

FURTHER APPEAL FORM

SECTION 26		SECTION 37	
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Appeal No: PL 207212

Lodged: 27/5/04 Case Type: 02 ⇒ 05

O.H. Request Date: _____ P.A. Decision Date: 30/4/04 ✓

Appellant: Shell E & P Ireland Limited

Address/Agent: Tom Phillips & Associates

8-11 Lower Baggot Street, Dublin 2

<p>M <u>r Cranwell</u></p> <p>1. Acknowledge with: <u>BPOI M</u></p> <p>Merge:</p> <p>(1) psplit <input type="checkbox"/> (4) omitdoc <input type="checkbox"/></p> <p>(2) msplit <input type="checkbox"/> (5) overpay <input type="checkbox"/></p> <p>(3) revplan <input type="checkbox"/> (6) xmas <input type="checkbox"/></p>	<p>2. Issue appeal to:</p> <p>(a) P.A: _____</p> <p>(b) Applicant: _____</p> <p>(c) Other: _____</p>
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3. Return appeal with: _____

4. Return to prepare exp.ltr: _____

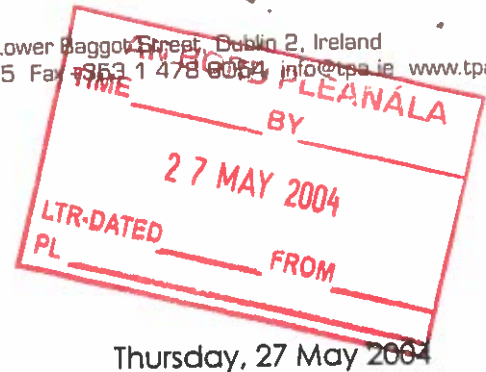
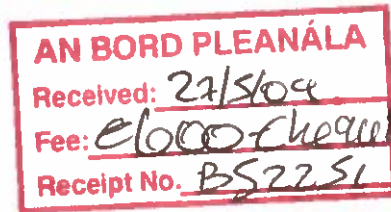
Comments:

Please insert date of cross circulation on control sheet

EO: K Doherty AA: Ren Cranwell

Date: 1/6/04 Date: 3/6/04

The Secretary
An Bord Pleanála
64 Marlborough St
Dublin 1



Thursday, 27 May 2004

By Hand

Dear Sir

Re: Appeal against the conditions attached to the permission for the construction of a gas terminal at Bellagelly South, Bellanaboy Bridge, County Mayo, and a peat deposition site at Srahmore and Attavally, Bangor-Erris, County Mayo

Mayo County Council Reg. Ref. P03/3343

1.0 INTRODUCTION

1.1 First Party Appeal

Tom Phillips + Associates, Town Planning Consultants¹, have been retained by Shell E&P Ireland Limited² to appeal certain conditions attached to the permission for the construction of a gas terminal at Bellagelly South, Bellanaboy Bridge, County Mayo, for the reception and separation of gas from the Corrib Gas Field, and a peat deposition site at Srahmore and Attavally, Bangor-Erris, County Mayo (Planning Ref. No. P03/3343³).

A copy of the Notification of Decision to Grant Permission is attached in Appendix A. The appeal cheque of €600 is also attached.

The Applicant has reviewed the conditions in detail and has no issue with the intent of the vast majority; however, clarification is required with regard to a number of those conditions. This clarification relates to how certain conditions will operate in detail, and also how they will interact with the activities of other agencies.

Such an appeal is not designed to question the spirit of the conditions deemed appropriate by Mayo County Council in its Decision. Rather it stems from a desire to ensure clarity and precision of interpretation for all parties involved in considering the proposed gas terminal and peat deposition site for the Corrib Gas development.

The grounds for the appeal of the conditions are presented in detail below.

¹ Nos. 8-11 Lower Baggot Street, Dublin 2.

² Corrib House, 52 Lower Leeson Street, Dublin 2.

³ The 'Corrib Decision'.

1.2 Rationale for the Appeal

The Applicant welcomes the positive Decision of Mayo County Council to grant permission for the proposed development. Shell acknowledges the significant input by the Planning Authority to determine the application, having regard *inter alia* to: the previous decision of An Bord Pleanála (and its sole refusal reason relating to the stability of deposited peat); National policy on the development of energy and natural gas resources; the strategies for the BMW Region and the *National Spatial Strategy 2002-2020*; the *Mayo County Development Plan 2003-2009*; the landscape character of the site; and the report of the NAOSH, in the context of article 12 of the Council Directive 96/82EC (Seveso II), respectively.

However, we wish to appeal a number of the conditions having regard to section 34(4) of the *Planning and Development Act, 2000* and the criteria for the attachment of conditions set out in the Department of the Environment's *Development Control & Guidelines* (October 1982) (commonly referenced as the 'Yellow Book').

1.3 Key Issues Arising in Respect of Conditions

With reference to the Department of the Environment's Yellow Book, as an advisory document for planning authorities based on statements of the Minister for the Environment in relation to land use planning issues⁴, the Guidelines provide a useful analysis of the basic criteria governing the appropriateness or otherwise of planning conditions.

1.4 Basic Criteria in Relation to the Use of Conditions

The Yellow Book sets out basic criteria as a guide to deciding whether to impose a condition. These include the questions of whether the condition is:

- (a) Necessary?
- (b) Relevant to planning?
- (c) Relevant to the development to be permitted?
- (d) Enforceable?
- (e) Precise?
- (f) Reasonable?

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⁴ The Department of the Environment, Heritage and Local Government is currently reviewing the Yellow Book for the purposes of issuing a new volume.

The DoE Guidelines caution against duplication of authority⁵. Some conditions are for consideration by the Environmental Protection Agency when applications are made to it for an Integrated Pollution Prevention and Control Licence (IPPC) and a Waste Licence. Similarly matters controlled under other legislation such as the Waste Management Act and amendments, the Building Control Regulations, and the National Monuments Act and amendments, respectively can be so addressed.

In addition, several conditions attaching to the Corrib Decision cover undertakings already specifically provided for in the EIS.

The 75 No. conditions attaching to the Decision have been considered having regard to the above criteria. The following categories are used for those conditions that we wish to appeal:

- (a) **Clarification** (i.e. clarification as to the meaning and precision of the condition).
- (b) **Amendment** (i.e. suggestions as to how the condition might be reworded, while ensuring that its intent and spirit are retained).
- (c) **Omission** (i.e. conditions that we seek to be removed should the Board consider it appropriate to grant planning permission for the subject proposal).

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⁵ 'Conditions related to other codes. There is a widespread tendency to attach to planning permissions conditions relating to matters which, though of concern in the exercise of development control, are the subject of more specific controls under other legislation or are directly regulated by other statutes or by common law. The aim, no doubt, is to seek to improve the operation of those other controls or codes by the use of the enforcement provisions of the Planning Acts. It is inappropriate, however, in development control, to deal with matters which are the subject of other controls unless there are particular circumstances e.g. the matters are relevant to the proper planning and development and there is good reason to believe they cannot be dealt with effectively by other means. The existence of a planning condition, or its omission, will not free a developer from his responsibilities under other codes and it is entirely wrong to use the development control process to attempt to force a developer to apply for some licence, approval, consent, etc., which his development would not otherwise need. At best, the imposition of conditions in relation to matters which are the subject of other controls is an undesirable duplication. In practice, such an approach can give rise to conflict and confusion if the effect of a condition on a development is different from that of the specific control provision.

In view of the foregoing, planning authorities should not include in planning permissions – (i) conditions which require compliance with building bye-laws, or other bye-laws under the Public Health and Local Government Acts, or compliance with the Food Hygiene Regulations, the Conditions of employment acts, the Safety in Industry Acts, the Dangerous Substances Act, and analogous legislation or regulations, or (ii) conditions which relate to matters of detail covered by or under any such legislation...'. (Department of the Environment Development Control Advice and Guidelines, Sections 5.28-5.29, pgs. 42 and 43.) [Note: Several of the Acts cited above have been replaced by subsequent legislation.]

2.0 GROUNDS FOR THE APPEAL

2.1 Condition No. 2

We seek that Condition No. 2 be amended to include reference to the 17th December, so as to be consistent with Condition No. 1. For clarity the application was received and validated by Mayo County Council on 17th December 2003.

2.2 Condition No 3: Section 47 Agreement

Condition No. 3 states:

'Prior to the commencement of development the owners/developers (and their successors in title) shall enter into legally binding agreements and covenants with Mayo County Council pursuant to Section 47 of the Planning and Development Acts 2000 - 2002. These agreements and covenants shall provide inter alia for the following:

1. To give effect to all undertakings given by the applicant and the requirements of Mayo County Council in relation to the landscaping of the site, to the maintenance and/or replacement of existing trees and provision of new planting to provide a permanent visual screen as shown on the Landscape Strategy (Shell Drawing No.'s COR-RS-LA-001, 002 and 003) submitted to Mayo County Council on 23rd December 2003.
2. The payment to Mayo County Council of all costs incurred by the Council on the repair, maintenance and rehabilitation of the road network arising from construction of the development and as determined by the road and bridge survey carried out prior to and post construction.
3. To ensure that all plant shall be disassembled and removed and that the site shall be restored to the satisfaction of Mayo County Council following the cessation of operations at the plant.
4. To ensure that the Transport Management Plan submitted on the 11th March 2004 and any amendments required by Mayo County Council is implemented.
5. The acceptance by the developer of the composition, terms of reference and functions of the Project Monitoring Committee subject of Condition No. 16.'

2.2.1 Outcome Sought and Rationale

We seek that this condition be omitted.

An agreement under section 47 of the Planning and Development Acts 2000 - 2002 is unnecessary and not appropriate. Agreements under Section 47 are intended to be consensual as connoted by the word 'agreement'. In our view Section 47 was not intended to be used as an alternative enforcement mechanism, in particular where the subject matter of the 'agreement' are dealt with by way of subsequent conditions. Condition Nos. 1 and 2 already require the developer to comply with the planning application drawings and documents, and the undertakings given in the EIS and the additional information.



In addition, Mayo County Council has enforcement powers, including powers of prosecution, under the *Planning and Development Acts 2000 – 2002* to ensure that the development is carried out in accordance with the permission granted.

Landscaping (Conditions 1 and 2), reimbursement for care and maintenance of roads (Conditions 5, 7 and 46), restoration of the site on cessation of the activity (Condition 74), and the establishment of a Project Monitoring Committee (Condition 16), are all addressed in the conditions attached to the permission granted, or the undertakings given in the EIS and other documents.

2.3 Condition No. 4: R-314 Road Realignment and Peat Haulage / Construction Materials

Condition No. 4 states:

'Prior to the commencement of peat haulage operations and the importing of construction materials into the Bellanaboy site the developer shall, at its own expense, realign Regional Road R-314 in accordance with Mayo County Council Drawing No. 3225/04/02. The realignment shall be carried out under the supervision of Mayo County Council to an agreed design and specification.'

2.3.1 Outcome Sought and Rationale

We seek that this condition be amended as follows:

'Prior to the commencement of peat haulage operations and the importing of construction materials into the Bellanaboy site the developer shall, at its own expense, realign Regional Road R-314 in accordance with Mayo County Council Drawing No. 3225/04/02. The realignment shall be carried out under the supervision of Mayo County Council to an agreed design and specification. Certain construction materials may be imported on site prior to the realignment of the R-314 subject to the prior written agreement of the Planning Authority.'

Procedural restrictions on the importation of construction materials on site could result in delays, which may ultimately cause significant schedule delays for the project. It is considered reasonable that, should planning permission be granted, the developer would be afforded the opportunity to commence limited preparatory works on the site without undue delay, subject to compliance with the relevant planning permissions, and subject to prior written agreement with the Planning Authority.

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2.4 Condition No. 6: Maintenance, Repair and Upkeep of Haul Routes

Condition No. 6 states:

'The maintenance, repair and upkeep of the strengthened haul routes Regional Road R-313, Local Roads L-12044, L-1204 and Regional Road R-314 from Bellanaboy Bridge to the main terminal entrance and all other roads in the region which are affected directly or indirectly by the proposed development throughout the construction period, shall be carried out by Mayo County Council and any costs incurred shall be paid by the Developer.'

2.4.1 Outcome Sought and Rationale

We seek that this condition be clarified and subsequently amended as follows:

'The maintenance, repair and upkeep of the parts of Regional Road R-313 and Local Roads L-12044 and L-1204, which are used as haul routes, Regional Road R-314 from Bellanaboy Bridge to the main terminal entrance, and those roads identified by the road and bridge condition survey referenced in Condition No 7, shall, throughout the construction period, be carried out by Mayo County Council and any costs incurred shall be paid by the Developer.'

This condition is considered imprecise. Its scope is extremely wide, encompassing the haul routes and 'all other roads in the region' for the duration of the entire construction phase. This could be interpreted as all roads in the Erris region. The extent of the roads in the region which are affected **directly or indirectly** [our emphasis] is not defined. Having regard to sections 48 and 49 of the Planning and Development Act, 2000, clarification is sought on how indirect effects are quantified.

2.5 Condition No. 12: Haul Route and Vehicle ID

Condition No. 12 states:

'The haul route and schedule of haulage for the construction phase of the development shall be clearly documented and published in a manner to be agreed with Mayo County Council. All vehicles hauling materials to the Bellanaboy or Srahmore sites shall have a clear notice visible to the public identifying that they are involved with the development.'

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⁶ The DoE's Yellow Book states that: 'every condition should be precise and clearly understandable. It must tell the developer from the outset exactly what he has to do, or must not do ...'. (Department of the Environment Development Control Advice and Guidelines, Sections 5.11, pg. 34.)

2.5.1 Outcome Sought and Rationale

We seek that this condition be amended as follows:

'The haul route and schedule of haulage for the construction phase of the development shall be clearly documented and published in a manner to be agreed with Mayo County Council. All vehicles hauling materials on a regular basis to the Bellanaboy or Srahmore sites shall have a clear notice visible to the public identifying that they are involved with the development.'

The developer does not have the power to ensure complete compliance with the second part of this condition as worded by Mayo County Council. The developer can instruct suppliers and subcontractors to put notices on vehicles identifying that they are involved with the development and for any haulage vehicles associated with the peat transportation. For those bringing materials regularly into the site, the developer will ensure that these carry clear notices identifying that they are involved in the development. However, occasional deliveries, such as courier deliveries, and from suppliers who cover a wide range of customers on its route, may not be complying with this condition. It is therefore considered reasonable to request that the condition be applied for vehicles that regularly carry loads to the sites.

2.6 Condition No. 15: Control of Vehicles in Transit

Condition No. 15 states:

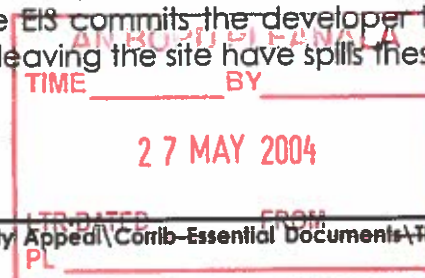
'The developer shall ensure that no material shall leak or fall from vehicles while in transit transporting waste from the terminal site.'

2.6.1 Outcome Sought and Rationale

We seek that this condition be amended as follows:

'The developer shall take all reasonable measures to ensure that no material shall leak or fall from vehicles while in transit transporting waste from the terminal site. Prior to the commencement of removal of waste from the terminal site, the developer shall submit details to Mayo County Council for its written agreement of the vehicles and the methodologies to be used to ensure the prevention of leakage from the vehicles while in transit from the site.'

Whereas the objective of the condition is not at issue, it is considered neither reasonable nor enforceable as originally worded by the Planning Authority. The types of waste arising from this development are no different from the types of waste arising from any construction project in County Mayo. The peat only poses a risk to the environment if a substantial quantity is discharged to a watercourse. Section 3.2.5. of Volume 1 of the EIS commits the developer to monitor the condition of local roads; if vehicles leaving the site have spills these will be cleaned.



2.7 Condition No 25: Noise

Condition No. 25 states:

'During the construction stage noise levels shall be kept to a minimum. Any activity which will elevate the pre-construction ambient noise levels by 5dB Leq shall be notified to the Project Monitoring Committee in advance. Any mitigation measures shall be put in place at least one week in advance before the scheduled activity. Advance notice of the schedule of planned activity which will elevate the pre-construction ambient noise levels by 5dB Leq shall be made available to the general public by way of public advertisement.'

2.7.1 Outcome Sought and Rationale

We seek that this condition be amended as follows:

'During the construction stage noise levels shall be kept to a minimum. Any activity that will cause a significant increase in the ambient noise levels, for example piling or rock-breaking, shall be notified to the Project Monitoring Committee in advance. Advance notice of the schedule of such activity shall be made available to the general public by way of public advertisement.'

It is agreed that frequent and timely communication with residents is important. The monitoring of the implementation of the mitigation measures, as proposed in the EIS can be monitored by the PMC, as set out in Condition 16. Almost all construction activities will raise the pre-construction ambient noise level at the location of the activity by 5dB Leq. The EIS (Chapter 12) predicts that during the construction period, there will, due to the very nature of the construction activities, be increases in the ambient noise levels from the site activities and from construction related traffic. The noise levels will not be constant, but vary from activity to activity, and also vary with the combination of machinery to be applied at any one time. It will also vary from location to location, depending on the proximity of the activity to the receptors.

The EIS proposes, that in addition to standard mitigation measures applied to minimise the noise at source, communication with the affected residents will be essential to minimise the adverse impact of the noise disturbance.

2.8 Condition No. 31: Survey of Hen Harriers

Condition No. 31 states:

'Within 6 months of the date of this decision the developer shall submit a report, including a survey (carried out at the appropriate time of year) into the presence or otherwise in the area of breeding hen harriers together with mitigation measures to minimize disturbance during the breeding season, if breeding is recorded.'

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2.8.1 Outcome Sought and Rationale

We seek that this condition be omitted.

No hen harriers have been found to be breeding on the site. Heather is the preferred breeding habitat for hen harriers. In section 6.3.6, of Volume 1 of the EIS, it is stated that the site has inadequate heather cover to support hen harriers; therefore the developer believes such a survey is unnecessary. Please see attached correspondence from Ms Jenny Neff, consultant ecologist. (Appendix B attached.)

However should the Board be minded to retain this condition, we seek that it be amended as follows:

'Within 12 months of the date of this decision, the developer shall submit a report, including a survey (carried out at the appropriate time of year) into the presence or otherwise on the site of breeding hen harriers, together with mitigation measures to minimize disturbance during the breeding season, if breeding is recorded.'

The time period has been amended to 12 months to reconcile the requirement for the survey to be 'carried out at the appropriate time of year'.

2.9 Condition No. 32: Removal of Vegetation

Condition No. 32 states:

'Removal of vegetation within the site to be carried out outside of the breeding season.'

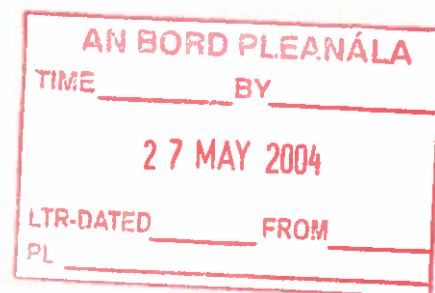
'Reason: To ensure the protection of avian wildlife.'

2.9.1 Outcome Sought and Rationale

We seek that this condition be omitted.

We consider that this condition, while it replicates the objectives of Condition No. 29, is unreasonable and impractical. A literal interpretation would cover all vegetation including that that is not being used as nesting habitat for breeding birds. It is impractical to limit the removal of any vegetation to outside of the breeding season (of birds).

In addition, the site is not a designated site for the protection of birds and no rare or protected bird species breed on the site. This is stated clearly in Section 6 of the EIS. In this context, the imposition of such a condition is excessively onerous. Section 6.7.2 of the EIS (Volume 1) proposes practical mitigation measures to minimize the disturbance of birds during the construction phase.



Section 40 of the Wildlife Act, 1976 (as amended) provides that it is an offence to:

'cut, grub, burn or otherwise destroy during the period beginning on the 1st day of March and ending on the 31st day of August in any year, any vegetation growing on any land, not then cultivated.'

However, an exception to that provision is made in relation to:

'the clearance of vegetation in the course of road or other construction works or in the development or preparation of sites on which any building or other structure is intended to be provided'.

It is therefore unreasonable that this condition does not reflect these provisions of the Wildlife Act.

If the Board is minded to retain this condition we seek that the condition be reworded as follows:

'Removal of vegetation resulting in disturbance to birds and their nesting habitat within the site shall be carried out outside of the breeding season'.

2.10 Condition No. 34: Bund Walls, Condition No. 35: Slug Catcher, Condition No. 36: Online Total Organic Carbon

Condition No. 34 states:

'All relevant paved areas shall be extended to the proposed bund walls and arranged so that any accidental releases over the bund wall are diverted to the open drains sump.'

Reason: To ensure proper environmental control in the event of accidental spillage of hazardous material.'

Condition No. 35 states:

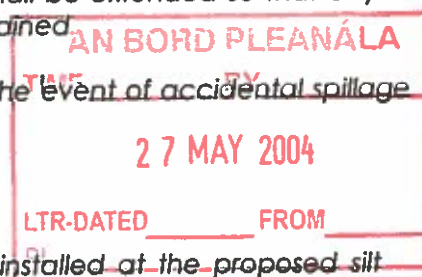
'The impermeable areas around the slug-catcher shall be extended so that any potential release of hazardous material can be contained.'

Reason: To ensure proper environmental control in the event of accidental spillage of hazardous material.

Condition No. 36 states:

'Online Total Organic Carbon monitoring shall be installed at the proposed silt ponds with provision for automatic re-routing of flow to the contaminated firewater pond in the event of accidental discharge to the system.'

Reason: To ensure proper environmental control in the event of accidental spillage of hazardous material.'



2.10.1 Outcome Sought and Rationale

We seek that these conditions be omitted.

These conditions are not relevant to land use planning as they relate to the prevention of pollution from the operational phase of the development. It is a matter for the Environmental Protection Agency (EPA) to consider in determining the Integrated Pollution Prevention and Control Licence.

2.11 Condition No. 55: Accredited Environmental Management System

Condition No. 55 states:

'Prior to the commencement of development the developer shall submit an accredited Environmental Management System (EMS), specific to the construction stage of the development including all subcontractors, to Mayo County Council for agreement in writing. The Environmental Management System shall contain as a minimum:

- (i) Schedule of environmental objectives and targets
- (ii) An Environmental Management Programme
- (iii) Corrective Action Procedures
- (iv) Awareness and Training Programme
- (v) A Management Structure
- (vi) A Communications Programme

and shall contain a requirement for continuous improvement to the satisfaction of Mayo County Council.'

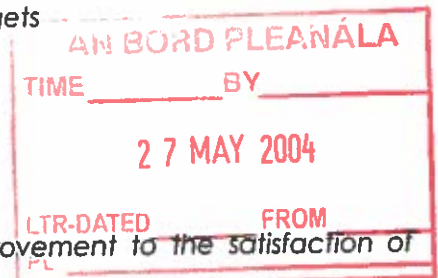
2.11.1 Outcome Sought and Rationale

We seek that this condition be amended by the removal of the word "accredited" as follows:

'Prior to the commencement of development the developer shall submit an Environmental Management System (EMS), specific to the construction stage of the development including all subcontractors, to Mayo County Council for agreement in writing. The Environmental Management System shall contain as a minimum:

- (i) Schedule of environmental objectives and targets
- (ii) An Environmental Management Programme
- (iii) Corrective Action Procedures
- (iv) Awareness and Training Programme
- (v) A Management Structure
- (vi) A Communications Programme

and shall contain a requirement for continuous improvement to the satisfaction of Mayo County Council'.



The developer will have an Environmental Management System in place, see Section 20.2 of the EIS. Section 17 also summarises the control and mitigation measures to be implemented. The developer understands that independent certification bodies will not certify an Environmental Management System without evidence that the procedures are being implemented. As procedures cannot be implemented prior to the commencement of development, accreditation of the system is impractical prior to the commencement of development.

2.12 Condition No. 70: Natural Heritage Monitoring Plan

Condition No. 70 states:

'Prior to the commencement of development the developer shall submit to Mayo County Council for approval in writing, a monitoring plan to ensure that all mitigation measures proposed in the Environmental Impact Statement submitted on 23rd December 2003 relating to the protection of habitats, flora and fauna during the construction and operation phase are carried out. The monitoring shall be carried out by a suitably qualified ecologist, and the scale and level of detail of the monitoring shall be agreed with Mayo County Council, the Heritage and Planning Division of the Department of the Environment, Heritage and Local Government, and the North West Regional Fisheries Board prior to the submission of the monitoring plan.'

2.12.1 Outcome Sought and Rationale

We seek that this condition be amended as follows:

'Prior to the commencement of development, the developer shall submit to Mayo County Council for its written agreement, a monitoring plan to ensure that all mitigation measures proposed in the Environmental Impact Statement submitted on the 17th December 2003 relating to the protection of habitats, flora and fauna during the construction phase are carried out. The monitoring shall be carried out by a suitably qualified ecologist and/or other relevant experts to be agreed in writing with the planning authority, and the scale and level of detail of the monitoring shall be agreed with Mayo County Council, the Heritage and Planning Division of the Department of the Environment, Heritage and Local Government, and the North West Regional Fisheries Board, prior to the submission of the monitoring plan.'

The condition requests a monitoring plan for operational phases, however, this would be subject to the IPPC licence for the terminal and the Waste licence for the Srahmore site. The terms under these licences will cover emissions, such as controls (mitigation measures) of discharges to surface waters.

The waste licence for Srahmore will be operational prior to any peat being received into the site.

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Monitoring requirements with respect to mitigation measures for the protection of terrestrial and aquatic flora and fauna are described in Section 6 and 7 of the EIS, and summarised in Section 20, Table 20.2 of Volume 1 of the EIS. The requirement for consultation with the National Parks and Wildlife Service and the Regional Fisheries Board are also included in this table.

The monitoring of the effectiveness of the mitigation measures relating to discharges to surface waters during the construction phase of the terminal are also covered under Conditions 30, 58 and 60.

2.13 Other Issues Arising

The Applicant is in agreement with the intent of the following conditions, but wishes to point out that having regard to the 'Yellow Book' they may be considered unnecessary as they are specifically provided for in the Environmental Impact Statement or by other legislation:

No.	Condition	Covered in EIS	Covered by Legislation
13	All vehicles leaving the construction area of the site shall pass through a wheel wash	X	
14	Vehicles transporting waste from the site shall operate under a Waste Collection Permit.		X
19	'No lime/cement binder to be used for peat stabilisation or other deleterious matter as defined in the Fisheries (Consolidation) Act, 1959 shall be allowed to discharge to surface waters.	X	X
37	'A Fire Safety Certificate is required in respect of each building in accordance with the requirements of Part III of the Building Control Regulations 1997. Application for a Fire Safety Certificate shall be made to the Building Control Authority. A Commencement Notice is also required in respect of each building. The Commencement Notice shall be submitted to the Building Control Authority in accordance with the requirements of Part II of the Building Control Regulations, 1997, S.I. No. 496 of 1997.'		X

AN BORD PLEANÁLA

TIME _____ BY _____

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3.0 CONCLUSION

The purpose of this appeal is to seek the drafting of conditions – should the Board be minded to grant permission – that cumulatively are: necessary; relevant to planning and the development permitted; enforceable; precise; and reasonable.

We look forward to receipt of the Board's Decision on this important project.

Yours faithfully



Tom Phillips
Managing Director
Tom Phillips + Associates

Enc.

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**Appendix A: Mayo County Council Notification of Decision to Grant Permission,
dated 30 April 2004 (reg. Ref. P03/3343)**

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MAYO COUNTY COUNCIL

Telephone No.:
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Planning and Development Section,
Aras An Chontae, Castlebar.

LOCAL GOVERNMENT (PLANNING AND DEVELOPMENT) ACTS 1963-1999 PLANNING AND DEVELOPMENT ACTS 2000-2002 PLANNING AND DEVELOPMENT REGULATIONS 2001 NOTIFICATION OF DECISION TO GRANT PERMISSION

**TO: SHELL E & P IRELAND LIMITED
C/O TOM R. PHILLIPS &
ASSOCIATES
8-11 LOWER BAGGOT STREET
DUBLIN 2**

Tom Phillips and Associates

Rec'd: 4 MAY 2004

Action:

Project:

Job No:

Ref. No. in
Planning Register:

P03/3343

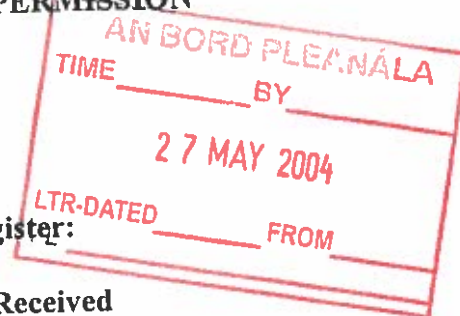
Application Received

On: **17/12/2003**

Validation Date: **17/12/2003**

Additional Information

Received On: **11/03/2004**



Notice is hereby given that Mayo County Council has on 30th April 2004 decided to **GRANT PERMISSION** to the above named, for development of land, in accordance with documents lodged, namely

Re: Planning application for the development of a gas terminal for the reception and separation of gas from the Corrib Gas Field, and for a peat deposition site, respectively.

The development will consist of the concurrent development of two sites located 11 kilometres apart, approximately, and identified as the site of the gas terminal for the reception and separation of gas from the Corrib Gas Field in the townland of Bellagelly South, Bellanaboy Bridge, County Mayo (the Bellagelly South site) and the site of the peat deposition site in the townlands of Srahmore and Attavally, Bangor-Erris, County Mayo (the Srahmore site), respectively.

the development at the Bellagelly South site will consist of: a gas terminal for the reception and separation of gas including plant and equipment; provision of 4,935 sq m (gross floor area), approximately, of buildings; access roads; 40 no. car parking spaces; and ancillary developments, of which 13 ha, approximately, will be developed in respect of the gas terminal's footprint. The proposed development of the Bellagelly South site will also consist of: the excavation and removal of 450,000 cubic metres, approximately, of peat from the Bellagelly South site, off site, to the Srahmore site; civil works, inclusive of foundations and piling; the provision of a single storey control building with a gross floor area of 400 sq m, approximately, inclusive of a control room, offices, equipment rooms, kitchenette, locker room and toilets; the provision of a single storey administration building with a gross floor area of 1,015 sq m, approximately, inclusive of a gatehouse, offices, a conference room and an emergency response room, canteen, kitchenette, laboratory, archive room, first aid room, store rooms, lockers, changing rooms and toilets; the provision of a maintenance building with a gross floor area of 800 sq m, inclusive of a warehouse, stores, mechanical workshop, welding and fabrication shop, instruments and electrical workshops, a plant room, toilets and a maintenance vehicle shed; a weighbridge; and a lattice antenna structure of 22 m in height, approximately, for site-wide radio communications. The development of the Bellagelly South site will also consist of: a diesel storage tank of 75 cubic metres capacity, approximately; a nitrogen generation unit; an air compressor package; a utility area (for plant); a power generation and switchroom building with a gross floor area of 525 sq m, approximately, for the production of electricity for the proposed gas terminal, to include 3 no. generator sets each with a capacity of 1.3 MW; an emergency generator with a capacity of 650kW; 1 no. emergency generator diesel day-tank and 1 no.

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diesel distribution pump; a high pressure and low pressure flare tower of some 40 m in height, approximately; a ground flare with a stack height of some 12 m, approximately; a transformer building with a gross area of 410 sq m, approximately, to include a 400v switchroom; a heating medium heater with a stack height of 20 m, approximately; 3 no. flare knock out drums; 2 no. low pressure gas compressors; a methanol recovery system comprising of 1 no. methanol still of 33 m in height, approximately; a heating medium storage tank with a capacity of 40 cubic metres, approximately; a sales gas compressor building with a gross floor area of 890 sq m, approximately, to include 2 no. sales gas compressors, each with a 7.7 MW ISO rated gas turbine driver; a gas-to-gas heat exchanger; a corrugated plate interceptor; effluent feed/treated water sumps; a water treatment building with a gross floor area of 235 sq m, approximately, containing a multi-media filter, ultrafiltration and nanofiltration membrane units, ion exchange beds, an activated carbon filter and a sludge treatment facility; 3 no. condensate storage tanks, of 10 m each in height, approximately, and 10 m each in diameter, approximately; 2 no. product methanol tanks of 8.4 m each in diameter, approximately, and 10 m each in height, approximately; 3 no. raw methanol storage tanks 13.5 m each in diameter, approximately, and 10 m high, approximately; a fire water pond with a capacity of 7,200 cubic metres, approximately; a used firewater pond with a capacity of 5,000 cubic metres, approximately; a firewater pump building with a gross floor area of 660 sq m, approximately, to include 4 no. fire water pumps, each with capacity of 600 cubic metres per hour, approximately, and 4 no. diesel engine drivers, each rated at 265kW (absorbed), approximately; a finger type Slug Catcher; an inlet pig receiver with a withdrawal footprint of 15 sq m, approximately; a sales gas metering unit with a footprint of 200 sq m, approximately; an odorant tank with a capacity of 10 cubic metres, approximately; a sales gas pig launcher with a loading / withdrawal footprint of 15 sq m, approximately; an Onshore Terminal Termination Unit (OTTU) measuring 2 m long by 1 m wide by 2.5 m high, approximately; an electricity substation; a Road Tanker Loading / Unloading area; a waste storage area occupying an area of 990 sq m, approximately; the provision of a number of pipetracks and piperacks joining elements of plant together; the provision of 2 no. settlement ponds and associated drainage arrangements; landscaping works; stock proof fencing around the perimeter of the proposed development; security fencing around the terminal and settlement ponds inside the stock proof fence; paved internal access roads; provision of vehicular access to the R314 via an improved forestry access road and the provision of entrance walls and gates; the reconfiguration of the existing entrance from the site to the R314 to include the widening of the entrance and the provision of a deceleration lane; realignment of the R314 to the south of its current location, at the site entrance, over a length of 115 m, approximately, to the west of the centreline of the existing site entrance and over a length of 80 m, approximately, to the east of the centreline of the existing site entrance (over a total length of 195 m, approximately); an emergency vehicular access road to the county road running between Pollatamish and the R314 via; an improved forestry access road; a new maintenance access and maintenance road from the R314 to the 2 no. settlement ponds; and all other site development works and landscaping above and below ground.

The development will simultaneously consist of the development of a peat deposition site of 117 ha, approximately, at the Srahmore site. The development of the peat deposition site will consist of: the construction of a hardstanding peat reception area of 5,112 sq m, approximately; the provision of a temporary administration building with a gross floor area of 108 sq m, approximately, inclusive of offices, canteen and toilets. The development of the peat deposition site will also consist of: the provision of a new entrance and access road to the peat deposition site from the R313; the construction of internal circulation routes; the construction of a surface water swale along the southern and western boundaries of the site; the provision of 5 no. surface water settlement ponds (2 no. ponds of 800 sq m each; 3 no. ponds of 400 sq m each, approximately). Deposition of peat will take place within an area of 63 hectares approximately. The peat deposition site will also entail the provision of a controlled overflow area of 12 hectares approximately; an oil interceptor; a settlement tank of 28 cubic metres approximately; the provision of a temporary weighbridge and a temporary wheelwash. The development of the peat deposition site will also consist of 5 no. car parking spaces located adjacent to the administration building and 20 no. parking spaces for haulage vehicles at the peat reception area at a site of 160 ha, approximately, in the townland of Bellagelly South, Bellanaboy Bridge, County Mayo, and a site of 117 ha, approximately, in the townlands of Srahmore and Attavally, Bangor-Erris, County Mayo - Shell E & P Ireland Ltd.

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MAYO COUNTY COUNCIL

based on the reasons and considerations as outlined in the First Schedule and in accordance with the 75 condition(s) set out in the Second Schedule attached hereto entitled "Schedule of Conditions".

Signed On: 30th April 2004

on behalf of Mayo County Council

J. Moran
for COUNTY SECRETARY

An appeal against a Decision of the Planning Authority under Part VI of the Planning and Development Act 2000 may be made to An Bord Pleanála. An appeal must be received by An Bord Pleanála within 4 weeks beginning on the date of the making of the Decision by the Planning Authority. (N.B. not the date on which the Decision is sent or received).

Appeals should be addressed to **The Secretary, An Bord Pleanála, 64 Marlborough Street, Dublin 1** and all such appeals to the Board will be invalid unless accompanied by the appropriate appeal fee. (see attached Schedule of Fees). Persons who are not parties to an appeal must pay the appropriate fee (see attached Schedule of Fees) if their submissions or observations are to be considered by the Board.

The appeal, which must be in writing, must state name and address of appellant; the details of the nature and site of the proposed development, the full grounds of appeal and reasons, considerations and arguments on which they are based, the name of the Planning Authority and must include the appropriate appeal fee as mentioned above and the acknowledgement from Mayo County Council in respect of the submission. An appeal not complying with all the necessary requirements will be rejected as invalid by An Bord Pleanála. An appellant shall **not** be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds of appeal stated in the appeal, or to submit further grounds of appeal, and any such elaboration, submissions or further grounds of appeal received by An Bord Pleanála shall not be considered by it. A grant of permission shall be issued as soon as may be, but not earlier than 3 working days after the expiration of the period for the making of an appeal if there is no appeal before An Bord Pleanála on the expiration of the said period.

Please Note: In the case of a valid planning application received by the Planning Authority prior to the coming into operation of the Planning and Development Regulations, 2001, i.e. 11th March 2002, the period within which an appeal can be made to An Bord Pleanála is one month from the date of the Decision of the Local Authority.

***NOTE:-** Commercial Development is defined as development for the purposes of any professional, commercial or industrial undertaking, development in connection with the provision for reward of services to persons or undertakings, or development consisting of the provision of two or more dwellings but excludes development for purposes of agriculture.

AN BORD PLEANNÁLA	
TIME _____	BY _____
27 MAY 2004	
LTR-DATED _____	FROM _____
PL _____	

P03/3343 FIRST SCHEDULE.

Having regard to:

- (a) the National policy with regard to the development of energy and natural gas resources in particular;
- (b) the compatibility of the proposed development with the development strategies for the Border, Midlands and Western Region within the National Spatial Strategy;
- (c) the Mayo County Development Plan 2003-2009;
- (d) the character of the landscape of the site;
- (e) the report of the National Authority for Occupational Safety and Health, being the competent authority in relation to land use planning under Article 12 of the Council Directive 96/82EC (Seveso II),

it is considered that, subject to compliance with conditions set out in the Second Schedule, the proposed development would not seriously injure the visual amenities or landscape character of the area, would not seriously injure the amenities or property values of residential properties or farms in the vicinity, would not be prejudicial to public health, would not endanger public safety or be otherwise contrary to the proper planning and sustainable development of the area.

P03/3343 SECOND SCHEDULE.

SCHEDULE OF CONDITIONS

AN BORD PLEANÁLA
TIME _____ BY _____
27 MAY 2004
LTR-DATED _____ FROM _____
PL _____

GENERAL.

1. The development shall be carried out in accordance with plans and documentation submitted to Mayo County Council on 17th December 2003, 23rd December 2003 and additional information submitted to Mayo County Council on 11th March 2004, except where amended by the conditions set out hereunder.

Reason: *In the interest of clarity and proper planning and development.*

2. The development shall be constructed in accordance with undertakings for measures to mitigate its impacts as set out in the Environmental Impact Statement lodged with Mayo County Council on 23rd December 2003 and in the additional information received by Mayo County Council on 11th March 2004 except where amended by the conditions hereunder.

Reason: *To mitigate against any adverse environmental impacts resulting from the construction and operation of the development.*

3. Prior to the commencement of development the owners/developers (and their successors in title) shall enter into legally binding agreements and covenants with Mayo County Council pursuant to Section 47 of the Planning and Development Acts 2000 – 2002. These agreements and covenants shall provide inter alia for the following:
- (i) To give effect to all undertakings given by the applicant and the requirements of Mayo County Council in relation to the landscaping of the site, to the maintenance and/or replacement of existing trees and provision of new planting to provide a permanent visual screen as shown on the Landscape Strategy (Shell Drawing No.'s COR-RS-LA-001, 002 and 003) submitted to Mayo County Council on 23rd December 2003.
 - (ii) The payment to Mayo County Council of all costs incurred by the Council on the repair, maintenance and rehabilitation of the road network arising from construction of the development and as determined by the road and bridge survey carried out prior to and post construction.
 - (iii) To ensure that all plant shall be disassembled and removed and that the site shall be restored to the satisfaction of Mayo County Council following the cessation of operations at the plant.
 - (iv) To ensure that the Transport Management Plan submitted on the 11th March 2004 and any amendments required by Mayo County Council is implemented.
 - (v) The acceptance by the developer of the composition, terms of reference and functions of the Project Monitoring Committee subject of Condition No. 16.

Reason: To ensure the satisfactory completion of development authorised by the permission.

ROADS & TRAFFIC MANAGEMENT.

Road Improvements.

4. Prior to the commencement of peat haulage operations and the importing of construction materials into the Bellanaboy site the developer shall, at its own expense, realign Regional Road R-314 in accordance with Mayo County Council Drawing No. 3225/04/02. The realignment shall be carried out under the supervision of Mayo County Council to an agreed design and specification.

Reason: In the interest of traffic safety.

5. The existing road side boundary along Regional Road R-314 at the proposed entrance to settlement ponds at the Bellanaboy site shall be set back in accordance with Mayo County Council Drawing No. 3225/04/03. The area between the edge of the carriageway and the new set back boundary shall be made level with the existing carriageway.

Reason: In the interest of traffic safety.



6. The maintenance, repair and upkeep of the strengthened haul routes Regional Road R-313, Local Roads L-12044, L-1204 and Regional Road R-314 from Bellanaboy Bridge to the main terminal entrance and all other roads in the region which are affected directly or indirectly by the proposed development throughout the construction period, shall be carried out by Mayo County Council and any costs incurred shall be paid by the Developer.

Reason: *To ensure the proper maintenance and upkeep of roads and bridges during construction.*

7. A road and bridge condition survey of the road network in the Erris region shall be undertaken by Mayo County Council, before and after the construction period. This survey shall determine the level of damage to the road network, if any, which would be attributable to the proposed development. The developer shall bear the cost of the survey and the cost of repairing any damage attributable to the proposed development.

Reason: *To ensure the proper maintenance and reinstatement of roads and bridges following construction.*

Traffic Management.

8. The developer shall comply with the provisions set out in the Traffic Management Plan submitted on the 11th March 2004 with regard to all aspects of transport generated by the proposed development. In particular the stated maximum number of 800 Heavy Commercial Vehicle (HCV) traffic movements per day along the primary haul route shall not be exceeded.

Reason: *In the interests of proper and efficient traffic management and residential amenity.*

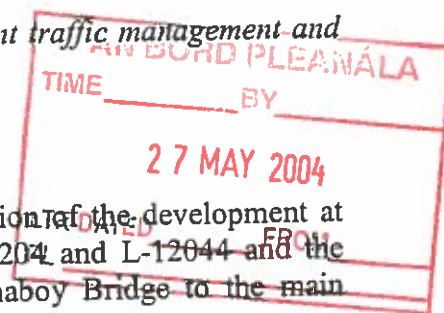
9. The location of all road signs, advance warning signs, information signs according to the schedule set out in the Traffic Management Plan submitted on the 11th March 2004 shall be agreed with Mayo County Council prior to the commencement of haulage of any materials.

Reason: *In the interests of proper and efficient traffic management and traffic safety.*

Haul Routes.

10. Haulage of all materials required for the construction of the development at the Bellanaboy site shall be via Local Roads L-1204 and L-12044 and the section of the Regional Road R-314 from Bellanaboy Bridge to the main entrance to the terminal.

- (i) Materials transported via Bangor shall use Regional Road R-313, the Local Road L-1204, the Local Road L-12044 and Regional Road R-314 as the haul route to the site.
- (ii) Materials transported from Belmullet shall use the Regional Road R-313 the Local Road L-12044, the Local Road L-1204 and Regional Road R-314 as the haul route to the site.



Reason: *In the interests of proper and efficient traffic management and traffic safety during construction and to minimise damage to the public road system in the area.*

11. Haulage of all materials required for the construction of the development at the Srahmore site shall be via Regional Road R-313.

Reason: *In the interests of proper and efficient traffic management and traffic safety during construction and to minimise damage to the public road system in the area.*

12. The haul route and schedule of haulage for the construction phase of the development shall be clearly documented and published in a manner to be agreed with Mayo County Council. All vehicles hauling materials to the Bellanaboy or Srahmore sites shall have a clear notice visible to the public identifying that they are involved with the development.

Reason: *In the interests of proper and efficient traffic management and traffic safety during construction and to minimise damage to the public road system in the area.*

13. All vehicles leaving the construction area of the site shall pass through a wheel wash.

Reason: *In the interest of proper planning and sustainable development of the area.*

14. Vehicles transporting waste from the site shall operate under a Waste Collection Permit.

Reason: *In the interest of proper planning and sustainable development of the area.*

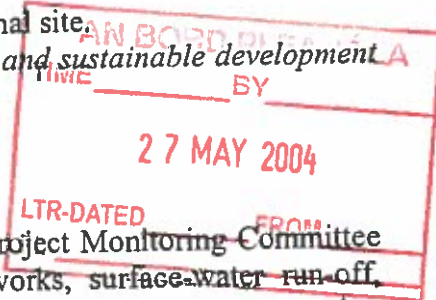
15. The developer shall ensure that no material shall leak or fall from vehicles while in transit transporting waste from the terminal site.

Reason: *In the interest of proper planning and sustainable development of the area.*

ENVIRONMENT

16. Prior to the commencement of development a Project Monitoring Committee (PMC) shall be established to monitor earthworks, surface water run-off, drainage control, traffic management and road maintenance, implementation of the landscape plan and other environmental issues. The Project Monitoring Committee shall comprise of two representatives of the developer, two officials from Mayo County Council, one official from each of the North West Regional Fisheries Board, the Heritage and Planning Division of the Department of the Environment, Heritage and Local Government and the Environmental Protection Agency. The Committee shall be chaired by the Mayo County Manager (or his nominee) and the Committee may co-opt other members as required.

Reason: *To ensure effective monitoring during construction.*



Protection of Water Resources.

17. Prior to the commencement of development a maintenance programme for the silt traps and settling ponds shall be submitted to Mayo County Council for agreement. Any subsequent amendments arising from the construction phase or the requirements of Mayo County Council (following consultation with the Project Monitoring Committee) shall be agreed in writing. A record of all maintenance works shall be kept and made available to Mayo County Council and the Project Monitoring Committee. The developer or its contractors shall nominate the person responsible for the operation of the silt traps and settlement ponds.

Reason: *To prevent water pollution.*

18. All surface water discharges from the disturbed area of the site shall be through the regime of settling ponds and silt traps as set out in the plans and particulars submitted on 17th December 2003. the accompanying Environmental Impact Statement submitted 23rd December 2003 and Further Information submitted on the 11th March 2004.

Reason: *To prevent water pollution.*

19. No lime/cement binder to be used for peat stabilisation or other deleterious matter as defined in the Fisheries (Consolidation) Act 1959 shall be allowed to discharge to surface waters.

Reason: *To prevent water pollution.*

20. All fuel storage areas and cleaning areas, particularly cleaning areas for concrete trucks shall be rendered impervious to the materials stored therein or substances cleaned therefrom and shall be constructed to ensure that no substance shall discharge from the area. In addition, tank and drum storage areas shall as a minimum be bunded, either locally or remotely, to a volume not less than the greater of the following:

- (i) 100% of the capacity of the largest tank or drum within the bunded area; or
- (ii) 25% of the total volume of substance which could be stored within the bunded area.

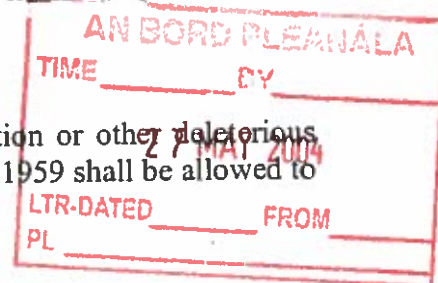
Reason: *To avoid the pollution of surface or ground waters.*

21. The developer shall maintain on site for the duration of the construction period an oil pollution abatement kit comprising of booms and absorbent materials. The nature and extent of the kit shall be agreed with Mayo County Council prior to the commencement of development.

Reason: *In order to prevent water pollution.*

22. The percolation area for the wastewater treatment system shall be located in position shown on Drawing No. COR-AR-SD-RF1-005 submitted on the 11th March 2004.

Reason: *In the interest of clarity and for the protection of public health.*



Rock Blasting.

23. Blasting of rock on the site shall be designed and operated so that

- (i) Ground vibration arising from any blast carried out on the site shall not exceed a peak particle velocity of 12 mm/s in any one of three mutually orthogonal planes at the threshold of any house in the vicinity of the site.
- (ii) The air over pressure arising from any blast carried out on the site shall not exceed 125 dB (linear) max peak level when measured outside the nearest house to the blast.
- (iii) Blasting shall be confined to between the hours of 11.00am and 5.00pm, Monday to Friday

Reason: *In the interest of public health & safety.*

24. Arrangements for the advance notice of blasting shall be agreed with Mayo County Council, the details of which shall be made available to the general public by way of public advertisement.

Reason: *In the interest of public health & safety.*

Noise & Dust.

25. During the construction stage noise levels shall be kept to a minimum. Any activity which will elevate the pre-construction ambient noise levels by 5dB Leq shall be notified to the Project Monitoring Committee in advance. Any mitigation measures shall be put in place at least one week in advance before the scheduled activity. Advance notice of the schedule of planned activity which will elevate the pre-construction ambient noise levels by 5dB Leq shall be made available to the general public by way of public advertisement.

Reason: *In the interest of public health and residential amenity.*

26. Dust levels shall not exceed 130 mg/m² per day averaged over thirty days when measured at the site boundaries. Any activity which can reasonably be expected to exceed that dust level shall be notified to the Project Monitoring Committee in advance. Any mitigation measures shall be put in place at least one week in advance before the scheduled activity. Advance notice of the schedule of planned activity which will exceed the specified dust level shall be made available to the general public by way of public advertisement.

Reason: *In the interest of public health and residential amenity.*

Waste Disposal

27. No waste material, with the exception of waste material being transferred to a licensed waste facility, generated on site during the construction stage shall be removed off site without the prior agreement of Mayo County Council.

Reason: *In the interest of proper planning and sustainable development of the area.*

28. Adequate sanitary arrangements to the satisfaction of Mayo County Council

shall be installed for the duration of the construction period. All wastes generated from such arrangements shall be tankered off site.

Reason: *In the interest of public health.*

Natural Heritage.

29. The development shall be carried out so as to avoid disturbance to birds and their nesting habitat during the breeding season.

Reason: *For the protection of avian species in the area of the development.*

30. Prior to the commencement of development the developer shall carry out a baseline study of salmonid habitats in the area of the proposed development. The scope, nature and amount of monitoring of the baseline study shall be agreed with the North Western Regional Fisheries Board, the Marine Institute and Mayo County Council together with a schedule of follow-up surveys during the construction and immediate post-completion phases of the development.

Reason: *In order to provide comprehensive baseline data to permit monitoring and protection on salmonid habitats in the area.*

31. Within 6 months of the date of this decision the developer shall submit a report, including a survey (carried out at the appropriate time of year) into the presence or otherwise in the area of breeding hen harriers together with mitigation measures to minimise disturbance during the breeding season, if breeding is recorded.

Reason: *In order to establish if hen harriers are breeding in the area and to determine the nature and extent of any mitigation measures required.*

32. Removal of vegetation within the site to be carried out outside of the breeding season.

Reason: *To ensure the protection of avian wildlife.*

Health & Safety.

33. No development shall take place on the terminal site until an adequate water supply is installed.

Reason: *In the interest of the health of persons employed on the site.*

34. All relevant paved areas shall be extended to the proposed bund walls and arranged so that any accidental releases over the bund wall are diverted to the open drains sump.

Reason: *To ensure proper environmental control in the event of accidental spillage of hazardous material.*

35. The impermeable areas around the slug-catcher shall be extended so that any potential release of hazardous material can be contained.

Reason: *To ensure proper environmental control in the event of accidental spillage of hazardous material.*

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36. Online Total Organic Carbon monitoring shall be installed at the proposed silt ponds with provision for automatic re-routing of flow to the contaminated firewater pond in the event of accidental discharge to the system.

Reason: *To ensure proper environmental control in the event of accidental spillage of hazardous material.*

Fire Safety.

37. A Fire Safety Certificate is required in respect of each building in accordance with the requirements of Part III of the Building Control Regulations, 1997. Application for a Fire Safety Certificate shall be made to the Building Control Authority. A Commencement Notice is also required in respect of each building. The Commencement Notice shall be submitted to the Building Control Authority in accordance with the requirements of Part II of the Building Control Regulations, 1997, S.I. No. 496 of 1997.

Reason: *In the interests of fire safety.*

38. Suitable and adequate provision for vehicle access to the terminal and all installations therein shall be provided to assist the Fire Service in the protection of life and property. Vehicular access for the Fire Service to each building shall be provided in accordance with Table 5.2 of Technical Guidance Document B of the Building Control Regulations 1991-2000.

Reason: *In the interests of fire safety.*

39. Fire and gas detection equipment complete with alarm systems shall be installed throughout the terminal and buildings to provide early warning of hazardous or potentially hazardous situations. The systems shall be installed in accordance with current best standards.

Reason: *In the interests of fire safety.*

40. Suitable Fire Fighting and Suppression Systems shall be installed appropriate to the various risks within the terminal in accordance with current best standards.

Reason: *In the interests of fire safety.*

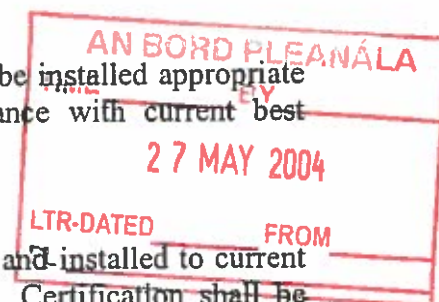
41. All installations within the terminal shall be designed and installed to current acceptable standards and to be certified accordingly. Certification shall be made available for inspection by the Fire Authority upon request.

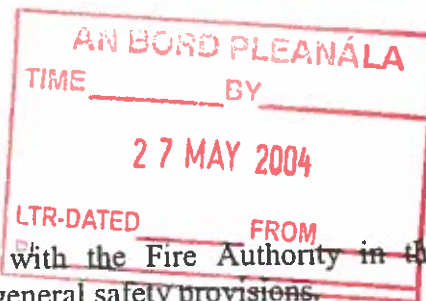
Reason: *In the interests of fire safety.*

42. A minimum of 6 hours water supply shall be provided on the site of the Terminal for fire fighting and cooling purposes in accordance with the requirements of the Fire Authority.

Reason: *In the interests of fire safety.*

43. The on site Emergency Plan and the Fire Safety Certificate Application will address the issue of forest proximity to the control building and plant. Active monitoring and active fire precautions shall be implemented as required.





Reason: *In the interests of fire safety.*

44. Management of the Terminal shall liaise with the Fire Authority in the preparation of on-site emergency plans and general safety provisions.

Reason: *In the interests of fire safety.*

45. Prior to commissioning of the Terminal, management of the Terminal shall confirm in writing that all of the Fire Authority's requirements have been fully implemented.

Reason: *In the interests of fire safety.*

FINANCIAL

46. The developer shall pay an initial sum of €4,325,125 to Mayo County Council as a Special Development Contribution towards the expenditure that is proposed to be incurred by Mayo County Council in respect of road improvement works in the area facilitating the proposed development. The particular works to be carried out are;

- (i) Widening and Strengthening of the Local Roads L-1204 and L-12044 along their entire length. *Estimated cost €3,500,125*
- (ii) Strengthening of Regional Road R313 Bangor-Muinhin and Glencastle. *Estimated cost €675,000*
- (iii) The provision of a right turning lane at the junction of Regional Road R313 and Local Road L-12044 in accordance with Mayo County Council Drawing No. 322504/04. *Estimated cost €150,000.*

Reason: *To help defray the cost of road improvement works in the area which will facilitate the proposed development.*

47. The developer shall pay the sum of €1,394,361 as a Special Development Contribution towards the cost of upgrading the proposed extension of the Erris Regional Water Supply to facilitate the development.

Reason: *To help defray the cost of providing a public water supply to the development*

48. The developer shall pay to Mayo County Council a sum of €30,000 as a Special Development Contribution towards specialist infrastructure required by Mayo County Fire Service with respect to the development.

Reason: *In the interests of fire safety.*

49. The developer shall provide artwork to a maximum value of €64,000 in a location and form to be agreed with Mayo County Council.

Reason: *In the interests of visual amenity.*

Aviation Safety.

50. Prior to the commencement of development the developer shall submit confirmation, in writing that the Irish Aviation Authority is satisfied that the development will not interfere with the radar, communications or navigation systems at Dooncarton radar station.

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Reason: *In the interest of public safety and to ensure the development does not interfere with air navigation safety.*

MONITORING

51. The Developer shall maintain a record of all complaints made in writing relating to any aspect of the construction stage of the project. Each such record shall give details of the following
- (i) Date and time of the complaint
 - (ii) The name of the complainant
 - (iii) Details of the nature of the complaint
 - (iv) Actions taken on foot of the complaint and results of such actions
 - (v) The response made to each complainant

Reason: *In the interest of proper planning and sustainable development of the area.*

Environment

52. The Project Monitoring Committee group shall meet at least monthly during the earthworks stage and as appropriate during the construction stage of the development to monitor progress. Any member of the monitoring group may request the Chairman of the Project Monitoring Committee to convene an urgent meeting at any time if they consider environmental damage has occurred or is likely to occur.

Reason: *To ensure adequate protection of the environment during construction*

53. Mayo County Council may, at the request of the Project Monitoring Committee and by notification in writing, require the developer to provide additional environmental controls where necessary to prevent environmental damage.

Reason: *To ensure adequate protection of the environment during construction.*

54. Mayo County Council may require the developer to cease certain activities during the construction stage if it is established that the activities are giving rise to environmental pollution.

Reason: *To ensure adequate protection of the environment during construction.*

55. Prior to the commencement of development the developer shall submit an accredited Environmental Management System (EMS), specific to the construction stage of the development including all subcontractors, to Mayo County Council for agreement in writing. The Environmental Management System shall contain as a minimum:

- (i) A Schedule of environmental objectives and targets.
- (ii) An Environmental Management Programme.
- (iii) Corrective Action Procedures.
- (iv) Awareness and Training Programme.
- (v) A Management Structure.

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(vi) A Communications Programme.

and shall contain a requirement for continuous improvement to the satisfaction of Mayo County Council

Reason: *To ensure adequate protection of the environment during construction.*

56. The developer shall implement the agreed Environmental Management System for the duration of the construction stage of the project.

Reason: *To ensure adequate protection of the environment during construction.*

57. The developer shall, during the construction stage and/or at the written request of Mayo County Council.

(i) amend the structure and makeup of the Environmental Management System,

(ii) submit a report on any environmental matter,

(iii) submit an environmental audit

Reason: *To ensure adequate protection of the environment during construction.*

58. Prior to commencement of development the developer shall submit a monitoring plan for surface water, ground water, dust and continuous noise. Such monitoring shall be carried out by the developer throughout the construction phase of the project and the monitoring regime shall be agreed with Mayo County Council. The monitoring plan shall, as a minimum, include:

(i) A list of monitoring locations.

(ii) The equipment to be used.

(iii) The identity and qualifications of those carrying out the monitoring.

(iv) The parameters to be used.

(v) Monitoring intervals.

(vi) Averaging times.

(vii) A proposal on how data observed is to be presented.

(viii) The codes of practice to be used.

(ix) The completion date of all monitoring up to the date of commissioning

Reason: *To ensure adequate protection of the environment during construction.*

59. The developer shall permit Mayo County Council access to the site to carry out environmental monitoring checks on surface water (including the silt traps and settlement ponds), ground water, dust and noise as required or as specified by the Project Monitoring Committee.

Reason: *To ensure adequate protection of the environment during construction.*

60. Prior to the commencement of development the developer shall submit a monitoring plan for the settlement ponds and discharges from the settlement ponds, to Mayo County Council for approval in writing. The parameters to be monitored shall be:

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- (i) temperature
- (ii) turbidity
- (iii) dissolved oxygen
- (iv) electrical conductivity
- (v) phosphate
- (vi) nitrate
- (vii) suspended solids

and any additional parameter required by the North West Regional Fisheries Board.

Reason: *To ensure adequate protection of the environment during construction*

61. A data management system shall be implemented by the developer to collect and process data during the course of the construction stage. The system shall consist of a computerised database to allow ease of access and interpretation of all monitoring data collected. Final details shall be submitted to Mayo County Council for agreement prior to commencement of development.

Reason: *To facilitate ease of interpretation of all monitoring data collected and recorded.*

62. The developer shall appoint a suitably qualified and experienced Environmental Officer during the construction stage of the project. The Environmental Officer shall contact the Chairperson of the Project Monitoring Committee in the event of

- (i) any malfunction of any environmental system
- (ii) any occurrence with the potential for environmental pollution
- (iii) any emergency

and in addition to the Chairman, in the case of any malfunction, accident or other occurrence which could give rise to pollution of waters, shall contact a designated officer of the North West Regional Fisheries Board.

Reason: *To ensure proper environmental control during construction.*

63. The developer shall maintain a record of any occurrence specified in Condition No. 62 the record shall be made available to Mayo County Council at any time.

Reason: *To ensure proper environmental control during construction.*

Traffic.

64. The developer shall keep a record of all traffic movements into/out of the site and shall make the record available for inspection to the Project Monitoring Committee at any time and Mayo County Council during normal working hours.

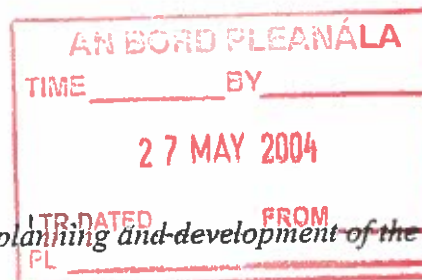
Reason: *In the interests of proper and efficient traffic management.*

65. The Developer shall maintain a written record of all wastes leaving the site. Each record shall give details of the following

- (i) The name of the carrier

- (ii) The Waste Permit number
- (iii) Name of the waste collector
- (iv) Description of the waste

Reason: *In the interest of proper planning and development of the area.*



66. The developer shall reimburse Mayo County Council for all costs incurred in the carrying out of any monitoring, monitoring checks, inspections and environmental audits carried out by or for Mayo County Council in connection with the proposed development either inside or outside the site

Reason: *To help defray the cost of Mayo County Council in providing an independent monitoring service.*

67. The developer shall pay the sum of €80,000 per annum to Mayo County Council for the employment of environmental personnel to monitor the implementation of the Environmental Management System subject of Condition No.56 and shall provide office accommodation and telecommunications on site for this position for the duration of the proposed construction period.

Reason: *To help defray the cost of Mayo County Council in providing an independent monitoring service.*

68. The developer shall pay the sum of €120,000 per annum to Mayo County Council for the employment of transportation personnel to monitor the implementation of the Transportation Plan submitted on the 11th March 2004 and shall provide office accommodation and telecommunications on site for this position for the duration of the proposed construction period.

Reason: *To help defray the cost of Mayo County Council in providing an independent monitoring service.*

Landscape.

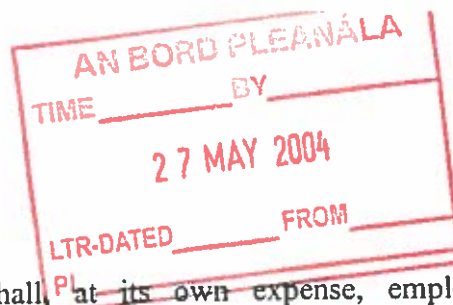
69. Prior to the commencement of development the developer shall submit to Mayo County Council for approval in writing, a monitoring plan to ensure that the detailed implementation of the proposed 5-year maintenance plan for the landscape and planting strategy is carried out.

Reason: *To ensure proper implementation of the landscape strategy*

Natural Heritage.

70. Prior to the commencement of development the developer shall submit to Mayo County Council for approval in writing, a monitoring plan to ensure that all mitigation measures proposed in the Environmental Impact Statement submitted on 23rd December 2003 relating to the protection of habitats, flora and fauna during the construction and operation phase are carried out. The monitoring shall be carried out by a suitably qualified ecologist, and the scale and level of detail of the monitoring shall be agreed with Mayo County Council, the Heritage and Planning Division of the Department of the Environment, Heritage and Local Government, and the North West Regional Fisheries Board prior to the submission of the monitoring plan.

Reason: *To ensure proper ecological monitoring is carried out.*



Archaeology

71. The developer shall, ~~at its own expense~~, employ a suitably qualified archaeologist with relevant experience in Peatland Archaeology to carry out, under licence, monitoring of all groundworks (including enabling works and peat excavation) associated with the development at Bellagelly South, Bellanaboy Bridge, Co. Mayo and associated peat deposition site at Srahmore and Attavally, Bangor-Erris, Co. Mayo. No groundworks shall take place in the absence of the archaeologist.

Reason: *To ensure proper archaeological monitoring is carried out.*

72. In the event of archaeological material being found during the course of monitoring, work shall be suspended in the affected area pending a decision by the Heritage and Planning Division of the Department of the Environment, Heritage and Local Government on how to deal with the archaeology. The developer shall be prepared to be advised by the Heritage and Planning Division of the Department of the Environment, Heritage and Local Government with regard to any necessary mitigating action (e.g. preservation *in situ*, or excavation) and should facilitate the archaeologist in recording any material found.

Reason: *To ensure adequate protection of any archaeological material that may exist on site.*

73. The developer shall submit to Mayo County Council and the Heritage and Planning Division of the Department of the Environment, Heritage and Local Government, in writing, a report describing the results of the monitoring.

Reason: *To ensure proper archaeological records are kept.*

74. The decommissioning of the development shall be carried out generally in accordance with the plans and particulars in the Environmental Impact Statement submitted on 23rd December 2003 and a final detailed reinstatement programme shall be submitted to and agreed in writing with Mayo County Council. All decommissioned structures shall be removed within six months of decommissioning.

Reason: *To ensure the satisfactory reinstatement of the site.*

75. Prior to the commencement of development, the developer shall lodge with Mayo County Council a cash deposit, a bond from an insurance company, or other security to secure the satisfactory reinstatement of the site, upon the cessation of the project, coupled with an agreement empowering Mayo County Council to apply such security or part thereof to the satisfactory reinstatement of the site. The form and amount of the security shall be as agreed between Mayo County Council and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: *To ensure the satisfactory reinstatement of the site.*

END OF SCHEDULE 2

Appendix B: Copy of Letter from Ms Jenny Neff, Ecological Advisory and Consultancy Services (EACS) to An Bord Pleanála, dated 26 May 2004, regarding Condition No. 31

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ECOLOGICAL ADVISORY AND CONSULTANCY SERVICES (EACS)

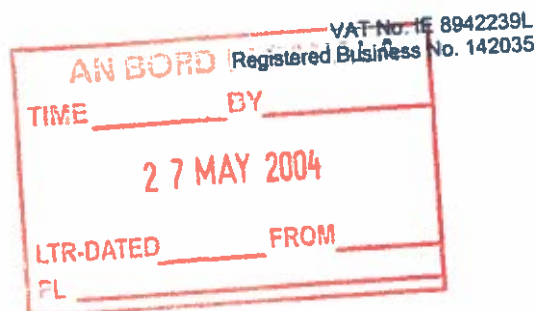
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Tel./Fax: +353 1 2876557

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Jenny Neff MSc.(Ecol.). MIEEM
Consultant Ecologist



26 May 2004

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

Re: Appeal against the condition 31 attached to the permission for the construction of a gas terminal at Bellagelly South, Bellanaboy Bridge, County Mayo, and a peat deposition site at Srahmore and Attavally, Bangor-Erris, County Mayo

Mayo County Council Reg. Ref. P03/3343

Dear Sir or Madam,

I refer to Planning Condition No. 31 which states: "Within 6 months of this decision the developer shall submit a report including a survey (carried out at the appropriate time of year) into the presence or otherwise of breeding hen harriers together with mitigation measures to minimise disturbance during the breeding season, if breeding is recorded."

The reason given by Mayo County Council for this Condition is: In order to establish if hen harriers are breeding in the area and to determine the nature and extent of any mitigation measures required.

It is assumed that this condition has been imposed as a result of the sighting of Hen harriers in flight as recorded in Table 6.4 in Volume 1 of the EIS.

May I please draw your attention to the following, including literature and recently published research into Hen Harrier occurrence and breeding habitat in Ireland.

The Hen Harrier (*Circus cyaneus*) is an Annex 1 species under the Birds Directive and thus is afforded protection under the Wildlife and Amendment Acts 1976 and 2000. It is a Red Data Book species and listed as Endangered.¹ Its habitat and status are described by Dempsey & O'Clery², as follows (extract): "A scarce breeding species with small numbers present in the midlands, eastern, south-western, western and northern regions. In summer, found on mountains and moorlands. In winter, birds can be found in most parts of Ireland with some hunting over coastal areas." (see maps below).

¹ Whilde, A 1993 *Threatened Mammals, Birds, Amphibians and Fish in Ireland*. Irish Red Data Book 2. Vertebrates. DoE NI & OPW. HMSO, Belfast.

² Dempsey, E. & O'Clery, M. 2002 *The Complete Guide to Ireland's Birds* Second Edition Gill & McMillan



Breeding (nesting) habitats are heather moorland and young plantation (also clear-felled areas) on moorland (heather moor) on mineral soils and shallow peats up to 400m in altitude. Leggy (mature) heather is preferred. Nesting is in an altitude range from 200m to 400m.³ Norriss et al note that "Hen harriers generally avoid areas of deep peat. Historically⁴ the species was not found on raised bogs or on the extensive flat blanket bogs of County Mayo". This fact was reiterated by Mr. D. Norriss (National Parks and Wildlife - Research Section) during consultations in May 2004. Mr. Norriss also stated that occasionally a pair of Hen Harriers might prospect for breeding habitat – usually on the margins, but rarely – if ever – was there successful breeding. There are no breeding records at all for County Mayo, even prior to extensive afforestation (D. Norriss et al and personal communications). It is interesting to note that the national survey (Norriss et al) found that a high percentage of nest sites in suitable habitat were within 300m of busy forest tracks and that breeding was successful. The inference here being that human activity associated with forest management, vehicles etc. did not have an undue disturbance effect.

It is known that Hen Harriers are winter migrants in North Mayo, and indeed may be seen anywhere in Ireland during the winter months.

From our extensive surveys of the Bellanaboy site between 2000 and 2004 (both from the vegetation viewpoint and ornithological aspects) it is clear that no suitable nesting habitat for the hen harrier is present. In the construction laydown area the vegetation ground layer of the immature plantation comprises wet rushy grassland which is dominated by very tall Soft Rush (*Juncus effusus*) – visible in Plate 6.4 of Vol. 1 of the EIS – which is similar in composition to that present on the terminal footprint (Plate 6.1). Also the site is much lower than the recognised altitude range for nesting. Similarly there is no suitable habitat at the peat deposition site at Srahmore, which is also much lower than the preferred nesting altitude range.

Furthermore, the first phase of the pre-construction breeding bird survey of the Bellanaboy site (which is one of the commitments in the EIS Vol.1 6.7.2) was carried out in the early mornings during the first week of May 2004 by Ms. Lucy Arnold AIEEM (associate ornithological consultant to EACS). She observed no evidence of Hen Harrier presence or activity. This – according to Mr. D. Norriss of NPW – is the ideal time to survey for breeding Hen Harriers.

As referred to in the EIS, Volume 1, this species has been observed flying overhead on a number of occasions during field surveys from 2001 to 2003. In consultations Mr. Denis Strong - Assistant Regional Manager, National Parks and Wildlife – described these birds as being almost certainly migrants. He also affirmed that there was "categorically" no suitable breeding habitat for Hen Harriers on the Bellanaboy site.

Indeed at no stage during our numerous consultations with National Parks and Wildlife personnel from April 2000 to May 2004 was the hen harrier raised as an issue by them.

In addition, during consultations with BirdWatch Ireland in October 2003, I was assured by Dr. Stephen Newton that "...the Bellanaboy site is not an issue for BirdWatch". Had there been any concern on Birdwatch's behalf for any Birds Directive Annex 1 species, then this would surely have been drawn to our attention then, which it was not. Neither was any issue relating to the Hen Harrier raised in our earlier consultations with BirdWatch in 2000.

In view of the information available to us and consultations with experts within the NPW and BirdWatch I believe that it is extremely unlikely that Hen Harriers breed on either the Bellanaboy or Srahmore sites. I am satisfied that Shell E & P Ireland Ltd. is committed to implement any necessary mitigation measures – including those set out in the EIS. The current pre-construction

³ Norriss, D.W., McMahon, D. & Oliver, G. 2002 A national survey of breeding Hen harriers *Circus cyaneus* in Ireland 1998 -2000. Irish Birds 7: 1-10 (2002).

⁴ Ruttledge, R.F. 1994 *Birds in Counties Mayo and Galway*. Revised edition. Irish Wildbird Conservancy

breeding bird survey will identify any breeding species present, including Hen Harrier, if present. The results will be made available to National Parks and Wildlife - as with all previous terrestrial ecology survey reports; and targeted mitigation measures will be put in place as and where necessary.

In my opinion and in the light of the above, I do not consider that a separate survey for the Hen Harrier as set out in Condition 31 is necessary. Ms. Lucy Arnold, Associate Consultant Ornithologist, concurs with this opinion.

Yours faithfully,



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Jenny Neff MIEEM

Appendix: Hen harrier distribution in Ireland (From, Dempsey & O'Clery 2002)

Summer distribution



Winter distribution

