

**Cllr. Philip Cantwell**  
Member of Trim Town Council  
"Villa Maria", Manorlands  
Trim, Co. Meath.  
Peace Commissioner  
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**TRIM TOWN COUNCIL**

Comhairle Baile Átha Troim

Environment Protection Agency  
Johnston Castle Estate  
County Wexford

5<sup>th</sup> June 2012

**By email to Office of the EPA, Office of Climate, Licensing & Resource @ 4:43pm**

**Your Reference Reg. Number P0516-03**

**Re: Appeal against Proposed Determination for a Review of existing IPPC Licence Register No. P0516-03 by Boliden Tara Mines Ltd. Knockumber, Navan, Co. Meath**

Dear Sir/Madam

On 16 December 2011, a large tailings pipe to Tara's tailings dam ruptured, this allowed 2,500 cubic metres of tailings to escape. Despite their sophisticated leak detection systems and monitoring of the Tailings Dam and associated large pipes and pumps, these systems failed/delayed to detect this leak. This required a major cleanup/inspection by EPA – **things do go wrong, hence my concerns.**

I now wish to refer to above application/review by Boliden Tara Mines Limited. According to your Report, the Inspector has carried out a detailed review of the total Mining Operation of Boliden Tara Mines Ltd. in County Meath.

**(1) FUNDAMENTALLY FLAWED**

The assessments by the Inspector re this application **is fundamentally flawed in law**, because in investigating the totality of this large mining operation, he failed to **properly and or fully assess the main issue of safety, i.e. the long term stability of Boliden Tara Mines' Existing Dam or the Proposed Extended Dam and or the consequences in the event of a failure or partial breach of the dam, causing major environment damage to and or possible loss of life or injuries.** No wishing to take from the EPA's Proposed Determination, however from my reading of this document, reference to life has shown more concern for tourists, sheep, bats or birds, with little concern for Human Beings and or the loss of life or injuries resulting from a catastrophic failure of the dam walls. Reading the EPA/Board's Proposed Determination, it appears the EPA has not heard of the following incident/s: - **The Boliden owned Los Frailes mine's tailings dam failure in Spain in 1997, or The Boliden's Aitik Mine tailings dam failure in Sweden in 2000, or the more recent Hungarian MAL mine tailings dam failure, which killed 10 people and injured 120.** Why is the EPA prepared to issue their Proposed Recommendation without first carrying out a truly Independent Risk Assessment of all aspects of Boliden Tara Mines large toxic Tailings Dam, before issuing a Proposed Determination, why!

## **(2) FUNDAMENTALLY FLAWED**

The EPA and or their Inspector in their review of the Boliden Tara Mines Ltd.' IPPC Licence have **fundamentally flawed in law**, because in their assessment the EPA has chosen to ignore **the EU's Precautionary Principle**. The EPA in accepting Boliden's least expensive "upstream method" of construction to increased the capacity of their existing dam, which is located in the most unsuitable location because its upstream of and in close proximity to the town of Navan with a population of over 20,000 souls and close to two major rivers – yet the EPA are prepared to issue their Proposed Determination without addressing the possible consequences to either or all possible consequences in the event of a partial or total collapse – contrary to **EU's Precautionary Principle and a breach of EU law**.

## **(3) FUNDAMENTALLY FLAWED - A POTENTIALLY UN-INSURABLE RISK FOR THE LOCAL AUTHORITY – MEATH COUNTY COUNCIL AND OR THE IRISH STATE**

**Condition 10 of the EPA's FD - Decommissioning & Residuals Management**  
In the EPA's Proposed Determination re Boliden Tara Mines, a major change to the EPA's previous IPPC Licences has taken place without full and proper consultation with all of the stakeholders, i.e. the Minister for Environment, Community and Local Government and or with the County Manager of Meath County Council. I am referring to the major change re: the aftercare period, whereby all reference to the words 'perpetual and or 'perpetuity' has been removed, and the RD (Recommended Determination) of a minimum of 30 years to calculate initial costings **of the aftercare plan is totally unacceptable**. For the EPA to make this/such a major (financial) change during this unprecedented time of financial stress for any Local Authority especially during an ongoing application for an IPPC Licence, will be a minefield for the lawyers and will cause major difficulties for Meath County Council or for any other Local Authority in a similar situation. I have notified the Minister and the Manager of Meath County Council of this major change by the EPA as I consider the change improper because of little or no consultation and will certainly be appealing this to the EU.

## **(4) FUNDAMENTALLY FLAWED re TRUST. EPA Failed to consider actual examples of breach of Trust by Boliden Tara Mines towards their disabled workers etc**

As a Public Elected Representative I believe "good faith" and "trustworthiness" are essential in Boliden Tara Mines delivering on their commitment to provide a stable, safe Tailings Dam Facility. It has been my sad experience in dealing with Boliden Tara Mines for years as a former employee and a disabled worker of Tara Mines and or on behalf of Tara's other disabled workers and pensioners, that Tara Mines and their successor companies are prepared to behave contrary to their obligations and prepared to use their substantial financial resources hiring legal solicitors and Senior Counsel to get their own way. Tara Mines have already sued the State (Record No. 0056/R) to gain extra tax exemptions. The State's Pensions Ombudsman issue a Final Determination (attached) who found the Trustees of the Tara Mines (comprising three members of Tara's management) were guilty of "**Maladministration**", also the Employer( Tara Mines) guilty of "**Maladministration**". Since Tara Mines and their successor Boliden Tara Mines Ltd. are prepared to behave in such a manner towards their disabled and pensioners to make more profits, how can they be trusted to behave with the utmost good faith" **carry out expensive civil works, to waste money to expand their dam due to close in 2018.**

**(5) LIABILITY POTENTIAL FOR A MAJOR RISK TO THE RIVERS/WATER SUPPLY**

The EPA and or their Inspector in their review of the Boliden Tara Mines Ltd.' IPPC Licence have **fundamentally flawed in law**, because they failed to address the % risk to the rivers Blackwater and or Boyne in short-term and or long-term in the event of either a partial and or a total collapse of the dam wall and the release of tailings and or toxic chemicals, and a major incident such as this has not been fully address by the EPA. Referring to spillages and or emissions and or leakages the EPA does not address the possible long term environmental damages to either the river Blackwater and or the river Boyne or streams adjacent to the tailings dam. The EPA has not addressed the issue of an alternate water source for the major populated town of Drogheda in the even to a major leak causing short or long term pollution to the river Blackwater and or river Boyne. I refer to **Article 5 of the 2009 Surface Water Regulations requires that a public authority, in performing of its functions, shall not undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water.**

**(6) LIABILITY POTENTIAL FOR MAJOR RISK TO THE RIVERS, FISHLIFE & HABITAT**

**Under section 7(3) of the IFI Act it is stated that without prejudice to subsection (1), IFI shall in the performance of its function have regard to:**  
**(a) the requirements of the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997) and the need for a sustainable development of the inland fisheries resource (including the conservation of fish and other species of fauna and flora habitats and the biodiversity on inland water ecosystems).**  
**(h) as far as possible, ensure that its activities are carried out so as to protect the national heritage (within the meaning of the Heritage Act 1995).** The EPA and or their Inspector in their review of the Boliden Tara Mines Ltd.' IPPC Licence have **fundamentally flawed in law**, because they failed to address the % risk to the rivers Blackwater and or Boyne and or habitat either in the short-term and or long-term in the event of either a partial and or a total collapse of the dam wall and the release of tailings and or toxic chemicals, and pollution following a major incident such as this has not been fully address by the EPA. Referring to spillages and or emissions and or leakages the EPA does not address the possible long term environmental damages/consequences to either the river Blackwater and or the river Boyne or streams adjacent to the tailings dam and or their damage in contravention/protection of the Wildlife's Habitat Directive

I am making this objection as a Public Elected Representative out of concern for my country, the people of Meath, Louth, Ireland and the European Community. Please confirm receipt of this letter of Objection with payment by credit card for €226, i.e. €126 for cover fee for my Objection and €100 fee for an Oral Hearing.

Yours sincerely



Mr. Phillip Cantwell - Independent Councillor & Peace Commissioner  
Enclosed/Attached Final Determination from State's Pensions Ombudsman

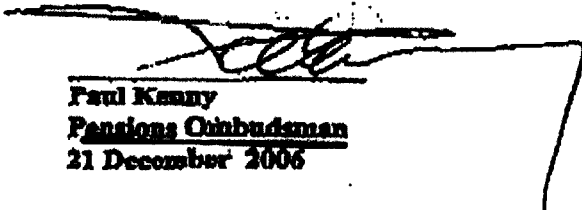
## RE: ITEM 4-TRUST.

### Final Determination in the complaint of Mr. M.P. Cantwell Reference PO 0601004

My Office has carried out an investigation of this complaint and it is my final determination that the complaint should in its essentials be upheld.

I determine that the Trustees of the Tara Mines Pension Scheme were guilty of maladministration in respect of the election of Member-nominated trustees in 2005/2006; that the form taken by the maladministration was failure to follow the Guidance Notes issued by the Pensions Board for the conduct of Member Trustee ballots. I find, as a matter of law, that the requirements of the Pensions Act and the Regulations under Part VI in particular, were not met, in that the timetable for the reselection of trustees was not adhered to; and I find that the timescale laid down for the receipt of completed ballots was unfair to the members, particularly in the light of the intervention of the Christmas close-down period; and that the employer in this case was guilty of maladministration in relation to the distribution of ballot papers to the disabled workers who were entitled to vote.

The Pensions Board has declared that the election is nevertheless valid, despite the shortcomings above referred to. I cannot invalidate the election. I direct that the timetable as prescribed in the Regulations must be adhered to, to the letter, in any future ballot.

  
Paul Kenny  
Pensions Ombudsman  
21 December 2006

**TAKE NOTICE** that this Determination may be appealed to the High Court by any party to this complaint, within twenty-one days of the date hereof.