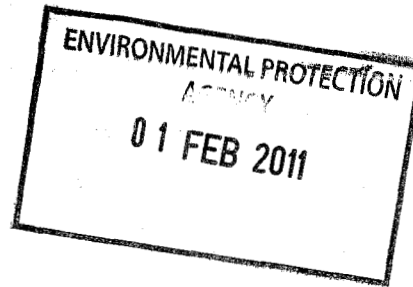




Comhshaol, Oidhreacht agus Rialtas Áitiúil  
**Environment, Heritage and Local Government**



31 January 2011

Our Ref: E00090/2010  
 Your Ref: S0008-01

Ms Noeleen Roche  
 Office of Climate, Licencing and Resource Use  
 EPA  
 Johnstown Castle Estate  
 Co. Wexford

**Re: Dumping-at-Sea Permit Application for ENDSA Tarbet Generating Station  
 Co. Kerry**

A Chara,

I refer to your recent letter in relation to the above-mentioned application. Outlined below are the nature conservation recommendations of the Department of the Environment, Heritage and Local Government

1) The proposed development would occur within and adjacent to the Lower River Shannon candidate Special Area of Conservation (cSAC) (site code: IE002262). This designated site is listed for the marine qualifying interest habitats: *Large Shallow Inlets and Bays* (habitat code: 1160), *Mudflats and sandflats not covered by seawater at low tide* (1140), *Reefs* (1170), *Sandbanks* (1110) & *Estuaries* (1130). It is also designated for the Annex II species bottlenose dolphin and otters. The proposed development would occur adjacent to River Shannon and River Fergus Estuaries Special Protected Area (Site code: 4077).

Plans or projects proposed to occur within or adjacent to Natura 2000 designated sites (Special Areas of Conservation and Special Protected Areas) are required under Article 6(3) of Council Directive 92/43/EC and Regulation 31 of the European Communities (Natural Habitats) Regulations (1997) to assess the potential significance to the nature conservation interests of those designated sites.



Guidance on this process can be found within "Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC" published by the European Commission in 2001. A recent document entitled "Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities" published by the Department of the Environment, Heritage & Local Government is available to download on <http://www.npws.ie/en/WildlifePlanningtheLaw/AppropriateAssessment/>.

- In this instance a screening document (Stage 1) must be generated to indicate the scale and type of operations likely to occur within and adjacent to designated areas and must indicate the likely significance of those operations to the designated site. It should be noted that any plan or project likely to have a significant effect, either positively or negatively, is required to have an appropriate assessment according to Article 6(3) (Stage 2 procedures).

2) All cetaceans are listed under Annex IV (including those in Annex II) of Council Directive 92/43/EEC. Accordingly, under Article 12 of that Directive, it is an offence to deliberately capture, disturb or kill a cetacean or take actions that result in deterioration or destruction of their breeding sites or resting places within Ireland's Exclusive Economic Zone. Furthermore, dolphin species, porpoise species, seal species, and whale species are protected wild animals under the Wildlife Act (39 of 1976) and Amendment. Under section 23 (as amended in 2000), it is an offence to wilfully interfere with or destroy the breeding place or resting place of any protected wild animal.

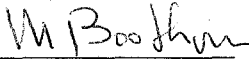
Lower River Shannon is one of the most significant habitats for bottlenose dolphins in Ireland. In order to ensure that the proposed activity does not have a negative interaction with those species a risk assessment should be prepared along the following lines in order that the Applicant can address the full legal requirements of the Habitats Directive.

- A detailed risk assessment for the proposed development dredging and dumping phases, and measures designed to reduce any risk to Annex IV cetacean species should be provided by the Applicant.
- In addition, an evaluation of the potential risk, during the proposed phases, of disturbance to, injury to or mortality of seals should be provided by the Applicant.
- Such assessments should include consideration of potential impacts from the operation of associated vessels, incorporating as appropriate:
  - a) The risk of collision with protected cetaceans and seals;
  - b) Direct disturbance or injury of cetaceans and seals due to underwater noise, and intensified motorised vessel/aircraft activity;
  - c) Potential disruption of a critical period in the life cycle of those species;
  - d) Secondary impacts due to localised disruption of normal ecological activity.

- The risk evaluations provided should contain sufficient detail including *inter alia*
  - i. Underwater noise characteristics at source (i.e. sound pressure levels, sound exposure levels, frequency, bandwidth, duration of exposures) and information concerning propagation in air/water.
  - ii. The identification, where appropriate, of measures required to mitigate such impacts as may be identified.
- It is recommended that suitably qualified marine mammal ecologists should be involved in undertaking relevant assessments.

Please be advised that the new postal address for all correspondence to the Development Applications Unit is The Manager, Development Applications Unit, the Department of the Environment, Heritage and Local Government, Newtown Road, Wexford. Please ensure all correspondence for the attention of DAU is forwarded to this address.

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Mary Boothman  
Development Applications Unit

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