

Meenaboll Environmental Protection Group

Objection

To the proposed decision

By the EPA

To grant a Waste Licence

TO

Donegal County Council

TO

Operate a landfill at Meenaboll, Co. Donegal



Ref #:	EPA	215/1
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We object to the granting of a licence on the following grounds:

- A. The **site** is in contravention of the Council of the European Communities, Habitats Directive 92/43/EEC, Article 6 (copy enclosed).
- B. The EPA Inspectors Report is totally biased.
- C. The rainfall figures for Meenaboll are again incorrect.
- D. The **site** at Meenaboll was not included in the Donegal County Council 2000 Donegal Waste Management Plan.
- E. **No** site selection criteria were established in the Donegal County Council 2000 Waste Management Plan.

A. Contravention of the Habitats Directive 92/43/EEC, Article 6,

(the conservation of natural habitats and of wild fauna and flora).

Ref#'s: **River Finn** SAC Site Code: 002301
Lough Akibbon and Gartan Lough SAC Site Code: 000158
Leannan River SAC Site Code: **002176**

This part of the objection is being made on the advice of the Environmental Directorate of the European Commission to clearly establish that the locating of a landfill at Meenaboll would be in contravention of the Habitats Directive 92/43/EEC, Article 6.

Overview and cause of concern:

A salmon spawning stream, which is a tributary of the Cumrick and River Finn SAC, runs directly through the proposed landfill.

Salmon spawn within a very short distance of the proposed landfill.

The EIS, prepared for Donegal County Council, ignores the importance of this protected habitat.

The Inspectors Report also mentions the fact that the Donegal County Council EIS will 'consider the need to minimise' adverse impact on the designated conservation areas.

It is proposed to redirect all surface water from the site, towards the Sruhanpolladoo Stream.

We have been legally advised to address the two scenarios that exist at Meenaboll:

Scenario One

The tributaries and spawning streams of the River Finn, such as the Cumrick and the Sruhanpolladoo, should be part of the ECO area of the River Finn SAC. As such they would be afforded the full protection of the Habitats Directive. If they have been accidentally or deliberately omitted from the SAC, then they must be restored to the ECO area of the River Finn SAC.

Reference: **European Court of Justice Ruling Case C-67/99 dated 11/9/2001**

whereby Ireland was condemned for failing to nominate a complete list of proposed SAC's under Directive 92/43/EEC - the Habitats Directive.

In particular spawning tributaries and streams had been omitted from within SAC boundaries.

The deadline for this complete submission is April 2006.

Our legal advice is that all Agencies should act as if these tributaries, and spawning streams, should be part of the River Finn SAC.

Scenario 2

Even if the tributaries and spawning streams of the River Finn, such as the Cumrick and the Sruhanpolladoo, are not included in the River Finn SAC, the Irish State is still legally bound to protect and to prevent any deterioration of these natural habitats. The protection of the River Finn SAC is paramount. No level of risk is acceptable.

Reference: European Court of Justice Rulings Case C-117/03 dated 13/012005

This ruling concerns the protection regime applicable to areas that should be but have not yet been nominated as SAC's.

In part it states:

"Any plan or project not directly connected with or necessary for the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the sites conservation objectives."

Reference: European Court of Justice Ruling Case C-127/02 dated 07/09/2004

This ruling concerns the legal protection regime applicable to projects situated outside of SAC's but having effects within SAC's.

In part it states:

"Under Article 6(3) of Directive 92/43, an appropriate assessment of the implications for the site concerned of the plan or project implies that, prior to its approval, all aspects of the plan or project which can, by themselves or in combination with other plans or projects, affect the site's conservation objectives must be identified in the light of the best scientific knowledge in the field."

The complete judgements, referred to above, may be accessed at the following website:

<http://curia.eu.int/en/content/juris/index.htm>

Furthermore, the suggestion of the culverting of a salmon spawning stream is to be looked on as a very inappropriate action.

The same protection must be afforded to the tributaries of the Owenbeg River, which are also at risk from pollution from the proposed landfill, and would affect the Gartan and Leannan SAC's.

B. The EPA Inspectors Report is totally biased.

We are amazed at the manner in which all of the points (up to **40**) in **ten** different submissions were totally dismissed out of hand.

Having looked closely at all of the **ten** submissions we found that the majority of the submitted **points** related to the genuine concerns, of the submitters, of the dangers that such a **landfill** would pose to the fragile environment of the area.

We are sure that, like ourselves, all of the submitters made their submissions out of their deep concern and put a lot time, effort and research into them. Many of these people know the local area intimately and their interest Environmental Protection is very genuine. Their input really deserved a little more consideration.

The blatant inference that the EIS is **fine** because 'expensive consultants' prepared it is worrying to say the least.

It is even more amazing that the only concern expressed by the Inspector was of a 'non compliant site notice'.

Bureaucracy seems to rate much higher than Environmental Protection.

Under **Item 6** the Inspector refers to the closest designated area of conservation as Cloghernagore Bog and Glenveagh National Park (**SAC** and **NHA**) and refers to the River Finn **SAC** as being **2.25** km from the proposed facility.

As per objection (**A**) above it is clear that the Habitats Directive regards the tributaries of the Rivers **Finn** and the Cumrick as part of the River **Finn** **SAC**. **That** means that the proposed **site** is directly on top of an **SAC**.

Under **Item 10.3** regarding Mr McGeehan's submission on Golden Eagles, the Inspector states that none of the sensitive birds breed in the area. The Eagles have not reached breeding maturity yet. However as you will see **from** the attached Golden Eagles Project notice one of the eagles is already in the Meenaboll Area, and others are quite often seen in the nearby Glendowan Valley.

Under **Item 10.1** regarding Leachate Management it is noted that it is **intended to recirculate the leachate**. While this may remove **the** urgency of tankering it **off** site it **certainly increases the possibility of a leakage** disaster caused **by** the weak link in the lined membrane **system** – the weld. It is **accepted by all that the** membrane **system** does not 'contain' but simply minimises the leachate leakage. **This** level of **risk is not** appropriate at such an elevated site, on the side of a mountain with an **SAC** water source **running through** the site.

Your Inspector accepts the opinion contained in the EIS that Meenaboll is not in the **Gartan Catchment** Area. However two very knowledgeable agencies that provided submissions to the EIS stated emphatically that Meenaboll is in the Gartan Catchment Area. Those agencies were Teagasc and Coillte. (Copies of the Teagasc and Coillte submissions **are** included).

C. The Rainfall figures for Meenaboll are again incorrect.

We pointed out to you clearly in one of our submissions that the rainfall figures quoted in the **EIS** referred to Malin Head, located forty miles from Meenaboll, and we supplied you with the Met Eireann rainfall figures for Kingarow, which is located less than three miles from, and directly below Meenaboll. These figures showed a forty per cent greater level of rainfall and since the monitoring site is located at a lower elevation than Meenaboll it must be assumed that the figures for Meenaboll would be at least **ten** per cent higher again.

Your Inspector has now chosen to ignore the quoted **EIS** figures, and our official figures, and has gone and obtained rainfall readings from a monitoring site at Glenveagh, which is a significant distance away from Meenaboll and has absolutely no climatic similarity to Meenaboll. Glenveagh is also much lower **than** Meenaboll.

Here again are the Kingarow rainfall figures for 1998 to 2004: (available **from** Met Eireann)

1998	2047
1999	2125
2000	2129
2001	1634
2002	2145
2003	1636
2004	1911

(In the year 1995 the rainfall was 2500 mm.)

In Volume One of the **EIS**, section 7.36 it states:

"It is acknowledged, given the relatively high effective rainfall typical of the central areas of Donegal that the management of leachate will be of particular importance to the successful operation of the site".

It is regrettable then that the actual rainfall figures relating to Meenaboll, and the resulting **higher** levels of leachate production in an environmentally sensitive area, are being totally **ignored**.

D. The site at Meenaboll was not included in the Donegal County Council 2000 Donegal Waste Management Plan.

The Meenaboll site does not exist in the Donegal County Council 2000 Waste Management Plan and **as** such is invalid as part of the 2000 Waste Management Plan. Three other existing landfill sites did form part of the Donegal County Council 2000 Waste Management Plan but Donegal **County** Council were forced to close them since **they** had no EPA licence to operate and were deemed to be illegal. This is not Waste Management - **this** is criminality. To have **an** **inappropriately** sited landfill imposed **on** a community, which is practically a non-producer of waste, due to the incompetence and the criminality of Donegal County Council, and all without consultation, could hardly be described as democracy.

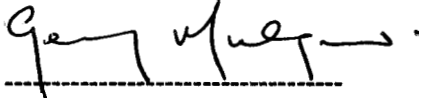
**,E. No site selection criteria were established in the Donegal County Council
2000 Waste Management Plan.**

It is a legal requirement of any Waste Management Plan that it should include specific site selection criteria for all future landfills. Such criteria should clearly include the exclusion of any sites where water is a problem, rainfall is a problem and damage to the environment is possible. It must above all ensure that protected **areas** such as NHA's and SAC's must not be compromised. The Proximity Principle must also form part of the criteria to ensure that the Polluter does Pay. How then can Donegal County Council have ended up ignoring all of the above criteria? If Donegal County Council has not applied these safeguards in their Waste Management Plan, then the validity of the plan must be in question.

It is clear that what we have at Meenaboll is politically motivated site selection:

- no voters
- no scrutiny " and damn the environment.

Yours Truly,



Gerry Mulgrew (Secretary)
Claggan
Church Hill
Co. Donegal

Date: January 14th 2006

E-Mail: meenaboll@leircom.net

Phone: 074 91 37357

Encl: *Cheque for €200.00*
Article 6 of the Habitats Directive
Golden Eagle Site Article
Teagasc Submission to EIS
Coillte Submission to EIS

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2000, and in the light of the threats of degradation or destruction to which those sites are exposed.

5. As soon as a site is placed on the list referred to in the third subparagraph of paragraph 2 it shall be subject to Article 6 (2), (3) and (4).

Article 5

1. In exceptional cases where the Commission finds that a national list as referred to in Article 4 (1) fails to mention a site hosting a priority natural habitat type or priority species which, on the basis of relevant and reliable scientific information, it considers to be essential for the maintenance of that priority natural habitat type or for the survival of that priority species, a bilateral consultation procedure shall be initiated between that Member State and the Commission for the purpose of comparing the scientific data used by each.

2. If, on expiry of a consultation period not exceeding six months, the dispute remains unresolved, the Commission shall forward to the Council a proposal relating to the selection of the site as a site of Community importance.

3. The Council, acting unanimously, shall take a decision within three months of the date of referral.

4. During the consultation period and pending a Council decision, the site concerned shall be subject to Article 6 (2).

Article 6

1. For special areas of conservation, Member States shall establish the necessary conservation measures involving, if need be, appropriate management plans specifically designed for the sites or integrated into other development plans, and appropriate statutory, administrative or contractual measures which correspond to the ecological requirements of the natural habitat types in Annex I and the species in Annex II present on the sites.

2. Member States shall take appropriate steps to avoid, in the special areas of conservation, the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated, in so far as such disturbance could be significant in relation to the objectives of this Directive.

3. Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. In the light of the conclusions of the assessment of the implications for the site and subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public.

4. If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected. It shall inform the Commission of the compensatory measures adopted.

Where the site concerned hosts a priority natural habitat type and/or a priority species, the only considerations which may be raised are those relating to human health or public safety, to beneficial consequences of primary importance for the environment or, further to an opinion from the Commission, to other imperative reasons of overriding public interest.

Information Centre

November 2003

In early November 10 of the 11 first year birds were regularly located by radio in Glenveagh National Park. The remaining bird, Red S, had a faulty radio transmitter. The food dumps were frequently moved around the park and the eagles normally located the food dumps within a day or two. The eagles were even enticed to a food dump across Lough Veagh opposite Glenveagh Castle, but there were few public visitors present each morning-to enjoy the spectacle.

Yellow Horizontal Bar and Blue 4 were seen in the park with 7 first year birds on the 6th November. Red S was seen feeding the following day. Blue 0 was noted near Lough Barra on the 10th and Blue 9, the weak bird from 2002, was recorded near Dunlewey on the western edge of the park.

By mid November, Red T, Red X, Red O, Red K and Red L had been away from the park for brief spells whereas Red A, Red C and Red F were more sedentary. Red T had left the park by the 17th November and was located near Lough Salt on the 26th November. Blue 4 was in the Park again on the 22nd and 24th. Yellow Horizontal Bar and Blue 8 were noted to the east of the Park on the 24th also and Yellow Two Spots was located roosting on the 24th also.

Yellow Two Spots and Yellow Diagonal Bar were noted roosting on the same hillside after dark on 25th November. Yellow Diagonal Bar was last recorded in April and had not been noted since. Its radio transmitter may be failing. The same evening Blue 8 was noted east of the park roosting in some mature Larch trees (a known Raven nest site) on the edge of Meenaboll Forest.

email: info@goldeneagle.ie tel: 074 37070 fax: 074 37070

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**County Advisory
and Training Services**

CARNAMUGGAGH,
Letterkenny, Co. Donegal.
Tel: 074-21555 Fax: 074-26659

September 16, 2002

Mr. Donal Casey,
Senior Executive Chemist,
Comhairle Chontae Dhún na nGall,
County House,
Lifford,
Co. Donegal.

Kirk RECEIVED			
McClure 19 SEP 2002			
Attonon P.P.			
FAO.	RECEIPT	FAO.	RECE.
KG	KG		
No. 5234.50			

Ref: July 02/5234.50 Proposed Landfill site at Meenaboll

Dear Mr. Casey,

Regarding your letter of 9th July 2002, I wish to make the following comments.

This proposed site is located on Blanket Peat topography that slopes to the west. The underlying subsoil is highly impervious. This means that protection of the surrounding surface must be the prime objective.

The site is divided by a 3rd class road that connects the Letterkenny Fintown R250 Road with the Churchill Doochary R254 Road. This road is used by locals, mainly sheep farmers, and visitors who enjoy the rugged landscape and the high quality habitats of this locality. The site is located on ground where conifer woodland has been clear-felled recently.

This site is 5.0 km. due south (or east) of Glenveagh National Park and 0.5 km. due east of the very important SAC Site - 2047 Cloghernagore Bog and Glenveagh National Park.

The site is located at the source of two rivers, the Owenbeg River that feeds into Gartan Lough and the Shruhanpollendoo River that feeds into the River Finn via the Commirk River. Gartan Lough is a very important lake because of its amenity value (Gartan Outdoor Pursuits Centre), its tourism value and its historical connections with St. Colmcille. The river Finn is a very important Salmon fishing river and forms part of The Foyle Fishery.

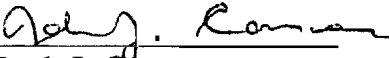
From a farming perspective there is a general concern, especially in dairying areas, on the potential of landfill sites to attract flocks of birds such as Crows and Gulls. These birds could be instrumental in the spread of disease and dump material from farm to farm

In general I would make the following recommendations.

1. Dúchas should be contacted directly for an assessment of the site regarding the potential impact on The SAC Site 2047.
2. The Foyle Fishery Board and the North Western Fisheries Board should be contacted directly regarding any possible impact on water quality in the surrounding rivers and Gartan Lake.
3. The views of Bord Failte should be sought on the possible adverse affects that this development would have on tourism. It could have possible adverse affects on environmentalists, hill walkers, back packers and cyclists who tend to traverse this area.
4. If the proposal does proceed the main objective should be to ensure that no leachate is ever allowed escape from the site.
5. The disease risk to farming activities caused by the increased activity of birds on the site should be addressed in the EIS.

The visual impact of the proposed development at this location cannot be underestimated. It is a pity that the surrounding forests have been clearfelled or are quite low in height, as a forest with 25 years growth would have a beneficial screening effect.

Yours sincerely,

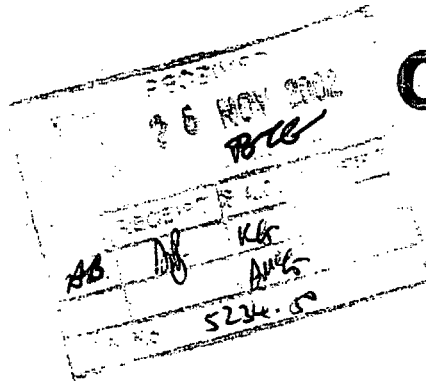

Job J. Cannon
Teagasc.

C.c. Donal Carey, Director of Operations, Teagasc North.
P.J. Molloy, CAO. Co. Donegal.
Sean Regan, Farm Environment Specialist, Teagasc.

GOVERNMENT BUILDINGS
CRANMORE ROAD
SUGO
TELEPHONE (071) 62663
INTERNATIONAL 353 71 62663
FAX (071) 43014
WEBSITE <http://www.coillte.ie>

19 November 2002

Angela McGinley
Kirk McClure Morrow,
Elmwood House,
74 Boucher House,
Belfast,
BT12 6RZ



Re: Proposed Landfill Site - Environmental Impact Assessment

Dear Angela,

Thank you for your recent letter and enclosures regarding the above, seeking my comments. Probably my response will have been garnered from other sources.

The site in question would have no impact on the landscape, the surrounding forest area having been classed as a **low** designation (category 1) on our Landscape Sensitivity Assessment project. Neither could the site pose any difficulties for Coillte in **carrying** out its normal forestry operations in the area.

cSAC 173, Meenygrannaugh Bog, is located well to the **south** and as it is on different watershed **drainage** to here **is** not **an** issue.

The proposed sites are **within** the **Lennan** catchment, it **drains** to the Owenbeg, Ballaba, Gartan Lough, Lennan, Lough Fern, Lennan. Gartan **Lough** is contained within **cSAC** 2047 - Cloghennagore and Glenveigh and **Lough** Fern and the lower reaches of the Lennan are contained in **cSAC** 1162. I have **been** **unable** to establish if the stretch of the Lennan between Gartan Lough and Lough Fern is covered by any conservation designation - I **am** currently awaiting a reply from Dúchas.

There are no **known** archeological / cultural heritage remains contained within the proposed site, **apart** from a field, wall/ditch at **the** north-western edge of the site which is likely to be 19th century land reclamation **work**.

COILLTE TEORANTA
REGISTERED OFFICE
LEESON LANE, DUBLIN 2

REGISTERED IN IRELAND
NUMBER 138108

BOARD OF DIRECTORS
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We have **no** records **of any** protected species of raptor either nesting or roosting at **this** location, perhaps the local wildlife ranger may offer an opinion, if not already consulted. Neither would this area be considered for inclusion in the upcoming survey for biodiversity / nature conservation areas for the West Donegal Forest Management **Unit**.

I hope the above has been of some help.

Yours sincerely,



~~Jon Williams~~
Environmental Manager

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90-49-15

Letterkenny Co Donegal

A/C PAYEE ONLY

Date 13/1/06

Pay EPA

TWO HUNDRED EURO

€200 -

Re: EPA 215-1

MEENABOLL ENVIRONMENTAL PROTECTION GROUP



141204

Lough Mc Managly
John Molloy

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By the EPA

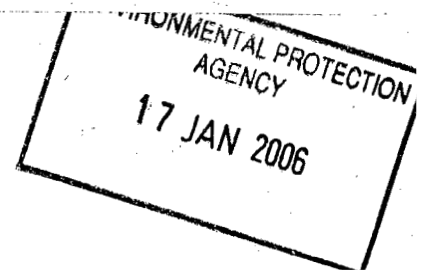
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