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## CASE MEMORANDUM

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DATE: 08/07/2004  
TO: MR. KIERAN SOMERS, EXECUTIVE OFFICER  
FROM: MR. MICHAEL DONLAN, SENIOR EXECUTIVE OFFICER  
FILE NO: 16.207212  
RE: CONSTRUCT GAS TERMINAL FOR THE RECEPTION AND SEPARATION OF GAS FROM  
THE CORRIB GAS FIELD AND FOR A PEAT DEPOSITION SITE.  
BELLAGELLY SOUTH, SRAHMORE, ATTAVALLY, BANGOR ERRIS, CO. MAYO.

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1. Your memo of 22<sup>nd</sup> June, 2004 refers under.
2. Please attach site notice as appropriate in file pocket to file.
3. Attach Green Form EIS notice to file.
4. Tab for the purposes of appeal file the appeals numbers 3, 10, 11 and 12 which are attached in box to the appeal file.
5. Place all submissions/observations in separate box and attach to file.
6. Place all submissions/observations in separate box in respect of EIS notice and attach to file.
7. IAA

Please see their letter on file dated 22<sup>nd</sup> January, 2004. Having regard to the said letter and condition no. 50 of the planning authority I do not proposed writing to the said authority.

### 8. North Western Regional Fisheries Board

Please see detailed letter from NWRF Board dated 29<sup>th</sup> January, 2004. Having regard to the contents therein and particularly paragraph no. 8, I do not propose writing to the said Board.

### 9. EIS

I note that the EIS was published on 14<sup>th</sup> June, 2004 and the last day for response is 12<sup>th</sup> July, 2004.

### 10. Section 131's

I have dealt with s.131's as per attached assessments under.

11. DoEHLG

I propose invoking section 131 of the 2000 Act and invite DoEHLG (formerly Dúchas) to make a submission/observation on the appeal.

12. Department of Communications, Marine and Natural Resources

I propose invoking section 131 of the 2000 Act and invite Dept. C, M and NR to make a submission/observation on the appeal.

13. Health and Safety Authority (HSA) (National Authority for Occupational Safety and Health) (NAOSH)

Inspector's attention is drawn to Chapter 2, Planning Appeals, Part II, Major Accident Directive, Articles 138-141 inclusive of the Planning and Development Regulations. This appeal relates to development which consists of the provision of 'an establishment' to which the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations, 2000 (S.I. No476 of 2000) apply.

It should be noted that the 'establishment' does not relate to the excavation of peat at

- Bellanabay Bridge Site or,
- Deposition of Peat at Srahmore Site.

An IPPC is applicable on the basis of a projected energy consumption of >50 MW. Please see

"Protection of the Environment Act, 2003

Schedule 1

New First Schedule to Act of 1992

Activities to which part IV applies"

Class 2. Energy

2.1 The operation of combustion installation with a rated thermal input equal to or greater than 50MW.

I propose invoking s.131 of the 2000 Act and invite HSA to make a submission/observation on the appeal. \_

14. Integrated Pollution, Prevention and Control Licence (EPA Acts 1992 and 2003) Waste Licence (Waste Management Acts 1996 to 2003).

Please note that there have been substantial changes to both the EPA Act, 1992, as amended and to the Waste Management Act, 1996, as amended, with the introduction of the Protection of the Environment Act, 2003.

The site of the proposed development will be subject to an IPPC Licence at the Bellagelly South part of the site and Waste Licence at the Srahmore part of the site, which will deal with the peat extracted from the Bellagelly South part of the site. An application for an IPPC and Waste Licence has not yet been made to the EPA.

Inspector's attention is drawn to the Protection of the Environment Act, 2003 and specifically to;

"Chapter 2

Integrated Pollution Prevention and Control under Act of  
1992"

and the substitution in section 15 of the Protection of the Environment Act, 2003 of a new "Part IV" for that of Part IV of the 1992 Act.

Please further note that section 256 of the Planning and Development Act, 2000 (which amended section 98 of the 1992 Act) has been superseded by a new section 99F (as provided by the new Part IV). This new section provides similar arrangements to that of section 256 of the Planning and Development Act, 2000. The Board has the power (s.99F(2)) to refuse to grant permission under section 34 of the 2000 Act where the Board considers that the development is unacceptable on environmental grounds etc. The Board shall not, where it decides to grant permission under section 34 of the 2000 Act, subject the permission to conditions which are for the purposes of controlling emissions etc. However, while the specific provisions of the Protection of the Environment Act, 2003 in respect of the Board and the EPA and how they liaise with each other only come into operation on 12<sup>th</sup> July, 2004, it is my opinion that as the application was made to the planning authority on 17<sup>th</sup> December, 2003, the provisions of section 256 of the Planning and Development Act, 2000 continues to apply and the C.O.'s memo of 4<sup>th</sup> June, 2002 should be fully complied with. The applicant, when making the application for an IPPC and Waste Licence will make same having regard to the Environmental Protection Agency Acts, 1992 and 2003 and the Waste Management Acts, 1996 to 2003. Inspector is requested to supply the wording of a request to the EPA in respect of paragraph 3 of C.O. memo.

Waste Licence

Section 54 of the Waste Management Act, 1996 was amended by section 257 of the Planning and Development Act, 2000 in that a totally new subsection (3) has replaced the original version. Please note that there are further amendments to section 54 subsection (4)(a) and subsection (5) as provided by section 45 of the Protection of the Environment Act, 2003. There are no other major changes to section 54. However, as referred to above, I intend to proceed with procedures set out in C.O.'s memo of 4<sup>th</sup> June, 2002 for the reasons stated above. Inspector is requested to supply the wording of a request to the EPA in respect of paragraph 3 of C.O.'s memo in relation to a Waste Licence.



MD/MH