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24 March 2012

Submission to:

Reg, No: P0738-02 IPPC licence application;
Review of IPPC licence, Reg No P0738-1
Corrib Gas Project

A. Introduction to Submission

Note:

The definition of Environmental Impact Assessment, EIA, in my submission is taken from the EIA Directive; as clarified in European Union document:

*ENVIRONMENTAL IMPACT ASSESSMENT OF PROJECTS
RULINGS OF THE COURT OF JUSTICE published 14/3/2013*

"The environmental impact assessment must identify the direct and indirect effects of a project on the following factors: human beings, the fauna, the flora, the soil, water, air, the climate, the landscape, the material assets and cultural heritage, as well as the interaction between these various elements." (page 4)

"It should be noted that Article 1(2) of Directive 85/337/EEC as amended defines only a single type of consent, namely the decision of the competent authority or authorities which entitles the developer to proceed with the project. (C-332/04, Commission v. Spain, paragraph 53)" (page 16)

(with specific attention to page 18, report on Commission v Ireland, ECJ case 50/09)

Environmental Impact Assessment is defined in the 2010 Planning and Development Act as:

"171A.— (1) In this Part—

' environmental impact assessment ' means an assessment carried out by a planning

authority or the Board, as the case may be, in accordance with this Part and regulations made thereunder, that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Environmental Impact Assessment Directive, the direct and indirect effects of a proposed development on the following:

- (a) human beings, flora and fauna,
- (b) soil, water, air, climate and the landscape,
- (c) material assets and the cultural heritage, and
- (d) the interaction between the factors mentioned in paragraphs (a), (b) and (c).

(2) Subject to this Part, a word or expression that is used in the Part and that is also used in the Environmental Impact Assessment Directive has, unless the context otherwise requires, the same meaning in this Part as it has in the Environmental Impact Assessment Directive.”.

Application history

24 March 2010

Shell E & P Ireland dated the application 24th March 2010 which stated that the IPPC Licence Review Application principally relates to the proposed change of discharge point for treated produced water from the permitted outfall point just outside Broadhaven Bay, to the subsea manifold located on the seabed in the Corrib Gas Field. This Licence Review Application also reconciles, within the submitted documentation, changes which have occurred since the start of the IPPC licensing process in 2004.

The existing IPPC licence (Licence Register No. P0738-01) was issued by the EPA to Shell E&P Ireland Limited (SEPI) on 12th November 2007.

P0738-01 was subject to the requirements of EU EIA Directive, the applicant submitted the required EIS with the original application of Reg No 738-01.

IPPC Licence No P738-01, heading: Decision & Reasons for the Decision, states that ***"In reaching this decision the Environmental Protection Agency has considered the application and supporting documentation received from the applicant, all submissions received from the other parties and the report of its inspector."***

There is no evidence if and when the EPA had carried out the legally required EIA prior to giving consent for P 738-01 or if any other authority acted in the role of one or lead agency for the purpose of EIA as defined in the Directive.

4 August 2010

The EPA issued the Proposed Decision on 4 August 2010 for P738-02.

31 August 2010

The applicant outlined the reasons for their objection to the PD, dated 31 August 2010.

"Rationale for Appeal

The proposed onshore pipeline route is currently under consideration by An Bord Pleanála, the Department of Communications, Energy and Natural Resources and the Foreshore Unit of the Department of Environment, Heritage and Local Government. If approved construction of the onshore pipeline is expected to take at least to 2 years from the date of commencement. SEPIL therefore seek that these circumstance is taken into consideration in the final wording of the second condition. SEPIL note also that the period of the licence has been reduced from 7 years to 5 years."

3 May 2012

In a letter dated 3 May 2012 the EPA required the applicant to submit the EIS for the Corrib Gas Pipeline which had accompanied the application to ABP and DCENR.

(Those applications have been granted and consents issued in 2011 by ABP and DCENR, consent granted by the EPA for change of associated Waste Licence in 2012)

4 March 2013

The EPA invited submission on the review application and Environmental Impact Statements (sic) submitted by the applicant, by way of letter dated 4 March 2013, 1 year after the applicant had submitted the EIS.

For the record, the P0738-02 file contains Peter Sweetman's letter which refers to the requirements for EIA in August 2010 and the EPA's rejected of same as follows:

*"I refer to your emails to my staff (Ref email to Sonja Smith on 10 August 2010: 18 In your recent emails you ask us to: "...Please supply a copy of reasons for the determination or the relevant information and documents as to why this Annex I development does not need an **EIA ...**". I refer you to the **Inspector's Report** in the matter, which was assessed by the Board of the Agency in its decision to issue a Proposed Determination in the case of a review application by Shell E&P Ireland Limited, Register Number PO738-02. The relevant extract is set out below, and the full document can be found at the link:"*

EXTRACT FROM ANN MARIE DONLON'S REPORT ON SHELL

A. Peter Sweetman 19/04/2010

"Mr. Sweetman states that the development is covered by Annex I of the Environmental Impact Assessment Directive 85/337 as amended. He states that no EIS was submitted with the application and that the development of the refinery does not have valid planning permission. He further states that the development of the pipeline does not have planning permission and that the development has substantially changed since the original EIS. He requests a copy of the scoping document which found that the development was exempt from EIA.

Comment:

It is confirmed that an EIS did not accompany the review application. SEPIL in their review application provided a letter from Mayo County Council, the competent authority for requiring an EIA, which clearly states that in Mayo County Council opinion an EIA is not required for this development. Therefore the request for the scoping document which found that the development was exempt from EIA should be directed to Mayo County Council. The Agency cannot require an EIA to be undertaken. The validity of planning and the need for planning permission for any aspect of the installation is a matter for the planning authorities."

The EPA has not explained or given reasons of why the above opinion has been dismissed by the EPA post issuing of Proposed Decision.

I have made submissions to application of P738-02 prior to the Proposed Decision and I am graciously accepting the EPA's invitation to participate. For the record and as a matter of transparency the Department for Communications, Energy and Natural (DCENR) Resources appointed me as a member of the Consent Conditions Monitoring Committee, (CCMC) charged with monitoring the conditions of the Plan of Development 2002, as amended by way of Addendum in 2011, and the Consent 40 to construct the Corrib gas pipeline. The EPA has a representative on the committee. I will revert to the issues of the CCMC later, with particular regard to the EPA's responsibility to comply with national and international law.
(Appendix: Correspondence)

B. Submission

The EIS is the outcome of the EIA ?

The Corrib Gas Project is subject to various consent/permission/licencing procedures and Environmental Impact Assessment.

The EPA processed IPPC licence application P0738- based on the EPA Guidelines of 2002. Accordingly the EPA could not have carried out the legally require Environmental Impact Assessment (EIA) of the application and/or Corrib Gas Project.

The judgement in ECJ Case C-50/09 confirmed that the EPA's interpretation of European law was and probably still is fundamentally flawed as the EPA guidelines and the EPA web site have not been amended, considering the ECJ issued its judgement in March 2011.

For avoidance of doubt or confusion I include the definition of Environmental Impact Assessment and procedures as laid out in the:

EPA GUIDELINES ON THE INFORMATION TO BE CONTAINED IN ENVIRONMENTAL IMPACT STATEMENTS, 2002

"1.1 INTRODUCTION

Environmental Impact Assessment (EIA) is a process for anticipating the effects on the environment caused by a development. An Environmental Impact Statement (EIS) is the document produced as a result of that process.

The competent authority examines the EIS.

The EPA website provides the following definition:

"Licensing Role

Environmental Impact Assessment (EIA) is the process by which the anticipated effects on the environment of a proposed development or project are measured. If the likely effects are unacceptable, design measures or other relevant mitigation measures can be taken to reduce or avoid those effects.

The document from this process is called an Environmental Impact Statement (EIS).

The EPA is a competent authority under Integrated Pollution Prevention and Control (IPPC) or Waste Licensing regimes. The EPA will assess an EIS submitted as part of an application for an IPPC or Waste licence."

Is the EPA intending to carry out the Environmental Impact Assessment for the plan or project or is the EPA's Environmental Impact Assessment restricted to the 'activity'?

The EPA letter inviting the public to participate does not state if the agency intends to carry out the Environmental Impact Assessment of the plan / project or restricted to the activity. **However, the EPA does state that a "public consultation"** will take place as per the Environmental Protection Agency Acts, 1992 to 2012. The European Union EIA (IPPC) (2) Regulations 2012 S.I. 282 of 2012 does state under Article 4:

(ii) by the licensee under section 90(1)(b) for a review of a licence or revised licence;

"environmental impact assessment" means an assessment, to include an examination, analysis and evaluation, carried out by the Agency in accordance with this section that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain **public and private projects on the environment, the direct and indirect effects of a proposed activity on the following:**

(b) The Agency as part of its consideration of an application for

*a licence shall ensure before a licence or a revised licence is granted, and where **the activity** to which such licence or revised licence relates is likely to have significant effects on the environment by virtue, inter alia, of its nature, size or location, that, in accordance with this subsection and section 87(1A) to (1H), the application is made subject to an environmental impact assessment as respects the matters that come within the functions of the Agency including the functions conferred on the Agency by or under this Act.*

As member of the public accepting the EPA's invitation I am at a loss to understand which part of the provisions and definitions of the 2012 Regulations apply: 'public and private projects' or 'activity'?

Does the above restrict the EPA's function to the 'activity' that come within the remit of the agency and therefore the EPA intends to carry out the Environmental Impact Assessment for the activity/operation of the Corrib Gas Project only, leaving out the interactions of the impacts this private plan/project may have on the environment?

Neither does the EPA provide an explanation of why the previously stated legal position "*Therefore the request for the scoping document which found that the development was exempt from EIA should be directed to Mayo County Council. The Agency cannot require an EIA to be undertaken.*" - (correspondence EPA – Peter Sweetman) has now been dismissed by the EPA as invalid if not unlawful?

I submit and agree with Peter Sweetman's view that the Corrib Gas Project is subject matter to Environmental Impact Assessment requirements. While the variously required consents, permissions and licences are issued by different Irish authorities and agencies under separate legislation, the Environmental Impact Assessment has to be carried out by **one** lead agency for the whole plan/project and has to be carried out **prior to granting consent** and cannot be restricted to the activity .

I refer and rely (I stress that as a member of the CCMC, appointed by DCENR I am bound to act with due respect and have regard to obligation to national and international law as manifest in Condition 2 of the Plan of Development 2002, as amended) on the:

Judgment of the Court (First Chamber) of 3 March 2011.

European Commission v Ireland.

Failure of a Member State to fulfil obligations - Directive 85/337/EEC - Obligation of the competent environmental authority to carry out an assessment of the effects of certain projects on the environment - More than one competent authority - Need to ensure an assessment of the interaction between factors likely to be directly or indirectly affected - Application of the directive to demolition works.

Case C-50/09.

"51. For the Commission, it is of the essence that the environmental impact assessment be carried out as part of a holistic process

76. Article 2(1) of Directive 85/337 thus states that the environmental impact assessment must take place **'before the giving of consent'**. That entails that the **examination of a project's direct and indirect effects** on the factors referred to in Article 3 of that directive and on the interaction between those factors be fully carried out before consent is given.

77. **In those circumstances, while nothing precludes Ireland's choice to entrust the attainment of that directive's aims to two different authorities, namely planning authorities on the one hand and the Agency on the other, that is subject to those authorities' respective powers and the rules governing their implementation ensuring that an environmental impact assessment is carried out fully and in good time, that is to say before the giving of consent, within the meaning of that directive.**

91. As regards the obligation to carry out further assessments, Ireland argues that the essence of Directive 85/337 is that the environmental impact assessment be carried out at the earliest possible stage, before the development starts. There must be one agency who is able to carry out the interaction of impacts, in this case it has to be the EPA as the last agency in the process."

As a member of the Consent Conditions Monitoring Committee (CCMC) established by DCENR, I have raised the issue of the IPPC licence with the Department of Communication, Energy and Natural Resources who clearly state that DCENR is NOT the lead agency for the Corrib Gas Project, I attach the relevant communications for the record in my effort to assist the EPA. If the EPA representative had shown any interest in the matter, I gladly would have provided the information at the earliest stage. It is clear from even the application itself that the current private plan/project named Corrib Gas Project has no IPPC licence as the previous IPPC licence applies to an earlier version of the project. IPPC licence P0738-01 has not the capacity or legality to be used for the current plan/project.

If the EPA as the last agency in the consents process for this plan/project, is the responsible **'one' lead agency** for having to perform the holistic Environmental Impact Assessment for the plan/ project, claims that the Environmental Impact Assessment has been carried out prior to granting consent for the project, the EPA has failed to request a copy of the Environmental Impact Assessment documents from the planning authority, Mayo County Council and / or An Bord Pleanala and **DCENR and the EPA's consents and Environmental Impact Assessment** for the waste licence for the plan/project.

For avoidance of confusion, I am NOT referring to the various permissions, consents, but the Environmental Impact Assessment documents, including the assessment of the interactions of the impact on the environment as EU EIA Directive, including rational and reasons. I refer you to Ludwig Kraemer's **definition of how** to identify, describe and assess the impacts from a plan/project:

"the impact assessment need not, according to general understanding, be made in writing, though it is difficult to see how one can "describe" (art.3) the effects of a project otherwise than in writing"

Professor Dr Ludwig Kramer

Former Judge at Landgericht in Kiel, LL.D.

Former Head of the Unit for Governance in DG Environment of the European Commission

The Proposed Decision has been issued in violation of legal requirements

I submit that the EPA issued the Proposed Decision without having had regard to the Corrib Gas Project Environmental Impact Statement and little regard to their obligation to comply with the requirements for Environmental Impact Assessment of this project. I submit the EPA has to withdraw the Proposed Decision first and assess application P0738-02 again, particularly the EPA has failed to inform the applicant and the public of the reason for rejecting, post issuing the Proposed Decision, EPA inspector Marie Donlon's report and findings regarding the requirement for Environmental Impact Assessment. ". SEPIL in their review application provided a letter from Mayo County Council, the competent authority for requiring an EIA, which clearly states that in Mayo County Council opinion an EIA is not required for this development."

Changes to the plan or project since date of application P0738-02

The applicant has not informed the EPA of the numerous changes of the plan or project, prior and post commencement of construction, exceeding those mentioned in the application. Neither did the EPA requested the applicant to submit changes to the plan/project since the application had been accepted by the EPA. I am not in a position to make an informed submission without the information, neither is the EPA in a position to make an informed decision without the facts. I am not aware if Mayo County Council informed the EPA of the numerous changes to the project, or if any of the changes have an impact on the environment. I am not aware that the changes are included in the EIS submitted to the EPA in May 2012. I am aware that Mayo county Council granted numerous changes of the parent planning permission without having required EIS and no Environmental Impact Assessment carried out.

No Environmental Impact Assessment on file for P0738-01, licence for the earlier version of the Corrib Gas Project, which has substantially changed in the intervening time

The EPA website, file P0738-01 does not include the Environmental Impact Assessment final document. When I requested assistance by way of email, dated 6 March 2013, the EPA refused to make the EIA available.

"I would appreciate your assistance in relation to your letter of invitation re P0738-1 - P0738-02.

Kindly forward (or advice on where to find on the EPA website) the EIA re P0738-01 to assist me in taking up your invitation"

The EPA responded, dated 7 March 1013 "...I am to advise that the EIS and associated documentation is available at the link provided."

No Environmental Impact Assessment document is available or described as such on the 'link provided'. Neither is there an indication which authority is the lead agency in the EPA's opinion for the purpose of Environmental Impact Assessment of the plan/project.

The EPA intends to carry out an Environmental Impact Assessment post consent and post commencement of work

This public consultation in respect of application P738-02 and Environmental Impact Statements is conducted post consent and post Proposed Decision.

The EPA's letter does not state if the agency intends to carry out an Environmental Impact Assessment as per EU EIA Directive and S.I. 282 of 2012:

S.I. 282 of 2012

*EUROPEAN UNION (ENVIRONMENTAL IMPACT ASSESSMENT)
(INTEGRATED POLLUTION PREVENTION AND CONTROL)
REGULATIONS 2012*

(ii) by the licensee under section 20(1)(b) for a review of a licence or revised licence;

"environmental impact assessment" means an assessment, to include an examination, analysis and evaluation, carried out by the Agency in accordance with this section that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, the direct and indirect effects of a proposed activity on the following:

- (i) human beings, flora and fauna;*
- (ii) soil, water, air, climate and the landscape;*
- (iii) material assets and the cultural heritage;*
- (iv) the interaction between the factors referred to in paragraphs (i), (ii) and (iii).*

I submit that the EPA is legally obliged to carry out an Environmental Impact Assessment on application P738-02.

There is no evidence that any other agency has carried out an assessment of the **interaction between the factors, indeed, there couldn't have been as this application** is the last in line of numerous applications for the plan/project.

When the EPA issued IPPC Licence P0738-01, part of the plan/project had been abandoned, a fact the EPA was fully aware of.

Who is the 'one' or Lead agency for the plan /project?

The EPA has not stated who the lead agency for the plan/project is. While nothing **precludes Ireland's choice** to entrust the attainment of the EU EIA **directive's aims** to two different authorities, namely planning authorities on the one hand and the Agency on the otherthere **must be one agency who is able to carry out the interaction of impacts**, in this case it has to be the EPA as the last agency in the process.

The Minister for DCENR has stated in his letters that the department is not the lead agency.

Chemical discharge into marine environment from the plan/project has taken place prior to decision on application P0738-02

The confusion of who is the responsible agency to carry out the holistic Environmental Impact Assessment for the plan/project extends to the fact that chemical discharge into the marine environment has taken place by way of operating the offshore gas pipeline. The various chemicals and compositions, amounts, outfall location are listed in the Permit issued by DCENR. It would appear that the EPA was not notified. However, I did inform the EPA.

My emails to the EPA 30 August 2012 informing the EPA of the chemical discharge of methanol into the marine environment was dismissed by the EPA, referring me to DECNR as the responsible agency:

"The only IPPC Licence that is in place for Shell E&P Ireland at the moment is P0738-01. The emissions referred to in your complaint are beyond the remit of the Office of Environmental Enforcement in terms of our role in enforcing IPPC Licences. IPPC Licence application P0738-02 is still under consideration and assessment and I will forward your complaint to the Office of Licensing for their consideration. Your concerns regarding discharges into the marine environment or the offshore pipeline should be addressed to the Department of Communications, Energy and Natural Resources."

Principle Officer, DCENR, Ciaran OhObain informed me that the discharge was permitted by the department, he did not provide the relevant extract of the Environmental Impact Assessment that was required to be carried out by the department for this chemical discharge.

The EPA, while the agency for the **'activity' of the plan/** project, did refuse to carry out the assessment and the discharge of chemicals took place regardless.

Public consultation post consent and post commencement of work/ construction of the plan/project

I am further confused about the fact that the EPA invites me to comment on application P0738-02 and associated EIS when it is a fact that the Corrib Gas Project has commenced construction and is partly already constructed and has operated the offshore gas pipeline already. In that instance it is inconceivable that the EPA can take the issues I raise in my submission into consideration, unless the applicant is required to demolish what has already been constructed and the chemical discharge reversed. Neither is likely to happen.

I submit that the EPA failed to ascertain the validity of Mayo County Council's letter stating: ". ". *SEPI* in their review application provided a letter from Mayo County Council, the competent authority for requiring an EIA, which clearly states that in Mayo County Council opinion an EIA is not required for this development." **24 March 2010.**

I submit that the above is astounding to the point of raising questions bearing in mind that the Planning and Development Act of 2010 states the following:

(c) by the substitution of the following subsections for subsection (12):

"(12) A planning authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required that one or more than one of the following was carried out—

- (a) an environmental impact assessment,*
- (b) a determination as to whether an environmental impact assessment is required, or*
- (c) an appropriate assessment.*

I submit that the EPA failed in its duty to ascertain the legal position but accepted without question Mayo County Council's opinion.

EU Directive EIA requirements are for the plan/project versus Ireland's two-stage EIA: Stage 1: construction and Stage 2: operation or activity

I fail to understand the contradiction between the concise statement in the EU EIA Directive that the Environmental Impact Assessment has to be carried out for the plan/project, and the Irish interpretation that the EIA is a 2 stage process of two parts: construction and operation, without the facility to assess the interactions of the impacts on the environment arising from the plan/project.

In the Irish understanding construction and operation/activity are like two parts who never meet or become ONE.

The factual situation is, that the Minister for DCENR has stated to have carried out the Environmental Impact Assessment **excluding the 'operational part'**, despite relying heavily on detailing and assessing the economic impacts in support for the

plan/project, which is a consequence of operation. It is undisputable that economic impacts only arise from the operation of the plan/project, i.e. the activity. It is inconceivable that the 'activity' is even further divided in sub-section for purpose of Environmental Impact Assessment.

The planning authority is on record stating that it has carried out the Environmental Impact Assessment **excluding the 'activity'**. Mayo County Council is on record stating that no Environmental Impact Assessment at all is required for P0738-02.

Neither agency has provided the public with the Environmental Impact Assessment document however limited to specific parts of the plan/project. There is no evidence that any of the agencies has carried out an environmental assessment of *(iv) the interaction between the factors referred to in paragraphs (i), (ii) and (iii).* of the plan or project.

EIA requirements for interactions before giving consent

The EPA is the last agency which has yet to carry out the Environmental Impact Assessment for the Corrib Gas Project and therefore is the agency which now has to carry out the assessment of the interactions, which now is to take place post consent which is violating Article 2(1) of Directive 85/337 that the environmental impact assessment must take place 'before the giving of consent'.

Can the EPA carry out an Environmental Impact Assessment including the interactions of the factors of the plan/project post consent and post commencement of work?

I submit that the EPA can't carry out an EIA post giving of a Proposed Decision, after granting of consent and post commencement of construction without applying the legal requirements for post construction consent which wrongly was referred to as 'retention'. See Planning and Development Act 2010 as above quoted.

Correspondence with the DCENR July 2012 regarding IPPC licence for the plan/project

For the sake of clarity, the Department for communications, Energy and Natural Resources issued consents for the Petroleum Lease, Plan of Development 2002 as amended in 2011 by way of Addendum, Corrib Gas Pipeline consent 2002, revoked in 2011 and replaced with new gas pipeline consent, granted in 2011.

Plan of Development 2002, as amended in 2011, Addendum (dated May 2010), states:

"Recommendations and conditions

2. Compliance with all relevant national and international statutory requirements, regulations in force at the time for a particular location and all directions given by the relevant nation or local competent authorities, including:
-obtaining all necessary Planning Permissions,

- obtaining a Foreshore Licence
- obtaining an IPCL Licence”

The Minister states in his letter, dated 20 July 2012, *that "there is no statutory 'lead agency' for the Corrib Gas Project. "The developer is required to be in receipt of a number of consents in order to construct the Corrib Gas Pipeline and the grant of these consents is the statutory remit of a number of bodies. "...subject of EIA" "The outcome of this application (P0738-02) will be determinedprior to the commencement of the production phase of the development."*
(Letter attached)

(The Addendum entails the modified onshore pipeline route description, produced water discharge and project schedule, required under clause 6 of the Petroleum Lease dated 15 November 2001.)

The Minister and the EPA are not disputing the fact that the Corrib Gas Project is subject to EU EIA Directive. I submit that there appears to be a flawed understanding and muddling up of consent procedures of application and the entirely separate procedures for Environmental Impact Assessment of a plan/project. I submit that the Minister arbitrarily decided that plan/project means it can be divided into a staged Environmental Impact Assessment of construction and operational phase without a legal basis without having regard to the provisions of the EIA Directive and disregarding the findings of the ECJ case 50/09:

"51. For the Commission, it is of the essence that the environmental impact assessment be carried out as part of a holistic process
76. Article 2(1) of Directive 85/337 thus states that the environmental impact assessment must take place 'before the giving of consent'. That entails that the examination of a project's direct and indirect effects on the factors referred to in Article 3 of that directive and on the interaction between those factors be fully carried out before consent is given.

In my effort to assist the EPA, I highlight the fact that DCENR's understanding of the statutory requirements for EIA is clearly expressed in the eTender Public Procurement Notice as:

"Statutory Assessment of an E.I.S. accompanying an Application for Consent to construct a Pipeline"
(Appendix)

The Minister appears to be of the opinion that the statutory Environmental Impact Assessment is the assessment of an EIS. The Minister did not and could not assess the interactions by his own admission that the issue of the operation of the plan/project did not concern him, so it must be left to the EPA to carry out the Environmental Impact Assessment for the plan/project to do so, not only in compliance with the EU EIA Directive but with ECJ case 50/09.

Consent Conditions Monitoring Committee (CCMC)

I referred to the CCMC earlier in my submission. To avoid any misunderstanding I attach the Terms of Reference of the CCMC as issued by the DCENR. To further assist the EPA I attach the Plan of Development consent 2002. However, as the EPA has a representative on the committee, it should not come as a surprise to the EPA that the agency is responsible for monitoring compliance with Condition 2 of the Plan of Development 2002, as amended.

Plan of Development 2002, as amended in 2011 states:

Recommendations and conditions

2. Compliance with all relevant national and international statutory requirements, regulations in force at the time for a particular location and all directions given by the relevant nation or local competent authorities, including:

- obtaining all necessary Planning Permissions,*
- obtaining a Foreshore Licence*
- obtaining an IPCL Licence*

I have raised the issue of the IPPC licence, P738-01 and application P738-02. The EPA failed to respond.

The EPA representative did not inform the CCMC members of the status of Reg No 738-02 and the issues arising. The EPA representative must have been fully aware of the changes of the project and the new Corrib Gas Project and associated new consents and yet did nothing.

I submit that the EPA has failed in its duty to ascertain and assess all issues arising from the application for Reg No.738-02, the issues arising out of the defunct IPPC licence P738-01; and its duty to seek: *Compliance with all relevant national and international statutory requirements,*
(Appendix, Terms of Reference CCMC and Plan of Development)

C. Summary

I submit that the EPA has failed to act appropriately on application P0738-02 prior to making the Proposed Decision.

The EPA has not withdrawn the flawed Proposed Decision.

The EPA has failed to act in compliance with the EIA Directive and the findings of ECJ case 50/09 as is required of an emanation of the State.

The **EPA has left it's duty to have to carry out the holistic Environmental Impact Assessment**, i.e. assess the interaction of the impacts the plan/project has on the environment, to such a late stage of the plan/project; post consent, where most of it is either constructed or currently constructed already without any evidence of any of the agencies, be it planning authority or departments ever having had regard to, describe and assess the interactions of the impacts on the environment.

"environmental impact assessment" means an assessment, to include an examination, analysis and evaluation, carried out by the Agency in accordance with this section that shall

*identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of Directive No. 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain **public and private projects** on the environment, the direct and indirect effects of a proposed activity on the following:*

- (i) human beings, flora and fauna;*
- (ii) soil, water, air, climate and the landscape;*
- (iii) material assets and the cultural heritage;*
- (iv) the interaction between the factors referred to in paragraphs (i), (ii) and (iii).*

I submit that the EPA has to withdraw and invalidate the Proposed Decision. The EPA is not in a position where it could possible make a decision on Application Reg No P738-02 without clarifying the legal issues as described and presented above.

The applicant has representatives on the CCMC and therefore cannot claim not to be aware of the issues raised in my submission., neither can the EPA.

As there is no evidence that either ABP or the DCENR or any other agency or department have carried out an Environmental Impact Assessment according to the EU EIA Directive definition this requirement must fall now to the EPA; as the ONE agency who addresses the interactions of environmental impacts PRIOR to giving consent.

However, consents have already been given.

The EPA has a legal obligation to address the potential issue of substitute consent.

I submit that in the circumstances and issues raised above, the application has to be refused in the first instance.

Yours sincerely,

Monica Muller



Appendix

Correspondence DCENR

Plan of Development 2002

Terms of Reference of Consent Conditions Monitoring Committee

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Tel 097 88011

Pat Rabbitte T.D
Minister for Communications, Energy and Natural Resource
29 – 31 Adelaide Road
Dublin 2

29/07/2012

Your letter dated 20 July 2012 in response to my letter:
Failure by DCENR the Lead agency, failure by the Minister to comply with
European law, the CCMC silently accommodating the commencement of the
Corrib gas project without an IPPC licence in place, contrary to the decision of
the ECJ.

Dear Minister,

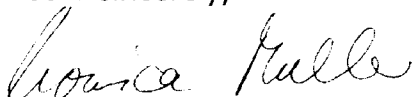
Thank you for your letter dated 20 July 2012 in response to my letter dated 1
July 2012.

Before I respond in detail to your letter and after having taken proper
consideration and advice of the contents and statements expressed in your
letter, I request you to provide clarification on the following points:

In the absence of the Minister for DCENR being the lead agency for the Corrib
gas project, the statutory requirements of EIA legislation, can you please tell
me who is responsible for the assessment of the interactions?

Can you please confirm that you are of the opinion that the judgements of
the ECJ have no relevance to decision making in your department, that you
are of the opinion that you have no obligations to act in accordance with the
findings of court judgement C50/09 for the intervening time before the Irish
government has properly transposed the EIA Directive into national
legislation?

Yours sincerely,





D July, 2012

Ms. Monica Muller
Rossport
Ballina
Co. Mayo

Dear Ms. Muller,

Thank you for your letter of 1 July, 2012 with regard to the implications arising from the decision of the Court of Justice of the European Union in case C-50/09.

As I set out for you in my letter of 5 April, 2012, the Court of Justice of the European Union found in case C-50/09 to the effect that Ireland has:

- (i) Not properly transposed article 3 of the EIA Directive as amended;
- (ii) Excluded demolition works from the scope of Irish legislation transposing the EIA Directive; and
- (iii) Not ensured in instances where planning authorities and the EPA both have decision making powers concerning a project that there would be complete fulfilment of articles 2 to 4 of the EIA Directive.

Your correspondence, as before, refers to the third element of this finding and as I have previously advised, the Minister for the Environment, Community and Local Government is currently progressing amending legislation in this regard. It should be noted that the purpose of this proposed legislation is to amend domestic legislation in line with the findings of C-50/09 and does not therefore focus on any individual project.

I would also like to advise that there is no statutory "lead agency" for the Corrib Gas Project. The developer is required to be in receipt of a number of consents in order to construct the Corrib Gas Pipeline and the grant of these consents is the statutory remit of a number of bodies. To date, the Corrib Gas Partners have been granted the following permissions which were the subject of EIA:-

- An approved Plan of Development for the Corrib Gas Field Development made pursuant to clause 6.8 of the Petroleum Lease, which was granted pursuant to Section 13 of the Petroleum and Other Minerals Development act, 1960 (as amended).
- Consent to construct the Corrib Gas Pipeline subject to Section 40 and 40A of the Gas Act, 1976 (as amended).
- Consent pursuant to sections 182C and 182D of the Planning and Development Act, 2000 (as amended) issued by An Bord Pleanála.

- A Foreshore Licence granted by the Minister for the Environment, Community and Local Government pursuant to section 3 of the Foreshore Act, 1993 (as amended).

An Integrated Pollution Prevention Control Licence (IPPC) has also been issued by the EPA. I understand that an application has been submitted by the Corrib Gas Partners pursuant to section 88 of the Environmental Protection Act, 1992 to reflect the developer's modified proposals for the disposal of produced/treated water from the Corrib development. The outcome of this application will be determined in the context of the amended legislation and prior to the commencement of the production phase of the development. To be clear, as I have already stated, the Corrib Gas Partners' application for a review of its existing IPPC Licence has no bearing on the implementation of the findings in case C50/09, which requires an amendment to existing domestic law to properly transpose the obligations under articles 2 to 4 of the EIA Directive. Any decision that may be made in terms of infringement or potential fines for Ireland, should they arise, would result only from delays in introducing such amending legislation.

With regard to the Consent Conditions Monitoring Committee (CCMC), as you are aware, it was established pursuant to the consents granted under the Gas and Petroleum Acts, on 25 February, 2011. The purpose of this Committee is to assist my Department in monitoring the implementation of the conditions of these consents. Parallel monitoring Committees have been established and are operated by both the Department of the Environment, Community and Local Government with respect to the conditions of the Foreshore Licence and by Mayo County Council with respect to the conditions attaching to the development consent issued by An Bord Pleanála. Similarly the application by the Corrib Gas Partners for a review of their existing IPPC Licence is a matter for the EPA and cannot properly be addressed at meetings of the CCMC.

Condition 2 of the consents of 25 February, 2011 provides that

"The Corrib Gas Partners shall prepare management plans/procedures to ensure that the mitigation and monitoring controls identified in the Offshore EIS, the 2010 Offshore Supplementary Update Report, the Onshore EIS and Additional Information are appropriately managed and implemented, such management plans/procedures to include all matters required by these Conditions. The Corrib Gas Partners shall not undertake any works pursuant to this consent until they agree the management plans/procedures with the Department of Communications, Energy and Natural Resources ("DCENR").

The Corrib Gas Partners shall comply with management plans and procedures agreed with DCENR and any other plans, procedures, conditions, directions or other obligations imposed by any relevant authority, which shall include the Minister, pursuant to these Conditions."

Monica Muller
Rossport
Ballina
Co. Mayo
Email: monicamuller9@gmail.com
Tel 097 88011

Pat Rabbitte T.D
Minister for Communications, Energy and Natural Resources
Petroleum Affairs

cc.Ciaran OhObain, Principle Officer

Dublin

01/07/2012

Failure by DCENR the Lead agency, to comply with European statutory obligation, failure by the Minister to compel the developer to comply with European law, the CCMC silently accommodating the commencement of the Corrib gas project without an IPPC licence in place.

Dear Minister,

Please take note of the attached press release by the EU Commission which I bring to your attention as part of my duty as a member of the Consent Conditions Monitoring Committee (CCMC) for the Corrib Gas Project. As you well know I take my undertaking very seriously and have agreed to as part of settling the High Court Judicial Review in the interest of all parties and project concerned and in compliance with all the law..

I have not agreed to being appointed as a member of the CCMC only to be forced to approve non compliance and violation of EU law and ECJ Judgement 50/09.

To my great disappointment the CCMC does not perform the function required as out in the consents for Plan of Development Section 13 of the Petroleum and Other Minerals Development Act, 1960 and section 40 of the Gas Act 1976 as amended and conditions attached.

Principle Officer Ciaran OhObain assured me in his letter dated 4 May 2012:

"In this regard I would like to refer you to my letter of 10 February in which I explained to you that the statutory responsibility for the implementation of the relevant requirements of Corrib Gas development vests in a number of statutory bodies and that only those

which are the subject matter of the conditions relating to the Minister's consents pursuant to Section 13 of the Petroleum and Other Minerals Development Act, 1960 and section 40 of the Gas Act, 1976 come within the monitoring scope of the CCMC. "

Despite my best efforts to bring issues pertinent to Condition 2 to the CCMC's attention, you have consistently failed or ignored the Recommendations and Conditions of the Plan of Development for the Corrib Gas Project, which has been amended in 2011 by way of approval for changes of the onshore section of the gas pipeline route and design. The changes have been inserted into the original POD of 2002, which has NOT been vacated.

*Plan of Development for Corrib Gas Field
Recommendation and Conditions*

*Condition 2.: **Compliance with all relevant national and international statutory requirements and regulations** in force at the time for a particular locations and all direction given by relevant national or local competent authorities, including:*

Obtaining all necessary Planning Permissions

Obtaining a Foreshore License

Obtaining an IPPC Licence

Compliance with all requirements and regulations applying to offshore petroleum production operations concerning safety and environmental protection.

Principle Officer Ciaran OhObain assured me in his letter dated 12 June 2012:

"On a point of clarification, I would like to confirm that as the statutory authority, it is the Minister's responsibility, with the support of the Department, to determine if the developer has complied with the law, while the remit of the CCMC is to carry out monitoring with respect to the implementation of the conditions of consent."

The Minister has failed or ignored to enforce full compliance with Condition 2 of the POD, you have refused to deal with the issue of the missing IPPC licence for the current project even though Peter has set out the issue in his letter to you in a very simple manner prior to the recent announcement by the EU.

You quite rightly pointed out that the IPPC licence is for operational purpose, a fact not disputed but entirely irrelevant in the context of compliance with EIA Directive, ECJ Judgement 50/09. Peter and my concerns about non-compliance with condition 2 of the POD has now been proven right by the fact that the EU Commission is taken Ireland to court over the very matter of split decision making particularly where a project requires an IPPC licence.

Our efforts to bring our concerns to the Minister's and the CCMC Chairman's attention were consistently met with refusal to deal with any issues outside a very limited range, set by the Chairman of the CCMC with disrespect to Condition 4 or the appointees. The department is the Lead agency for the Corrib gas project yet the Chairman refuses to act as lead or let the CCMC monitor properly.

The department's actions do not match your stated commitment to a robust regulatory environment:

"I believe Ireland's reputation as a lightly regulated economy is precisely what has got us into so much trouble in the first place. We need to repair the damage done by our "light touch" reputation. We need to be seen as having a regulatory environment that takes investigations seriously, proceeds with them expeditiously and punishes wrongdoing effectively."

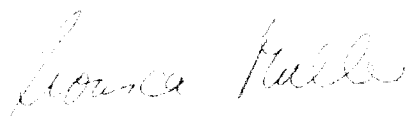
When I agreed to the court settlement I did expect the Department and the CCMC to monitor in a robust manner and ensure Compliance with all relevant national and international statutory requirements and regulations in force at the time for a particular locations and all direction given by relevant national or local competent authorities.

I have great difficulty in being part of a committee that is not carrying out the functions for which it has been appointed and that is now partly responsible for the EU commission taking enforcement actions in the ECJ against Ireland, and is responsible for soft touch regulation.

The CCMC has not taken the regulatory environment seriously. Should the Department continue to facilitate non compliance with the Judgement C50/09 relevant to this development, Ireland will be subjected to a fine of 19,000 per day in addition to a lump sum find. Is that what you want?

I don't and can't support.

Yours sincerely,



Monica



5 April, 2012

Monica Muller & Peter Sweetman
Rossport South
Ballina
Co. Mayo

Re: Corrib Gas Field Development

Dear Ms. Muller and Mr. Sweetman,

I refer to your letter of 27 March, 2012 with regard to the requirements of Council Directive 85/337/EEC on the assessment of certain public and private projects on the environment, as amended (the EIA Directive).

The Court of Justice of the European Union found in case C-50/09 to the effect that Ireland had:

- (1) Not properly transposed article 3 of the EIA Directive as amended;
- (2) Excluded demolition works from the scope of Irish legislation transposing the EIA Directive; and
- (3) Not ensured in instances where planning authorities and the EPA both had decision making powers concerning a project that there would be complete fulfilment of articles 2 to 4 of the EIA Directive

Your correspondence refers to certain paragraphs contained in the section of the judgment relating to the third element and I would like to advise as follows in this regard. The Minister for the Environment, Community and Local Government is currently progressing amending legislation which would prohibit an applicant from submitting a stand-alone environmental licence application to the Environmental Protection Agency (EPA) in certain cases unless it is clearly established that mandatory or sub-threshold EIA is not required in respect of the proposed activity.

To date, the Corrib Gas Partners have been granted the following permissions which were the subject of an EIA:-

- An approved Plan of Development for the Corrib Gas Field Development made pursuant to clause 6.8 of the Petroleum Lease, which was granted pursuant to section 13 of the Petroleum and Other Minerals Development Act, 1960 (as amended);
- Consent to construct the Corrib Gas Pipeline pursuant to section 40 and 40A of the Gas Act, 1976 (as amended);
- Consent pursuant to sections 182C and 182D of the Planning and Development Act, 2000 (as amended) issued by An Bord Pleanála

An Integrated Pollution Prevention Control (IPPC) Licence has also been issued by the EPA. I understand that an application has been submitted by the Corrib Gas Partners for a review of this licence pursuant to section 88 of the Environmental Protection Act, 1992 to reflect the developer's modified proposals for the disposal of produced/treated water from the Corrib development. The outcome of this application will be determined in the context of the amended legislation and prior to the commencement of the production phase of the development.

In the interim, I can confirm that the relevant consents for the construction of the development are in place and that there are no grounds to require the cessation of works.

Yours sincerely,



Pat Rabbitte T.D.,
Minister for Communications, Energy and Natural Resources

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Our Ref: A05/01

15 April, 2002

Mr. Brian O'Catháin
Managing Director
Enterprise Energy Ireland Limited
Corrib House
52 Lower Leeson Street
Dublin 2

Dear Mr. O'Catháin,

Re : Corrib Gas Field Plan of Development

I am pleased to inform you that I have today 15 April 2002 approved the Plan of Development proposal as submitted by Enterprise Energy Ireland Limited (EEI) on 21 November 2001 and as clarified in subsequent discussions and correspondence with Petroleum Affairs Division of my Department. Specifically I approve the forecast production profile for the development identified as the P₅₀ Sales Gas profile in Table 3 in the Corrib Plan of Development – Addendum, Document No: COR-19-PL-004; Revision 2).

This recommendation is made on the understanding that safety zones of 500 m radius will be established around the subsea installations in the field and the diffuser at the end of the terminal water discharge pipeline.

This approval is subject to the following conditions:-

- 1) Commencement of commercial production operations in January, 2004;
- 2) Compliance with all relevant national and international statutory requirements, regulations in force at the time for a particular location and all directions given by the relevant national or local competent authorities, including,
 - obtaining all necessary Planning Permissions
 - obtaining a Foreshore Licence
 - obtaining an IPCL Licence

- compliance with all requirements and regulations applying to offshore petroleum production operations concerning safety and environmental protection.
- conducting all operations in relation to the Corrib Gas Field in accordance with the Rules and Procedures for Offshore petroleum Production Operations as may be amended from time to time.
- compliance with the terms of the Corrib Petroleum Lease.

3) Approval by the Minister for First Gas (commencement of commercial production operations). Such approval will be subject to the following conditions:

- Satisfactory fulfilment of the Conditions Precedent to the Commencement of Commercial Production Operations (Clause 5, Corrib Petroleum Lease)
- All production operations in relation to Corrib being conducted according to all requirements of the Rules and Procedures for Offshore Petroleum Production Operations, as may be amended from time to time
- Prior to commencement of gas production (for commissioning or commercial operations) the receipt of a Letter(s) of Acceptance for all Corrib installations, pipelines and associated engineering infrastructure from the Minister's auditor indicating that 3rd Party Independent Verification has been carried out and completed satisfactorily in relation to the development.

4) The Minister will liaise with the Environmental Protection Agency in the determination of an IPC licence application for the operation of the terminal. As part of this consultation process, he will have the environmental matters raised in recommendations 15, 16, 21, 22 and 23 of the MLVC report brought to the attention of the EPA.

5) Compliance with the following specific conditions

5.1 Wells

- All drilling and completion operations will be subject to separate approval according to the Rules and Procedures Manual
- To enable continuous monitoring of reservoir performance, all wells will be completed with downhole pressure and temperature sensors, and Christmas Trees will be fitted with flow meters and pressure and temperature sensors
- It is required that all future wells on the field have, as a priority objective, data gathering and testing programmes aimed at further, specific evaluation of the high permeability streaks in the lower intervals of the reservoir, in so far as this is consistent with maximising recovery from the reservoir.
- It is required that:

- completion designs are to be optimised and/or stimulation undertaken, in order to ensure effective drainage and maximised production from reservoir zones C, D and E in all wells,
- reservoir property mapping and field volumetrics are to be reviewed after each future well is drilled, and
- comprehensive pressure measurements are to be made through the reservoir section in all wells drilled after the start of production.

5.2 Pipelines and Umbilicals

- All pipeline and umbilical installation operations will be subject to separate approval. Such approval and conditions will form an integral part of this POD approval.

5.3 Future Decisions

As soon as outstanding decisions have been taken by the Corrib Group, PAD approval must be sought in relation to:

- the final configuration of the subsea Christmas Trees
- the design of the structures to be installed to protect the subsea Christmas Trees
- any modification to the terminal design that will reduce terminal inlet pressures
- the addition of a propane refrigeration plant at the terminal
- the components in the sales gas stream which are to be continuously monitored

6) Environmental Conditions

- 6.1 Prior to the commencement of works an Environmental Management Plan (EMP), shall be drawn up for the approval of the Minister (subject to such modifications, if any, as he may deem appropriate).

The Environmental Management Plan shall provide detailed construction methodology and shall further consider all potential and predicted impacts and how they shall be managed, the mitigation and control measures and how they shall be implemented, as well as monitoring proposed.

The EMP shall also give details of the targets for emissions and the measures to be undertaken to ensure that the targets are met in light of construction and operational requirements. The Plan shall address, separately, both the construction aspects and the operational aspects and should, as a minimum, include:

- i. Traffic management - both onshore and offshore;
- ii. Noise control procedures;

- iii. Dust control procedures;
- iv. Land/landfall restoration plan
- v. Waste management plan
- vi. Oil spill control plan; and
- vii. Environmental emergency procedures and contingency plans

Other issues identified in other recommendations below and in the main body of the MLVC Report shall also be included in the EMP and submitted to the Minister for his approval. Any subsequent change proposed to the EMP will require the Minister's approval.

- 6.2 Prior to construction commencing, the developer shall provide, to the satisfaction of the Minister, details of Monitoring Programmes to be undertaken. The proposed monitoring plans shall be submitted prior to the commencement of each specific phase of construction.

Detailed monitoring programmes shall be submitted for the approval of the Minister in respect of the following activities:

- i. operations at the wellhead;
- ii. impact of the pipeline on seabed conditions and benthos along the pipeline route;
- iii. impact of the pipeline on the route of the pipeline onshore, including landfall;
- iv. impact of the pipeline on the sediments and biota of Srwaddaon Bay;
- v. impact of the discharge from the outfall pipe on water chemistry sediments and biota.

- 6.3 The Minister in consultation with Mayo County Council will establish an Environmental Monitoring Group (EMG) charged with monitoring development during all stages of construction and development and with ensuring adherence to the approved EMP. The EMG will include representatives of:

- the Department of Marine & Natural Resources;
- Mayo Co. Council;
- EEI;
- Duchas;
- NWRFB; and
- Local fishing interests and local residents.

The expenses of the Group, including all reasonable travel and subsistence costs incurred by members, shall be met by the developer.

- 6.4 The outfall point of the discharge pipeline shall be located outside the cSAC, not closer than 12 kilometres from the landfall site.

A benthic survey of the area at the discharge location shall be carried out by the developer, in agreement with the Marine Institute, prior to the commencement of discharges.

- 6.5 The effluent shall be treated to at least EQS as specified in the EIS using best available technology (BAT) and emissions shall be subject to EQS.

The Minister notes the OSPAR recommendation that, by 2020, members should aim for zero emissions of hazardous substances into the marine environment. The Minister requires that the discharge should be treated in such a way as to minimise emissions to the greatest extent possible. The Minister also recommends that the developers meet with the OSPAR recommendation (signed at Sintra on 23 July, 1998) at the earliest possible date and in any case prior to 2020.

- 6.6 The pipeline shall be trenched along its entire length, where the geology allows, unless the developer submits evidence, to the satisfaction of the Minister, that demersal trawling can safely proceed over unburied sections of the pipeline without risk to fishing vessels or fishing gear.

- 6.7 The methodology of pipelaying within Broadhaven Bay, at the landfall and between the landfall and the Terminal shall be agreed with the Department before commencement of construction. The methodology shall be developed in full consultation with Dúchas to ensure that it meets its requirements for the protection of habitats and species.

Works or measures which would significantly adversely impact upon protected species shall be avoided.

- 6.8 Construction in the nearshore, the landfall and subsequent terrestrial routes for the pipeline to the Terminal shall consider particular periods of sensitivity of birds, fish and wild mammals.

The developer shall prepare a detailed Construction Constraints Schedule demonstrating compliance with the ecological sensitivities. This shall include details of the timing of construction works and protection measures for each of the protected species concerned. The construction methodology and timing shall be agreed with Dúchas and shall be included as part of the Environmental Management Plan.

The status of protected species at all construction sites shall be ascertained by survey. In the event that any such species are found, the developer must notify Dúchas and agree to comply with the requirements of that body under relevant legislation including EU Birds and Habitats Directives and national legislation.

Any nests located on site prior to the construction period shall be marked and workers shall be informed of the presence of nesting species so that these birds are not disturbed.

The timing and methodology of any additional survey work to be carried out shall be with the prior approval of Dúchas. During the construction of the pipeline and Terminal, the developer shall maintain contact with the Development Applications Unit of Dúchas and comply with all requirements of Dúchas made in the exercise of its statutory functions in relation to activities along the route of the development or otherwise in connection with this project.

- 6.9 The Erris Inshore Fishermen's Association and the Killybegs Fishermen's Organisation shall be informed of all developments and the Fisheries Liaison Officer posts, established by EEI, shall be maintained for the duration of works between the wellhead and the landfall.

- 6.10 The developer shall undertake additional traffic studies and submit a Traffic Management Plan for approval by Mayo County Council for the management of construction traffic associated with pipeline and landfall construction activities. This plan shall also address emergency access for emergency response vehicles.

The developer shall submit, for the information of the Minister, a copy of the Traffic Management Plan as approved by Mayo County Council together with evidence of the acceptance of the plan by Mayo County Council.

Construction traffic management shall be such as to avoid peak hours and particularly those hours when children will be likely to be going to or from school.

- 6.11 Immediately prior to and during construction, monitoring of suspended sediment loads in local surface water bodies shall be provided in respect of each work area, and in particular Sruwaddacon Bay.
- 6.12 A monitoring programme for juvenile salmonid densities in the water courses adjoining the Terminal site shall be produced and agreed with the North Western Regional Fisheries Board and the Marine Institute and the programme should utilise the monitoring stations used in previous surveys.

Monitoring (electro-fishing surveys) shall be carried out in salmonid fisheries sites through, and for a period of 2 years following, construction in order that the success of mitigation measures be assessed and reported on to the Minister.

Construction works involving crossings of watercourses shall be carried out only during the timeframe to be agreed with Dúchas so as to reduce potential impacts on salmonid migrations.

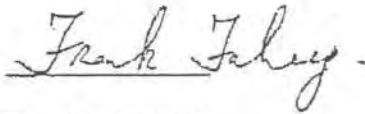
Visual monitoring of redd abundance shall be carried out as part of the ongoing monitoring programme on the salmonoid spawning success and distribution within the catchment.

- 6.13 Relevant quality systems and practices shall be published in respect of sampling methods and quality assurance practices for water chemistry surveys. Quality assurance practices shall be provided for data analysis.
- 6.14 The lowest possible intensity lighting, consistent with safety, shall be used and lights shall be projected downward except where there is a proven operational need for lighting to be projected in another direction.
- 6.15 Particular regard shall be had for the impacts of noise on properties within 100 metres of the working area and, prior to work commencing, details of the expected impacts shall be provided to the Minister and to residents affected and such details shall indicate, for the information of the residents, comparative information to assist in assessing the impact of the noise. Meteorological considerations shall be taken into account and presented as part of the report.
- Duration, likely frequency and noise associated with flaring of both the HP and LP flares should be kept to a minimum in accordance with best industry practice.
- 6.16 The developer shall be required to keep all construction sites and subsequent operational sites neat and tidy at all times.
- 6.17 Information on the location of wells along the pipeline route and in the area of the Terminal should be provided, together with a statement outlining the impacts that may be expected on each and mitigation measures should be proposed.
- 6.18 All future maps produced for the Corrib development shall be on a scale that makes the data contained therein readable without the aid of magnifiers.
- 6.19 The developer shall have studies carried out in consultation with the local communities to investigate the opportunities for work to arise during the construction and operation phases for members of the local community.
- 6.20 A detailed statement, prepared in consultation with Dúchas and cetacean experts, to detail monitoring and mitigation measures shall be provided.

I would be grateful if you would acknowledge and indicate your acceptance of the above conditions.

I look forward to the contribution that the Corrib Gas Field will make to national energy supply and I would like to wish Enterprise Energy Ireland Limited and their Co-Venturers well with this welcomed development.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Frank Fahey'.

Frank Fahey T.D.
Minister for the Marine and Natural Resources.

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Consent Conditions Monitoring Committee Terms of Reference

Objectives

Condition 4 of the Minister for Communications, Energy and Natural Resources' consent to construct the Corrib Gas Pipeline requires that a Consent Conditions Monitoring Committee be established by the Department of Communications, Energy and Natural Resources (DCENR).

The purpose of this Committee is to monitor the implementation of the conditions attaching to the Minister's consents pursuant to both Section 13 of the Petroleum and Other Minerals Development Act, 1960 (Corrib Plan of Development) and Section 40 of the Gas Act, 1976 (Corrib Gas Pipeline).

Membership

Membership of the Committee will be determined by DCENR and will include

- Representatives of DCENR; A representative from DCENR shall chair the Committee;
- Representatives from the Corrib Gas Partners;
- One representative from the Department of the Environment, Heritage and Local Government;
- One representative from Inland Fisheries Ireland;
- One representative from Mayo County Council;
- One representative from the Environmental Protection Agency;
- One representative from Bord na Mona; and
- Four representatives of the local community from Kilcommon Parish, selected in accordance with procedures to be determined by DCENR,

DCENR may co-opt additional members to the Consent Conditions Monitoring Committee at any time.

Meetings

The Chairman shall determine the date and place of meetings. Where practical, meetings shall be held in the North West Mayo area.

While meetings will not be open to the public, The Consent Conditions Monitoring Committee may consider written submissions from the wider community as appropriate.

The Chairman may, from time to time, invite parties who are not members of the Consent Conditions Monitoring Committee to address or take part in a meeting of the monitoring Group.

Reports of the meetings will be drawn up by the Committee Secretariat and may be published on the DCENR Website.

General

While the Consent Committee Monitoring Group will not be a decision-making body, it will; have a mandate to consider and discuss inter alia:

- Monitoring data submitted to DCENR with respect to the implementation of the conditions attaching to the Section 40 and Plan of Development (POD)consents;
- Any issues of concern arising with respect to technical design/safety or environmental activities being undertaken by the developer pursuant to the Section 40 and POD consent conditions;
- DCENR and Developer Reports on the works carried out pursuant to the Section 40 and POD consent conditions;
- Reports to be produced by the Developer required to be submitted to other consent authorities in compliance with the Section 40 and POD consent conditions.

Duration of the Consent Conditions Monitoring Group

The role of the Consent Conditions Monitoring Group will conclude once the construction phase of the pipeline has been satisfactorily completed and prior to the Commissioning phase of the pipeline.