, 02: 19
6 Mr. Inspector, is we don't
7 have a difficulty with the condition, but that's not to
8 be construed as saying that Kerry County Council having
9 reviewed the traffic management implications and the
10 existing road condition are stating here that that work 02: 19
11 can commence, that will be subject to the review as
12 part of the traffic management plan.

13 **MR. McELLI GOTT:** Mr. Inspector, we would
14 find it very strange that
15 they would propose to start working on the site before 02: 19
16 the roads are upgraded because that would just bring
17 more danger and safety issues, if they are thinking
18 they are going to bring tonnes of truck every day in
19 and out of the site.

20 **INSPECTOR:** No, they are not. 02: 20

21 **MR. McELLI GOTT:** Just to make it clear.

22 **MR. O'NEILL:** No, that's not the
23 position. The materials
24 are not going to be brought on and off the site
25 according to this condition. 02: 20

26
27 If I may move on from that, I think that's the only
28 observation I have in relation to any of the
29 conditions. The other conditions suggested by Kerry

1 County Council are acceptable, subject obviously to the
2 views of the Board.

3
4 I am practically finished now and if I can just quickly
5 go through the submissions to make sure that I have 02: 20
6 covered -- in fact there are a few aspects that
7 I haven't covered, but if I can just go quickly through
8 them. Paragraph 3 of the conditions refers to a
9 contention that some of the provisions of the 2006 Act
10 are contrary to the 2000 Act and the EIA Directive. We 02: 21
11 claim that's not a matter for you, Sir, and we refer to
12 that in paragraph 4.

13
14 Section (b) then on paragraph 4 deals with material
15 considerations, obligations to implement EU law. 02: 21
16 Reference to the Kyoto protocol, I think I have dealt
17 with that. No. 11, obligation with regard to
18 Government policy, obligation with regard to
19 development plans under 13. There is an extract then
20 from the Kerry County Development Plan at paragraph 14. 02: 21
21 You have been referred to that already and then
22 reference to the variation at paragraph 16. Under
23 paragraph 19 we deal with planning conditions and the
24 jurisdiction of the Board to impose planning
25 conditions. Obviously limited, but that's a matter 02: 21
26 that has been well versed I am sure in other hearings
27 and in other fora.

28
29 Then section C on page 8 deals with the needs for the

1 development, I have dealt with that. The requirements
2 of the EIA Directives, they set out, as you are well
3 aware, what is required in an Environmental Impact
4 Statement. Paragraph 26, we identify the -- we refer
5 to article 5 identifying what the assessment involves 02: 22
6 and what the statement should contain. Then at
7 paragraph 27 we say that the statement does comply with
8 the EIA directives.

9
10 Of course just by way of an aside, you will be aware 02: 22
11 that under section 37, it is not specifically referred
12 to in the submissions, but under section 37(e)
13 subsection 2 if the Board is of the view that the EIS
14 is inadequate it has the power to refuse to deal with
15 the application. 02: 23

16
17 Then on page 11 is project splitting and that's not
18 something I have dealt with and I think I need to go
19 through that. It is suggested that as a result of not
20 putting forward in this application the proposals in 02: 23
21 respect of the gas pipeline; in other words, the
22 connection to the National Grid and the provision for
23 an electricity supply from Tarbert, that somehow we are
24 involved in project splitting. While the phrase is a
25 recognised phrase I think it has been misapplied in 02: 23
26 this case. Essentially what project splitting is
27 involved with is splitting a project into a number of
28 different applications in such a way as to bring each
29 element of that application under the requirements for

1 an Environmental Impact Assessment and statement and
2 clearly that does not arise in this case because the
3 gas pipe is going to require a separate Environmental
4 Impact Statement. We refer in paragraph 29 to the
5 European Court of Justice decision in the Commission
6 -v- Ireland where the EU Commission had brought Ireland
7 to task in relation to implementation of the EIA
8 Directives. Perhaps I should read the passage in
9 question, and this is paragraph 29, the quotation in
10 paragraph 29:

02: 24

02: 25

11 "As regards the cumulative effects of
12 projects, it is to be recommended that
13 the criteria and/or thresholds
14 mentioned in Article 4(2) are designed
15 to facilitate the examination of the
16 actual characteristics exhibited by a
17 given project in order to determine
18 whether it is subject to the
19 requirement to carry out an assessment
20 and not to exempt in advance from that
21 obligation certain whole classes of
22 projects listed in Annex II which may
23 be envisaged on the territory of a
24 Member State...

02: 25

19 The question whether, in laying down
20 such criteria and/or threshold, the a
21 Member State goes beyond the limits of
22 discretion cannot be determined in
23 relation to the characteristics of a
24 single project, but depends on an
25 overall assessment of the
26 characteristics of projects of that
27 nature which could be envisaged in the
28 Member State concerned....

02: 25

25 So, a Member State which established
26 criteria and/or thresholds at a level
27 such that, in practice, all projects of
28 a certain type would be exempted in
29 advance from the requirement of an
30 impact statement would be exceed the
31 limits of its discretion under Articles
32 2 and 4 of the Directive unless all the
33 projects excluded could, when viewed as
34 a whole, be regarded as not being
35 likely to have significant effects on

02: 25

1 the environment.

2 That would be the case where a Member
3 State merely set a criterion of project
4 size and did not also ensure that the
5 objective of the legislation would not
6 be circumvented by the splitting of
7 projects. Not taking account of the
8 cumulative effect of projects means in
9 practice that all projects of a certain
10 type may escape the obligation to carry
11 out an assessment when, taken together,
12 they are likely to have significant
13 effects on the environment within the
14 meaning of Article 2 of the Directive.

02: 26

15 30. Thus the term project splitting
16 has a specific meaning in the
17 jurisprudence of the European Court of
18 Justice, i.e. setting criteria so that
19 'all projects of a certain type may
20 escape the obligation to carry out an
21 assessment'. In other words, project
22 splitting had been viewed as a device
23 to avoid the obligation to carry out an
24 EIA in the first case."

02: 26

25 As we pointed out that does not arise in this case
26 because a separate EIA and a statement as a result of
27 that has to be prepared in the present case. In any
28 event, as you will see in paragraph 31, we refer to
29 chapter 17 of the EIS in which the potential impacts of
30 the pipeline and the other developments, including of
31 course existing developments, are taken into account
32 and I will refer you in particular to paragraph 17.6 of
33 the EIS.

02: 26

02: 27

34 Of course there is a good reason for splitting the
35 projects in this case and of course that is recognised
36 in the Muller decision to which we refer in paragraph
37 33, which again is very similar to the present case in
38 the context of a separate application or an application
39

02: 27

1 having to be made in the Muller case in respect of an
2 electrical supply to the facility, the subject of the
3 planning application. That arose in the Muller case a
4 complaint being made that there was project splitting
5 and the decision of the Board was subjected to an 02: 28
6 application for judicial review which failed at an
7 early stage because the Court was of the view that the
8 power lines running from the completed development were
9 properly excluded from the application for planning
10 permission and White J said: 02: 28

11 "I am satisfied that considerations in
12 relation to any potential ancillary or
13 incidental impact of the development do
14 not fall to be determined at this stage
15 and that the position is correctly set
16 out in the affidavit filed on behalf
17 of the second-named Notice Party
18 wherein it is averred that the ultimate 02: 28
19 application for development consent
20 will not be made by the second-named
21 Notice Party, but by the ESB."

22 Of course it is now EirGrid:

23 "Being the body responsible under
24 statute for the National Grid. 02: 28
25 Consequently, and not for any reason
26 designed to prevent the full
27 environmental assessment of this
28 development, a separate developer will
29 have the responsibility for the
30 preparation and submission of an
31 environmental impact study in respect
32 of matters such as power lines which
33 will fall for separate consideration by
34 the appropriate authority at the 02: 29
35 appropriate time. Thus, again, I do
36 not consider that substantial grounds
37 have been established under this
38 heading."

39 Likewise the same considerations apply in this case

1 where the provision of the electrical supply will be
2 provided by EirGrid. Then in relation to paragraph 35
3 we touch again on this issue in relation to the
4 proposed pipeline. Again we say that Shannon LNG in
5 its future application for planning permission will be 02: 29
6 required to prepare and submit a separate EIS covering
7 all aspects of that pipeline development and whether or
8 not that development is carried out by Shannon LNG or
9 by Bord Gáis Éireann is another matter, but there are
10 other good reasons for keeping that application 02: 30
11 separate from the current application and that is of
12 course that the application in relation to the gas
13 pipeline involves different considerations, a pipeline
14 covering lands belonging to a large number of third
15 parties and with potential CPO impacts. 02: 30

16
17 If I could keep on then, the Aarhus Convention we refer
18 to, and this is in relation to any suggestion that as a
19 right, so to speak, participants in the planning
20 process have an entitlement to costs, I don't think 02: 30
21 I need to read that out. I have dealt with the Seveso
22 Directive and the regulations. Then on page 22 we deal
23 with habitats. We deal with the Habitats Directive and
24 Water Framework and the Wildlife Acts. Again I don't
25 intend reading out those provisions except to say that 02: 31
26 the conclusions, as indeed I have already referred to,
27 the conclusions of all the studies carried out and
28 investigations carried out is that there won't be any
29 impact on designated habitats or any significant impact

1 on designated habitats and that any impact is well
2 within the parameters of the various directives.

3
4 Then page 26, the Wildlife Acts on page 26, the
5 Development Plan objectives in the County Development 02: 31
6 Plan, and again they have been already opened to you
7 and I am not going to refer to them, I can take them as
8 read I think. We conclude to say that the
9 environmental objectives of the Kerry County
10 Development Plan are achieved. 02: 31

11
12 Then we say in conclusion that the Board should grant
13 permission for the LNG terminal, the subject matter of
14 the planning application. The date in fact is wrong,
15 it should be 24 September rather than November '07 so 02: 32
16 if I can very quickly complete my submission now, Sir.

17
18 What I hope to bring across is that this is simply the
19 first stage in an important process. The facility we
20 submit does meet all the planning criteria, the general 02: 32
21 criteria that it's in accordance with proper planning
22 and sustainable development of the area, is in
23 accordance with the international, national, regional
24 and local guidelines and objectives. In fact, we would
25 say that the provision of such a facility, as is 02: 32
26 mandated, effectively mandated or practically mandated
27 by the various policy objectives identified. Of course
28 that doesn't oust the jurisdiction of the Board who
29 must consider the proper planning and sustainable

1 development.

2
3 In any event, as I have already pointed out, if
4 permission is granted further consents are required,
5 ongoing monitoring will occur and, therefore, the 02: 33
6 concerns of third parties have expressed will be
7 adequately catered for. To conclude, to use that
8 phrase that has been used a few times, despite what
9 Mr. Kearney says, this is the right project, it is in
10 the right place and it is at the right time. I would 02: 33
11 like to thank you, Sir, and I would thank the members
12 of the public for their patience as well.

13
14 **END OF CLOSING SUBMISSION OF MR. O'NEILL**

15 02: 33
16 **INSPECTOR:** Thank you, Mr. O'Neill.
17 Before I draw this hearing
18 to a close, I have certain oddball matters that have
19 come up and I apologise to everybody because this may
20 look like a very late scattergun approach so I am going 02: 34
21 to ask the Planning Authority in its conditions did you
22 consider the imposition of a bond for the full
23 restoration of the site at the expiry of the
24 development, possibly in 50 or more years time?

25 **MR. SHEEHY:** Mr. Inspector, we omitted 02: 34
26 to include in our Manager's
27 report a condition in that regard, although we had
28 discussed the issue, and we are of the view that an
29 appropriate condition should be included to address

1 that matter.

2 INSPECTOR: Do you have any idea of the
3 amount?

4 MR. SHEEHY: Mr. Inspector, I have a
5 wording here to amend the 02: 34
6 condition, if I might read it to you and maybe submit
7 you a copy of that.

8 INSPECTOR: Okay.

9 MR. SHEEHY:

10 "On or before the date of the expiry of 02: 35
11 the bond in the sum of 5 million which
12 is coupled with an agreement to empower
13 the Planning Authority to apply such
14 security, or part thereof, to the
15 satisfactory completion of any part of
16 the development. The developer shall
17 lodge with the Planning Authority a
18 cash deposit, a bond of an insurance
19 company or other security to secure the 02: 35
20 satisfactory reinstatement of the site
21 upon cessation of the project, coupled
22 with an agreement empowering the
23 Planning Authority to apply such
24 security or part thereof to the
25 satisfactory reinstatement of the site,
26 the form and amount of security shall
27 be as agreed between the Planning
28 Authority and the developer or in
29 default of agreement shall be 02: 35
determined by An Bord Pleanála."

22 The reason, Mr. Inspector, that we haven't specified an
23 exact sum is that we will have to do more work to
24 determine what will be involved in removing the tanks,
25 if that is what is considered necessary, because the 02: 35
26 exact nature of the reinstatement shall be determined
27 at the time of the expiry of the existing bond.

28 INSPECTOR: Okay. Mr. O'Neill, do you
29 want to comment on that?

1 **MR. O'NEILL:** Yes, Mr. Sheehy kindly
2 did alert us to the fact
3 that he was going to suggest this additional condition
4 and we have no difficulty with that. If there is
5 disagreement it can be resolved by the Board in terms 02: 36
6 of the quantum.

7 **MR. SHEEHY:** Mr. Inspector, sorry, can
8 I raise one other issue?

9 **INSPECTOR:** Yes.

10 **MR. SHEEHY:** In speaking yesterday you 02: 36
11 asked the Planning
12 Authority the situation with regard to the road to the
13 west of the site, and my initial response was that that
14 was a public road, which I subsequently corrected to
15 state that it was a private road. Unfortunately I am 02: 36
16 now in a position I have to subsequently correct myself
17 once more and revert to my original contention. In
18 actual fact it is a public road down to the crossroads.
19 The element of the roads which continues straight on
20 from the crossroads is a private road, that's the 02: 37
21 portion, you might be aware, that came within the
22 boundary of the application and has a turning circle,
23 that portion is private, but as far as the crossroads
24 it's actually a public road.

25 **INSPECTOR:** Mr. O'Neill, you were going 02: 37
26 to submit a revised map on
27 that, weren't you, showing a revised boundary
28 treatment?

29 **MR. O'NEILL:** Yes, I can do that. I am

1 My impression is that the wind farm site is totally
2 included within the oil refinery site, whether there is
3 identical boundaries, there might be minor amendments,
4 but I do have a map here, Mr. Inspector, that I can
5 give you now indicating the boundaries of those 02: 39
6 applications.

7 **INSPECTOR:** The zoning which applies to
8 that area at the moment is
9 unzoned; is that right?

10 **MR. SHEEHY:** It is zoned rural general. 02: 39

11 **INSPECTOR:** Rural general, sorry. Was
12 that always the case or has
13 the zoning changed?

14 **MR. SHEEHY:** That has always been the
15 case. 02: 39

16 **INSPECTOR:** Okay, thank you. To turn
17 to the Applicants, we have
18 had a number of alternatives proposed such as storage
19 within the Kinsale head field, I just wondered was any
20 considered ever given to aquifer storage which seems to 02: 40
21 be a popular method in France?

22 **MR. SHEARER:** Mr. Inspector, I am not
23 aware there are any
24 aquifers present in Ireland that would afford that kind
25 of storage facility opportunity. 02: 40

26 **INSPECTOR:** So the aquifers in France
27 are very large, are they?

28 **MR. SHEARER:** Most of the storage
29 I believe in France is

1 depleted gas fields. There is an area on the south
2 west of France called Lac which was the site of a large
3 onshore gas field that is depleted and is now used as a
4 major storage site in France. There may be other
5 storage sites, that's the only one I am very much aware of and that was a depleted gas field. 02:40

7 **INSPECTOR:** Okay. On this idea of an
8 exclusion zone which has
9 been bandied about, (SAME HANDED) would you be very
10 concerned about what development took place on the adjoining site in terms of it creating, if you like, an exclusion zone and I am thinking in particular about your possible ideas of having a power station on the site? 02:41

15 **MR. SHEARER:** Mr. Inspector, if the power station was developed, and I think we have indicated that there is a part of a site that we would consider suitable for that development, that would be completely consistent with the LNG terminal, it would not present a risk. In fact it is very common throughout the world to find LNG terminals and power stations collocated, that's very much the pattern in the Far East, in Japan. It's also the partner in several American terminals. The terminal in Boston, for example, is located about one quarter of a mile away from the largest gas-fired generating plant in the north eastern United States. 02:41

28 **INSPECTOR:** That really wasn't the question I was asking.
29

1 I was asking about the effect that any development on
2 the adjoining site might have on your site, are you
3 possibly even setting limitations on Shannon
4 Development?

5 **MR. SHEARER:** We are not setting any 02: 42
6 limitations on Shannon
7 Development's right to develop the adjacent property in
8 any way they see fit. I think that the potential
9 impact of any development would be a function of its
10 own QRA if it fell within an area that there were 02: 42
11 considered to be hazards, but that would be something
12 we would have to take up at that time, but there is no
13 restriction. We actually would be happy to see
14 development next door, it would be a potential customer
15 for the gas. 02: 42

16 **INSPECTOR:** Okay. On the possibility
17 of using Milford Haven as a
18 supply, one of the weaknesses I think you pointed out
19 in that was the fact that the interconnector, there are
20 three connections coming to the island of Ireland, but 02: 43
21 they all originate in the same place in Scotland; is
22 that right, Moffat?

23 **MR. SHEARER:** Everything originates in
24 Moffat, yes.

25 **INSPECTOR:** Is there any proposal to 02: 43
26 have a interconnector from
27 a different location or Wales or England?

28 **MR. SHEARER:** I believe there have been
29 people who have considered

1 that, but I am not aware that those proposals have made
2 any progress at all and I think the issue still remains
3 is having an interconnector does not assure Ireland of
4 any more ability to get supply from the UK than the UK
5 can get for itself.

02: 43

6 **INSPECTOR:** Okay. I think that
7 concludes those
8 supplemental questions that I just wanted clarified.

9 It now remains for me to close the hearing. Before
10 I do so I just want to point out a matter, if I can
11 find it, and it's in relation to costs. I think on the
12 Board's website it is pointed out that a Planning
13 Authority may apply to recover costs in respect of
14 dealing with these new applications under the Strategic
15 Infrastructure Act and that they should do so within a
16 period of three weeks of the closing of the hearing.

02: 44

17 Now that same provision applies to the public and
18 I will just read out the relevant section, it's section
19 37(h) of the Planning and Development Act 2000 as
20 amended by the Strategic Infrastructure Act. This is
21 37(h)(ii):

02: 45

22 "A decision given under section 37(g)
23 and the notification of the decision
24 shall state and

25 (c) the sum due to be paid to the Board
26 towards the costs to the Board of
27 determining the application under
28 section 37(e) and in such a manner as
29 the Board considers to be reasonable to
any Planning Authority that incurred
cost during the course of consideration
of that application and to any other
person as a contribution to the costs
incurred by that person during the
course of consideration of that

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1 application, each of which sums the
2 Board, may by virtue of this
3 subsection, require to be paid."

4 Now, I don't want to hold out any false hopes in
5 relation to costs, but I would point out that if you do 02: 46
6 want a make a submission on costs it must be done
7 within three weeks of today's date. Now, I can't work
8 out just what date that would be? I am told it would
9 be 20 February which should be a Tuesday.

10 **MR. McMAHON:** The 19th so, Inspector. 02: 46
11 Are you counting today as
12 day 1?

13 **INSPECTOR:** No, it would have to be the
14 19th.

15 **MR. McMAHON:** You are counting today as 02: 46
16 day 1.

17 **INSPECTOR:** I am telling you that it's
18 going to be 19 February.

19 **MR. McMAHON:** That's fine.

20 **MR. O'NEILL:** That would accord with our 02: 47
21 view, Sir, it should be the
22 19th.

23 **INSPECTOR:** Any claims in relation to
24 costs should be with the
25 Board by 19 February. Now, Mr. O'Neill, has very 02: 47
26 succinctly set out the provisions in relation to the
27 Board's dealing with this application, I will now take
28 on board everything that has been said, I will review
29 it and I will make a recommendation to the Board. The

1 Board has a wide range of options. It may decide to
2 grant permission, it may decide to refuse permission,
3 it may decide that it has not had sufficient
4 information, it may seek the advice of an outside
5 consultant and it may decide that this hearing may need 02: 47
6 to be reconvened on certain matters. The Board has
7 until 31 March to make a decision. There are also
8 provisions for extending that period if the Board feels
9 it necessary. I know it is widely regarded as a fast
10 track process, but the important thing from the Board's 02: 48
11 point of view is to make the right decision and that's
12 the critical part. I am now going to close this
13 hearing and I would like to thank you all for your
14 attention and for your general politeness and thank you
15 very much. 02: 48

16
17 THE HEARING CONCLUDED
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