

Eve O'Sullivan

From: Naomi Barlow <naomi@wbsglobal.com>
Sent: Friday 3 June 2022 12:37
To: Licensing Staff
Subject: WBS Objection to Technical Amendment S0012-03
Attachments: WBS Objection Technical Amendment (S0012-03).pdf

Hi ,

Please see attached our objection to Technical Amendment by the Port of Waterford S0012-03.

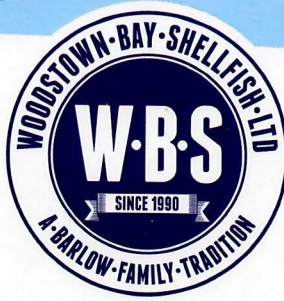
Could you please send acknowledgement of this email. Thank you

Kind Regards ,
Paul



Naomi Barlow

- +353 (0)51 385 405
- +353 (0)87 902 8342
- www.wbsglobal.com
- The Harbour, Dunmore East,
Co. Waterford, Ireland. X91 FH0V



Environmental Protection Agency (EPA),
Johnstown Castle,
Wexford,
Y35 W821.

03rd June 2022

RE: Technical Amendment Application by the Port of Waterford to Dumping at Sea Permit Number S0012-03 dated 15 April 2022.

Dear Sir/Madam,

We write to you in relation to the above-mentioned dumping at sea permit application number **(S0012-03)** which was advertised in The New Ross Standard on the 04th of May 2022.

As a critical stakeholder in the Waterford Estuary Woodstown Bay Shellfish Limited makes the following objection to the current Technical Amendment application. Further to the below reasons for our objection, we feel that it is important to notify you of the very serious deterioration of the marine environment that we have witnessed as a result of the Port of Waterford's ever increasing dredging activities in the Waterford Estuary. For ease of reference, I have attached a map demonstrating our oyster and mussel farm's very close proximity to both the dredge site and dump site, this is seen at exhibit 1 & 2. Furthermore, I exhibit photos evidencing the deterioration of the seabed on our oyster farm as a direct result of the recent large scale dredging activities. Exhibit 3 shows the normal characteristics of the farm's seabed with a hard sand, however exhibit 4 a photo taken yesterday the 01st June 2022 sadly shows the very real consequences of this large scale dredging on our farms seabed topography.

1.

This application for a Technical Amendment is in form identical to the application for a new permit submitted by the Port of Waterford on 3 February 2022 bearing application reference number **S0012-04**. It would appear that following the service of a S5(2) Notice on 25 February and the receipt of several submissions from the public and consultees in respect of the 3 February application the Port of Waterford decided to withdraw and/or abandon that application although that is not recorded on the face of the on-line application portal. Support for this contention is however gleaned from the application form enclosing the Technical Amendment application where it is stated that "on reflection,, we wish to request a technical amendment to our current permit". If it is the case that application permit number S0012-04 is still live and being processed we would be grateful if the Agency could advise us of that without delay.

The Public Notice application in relation to the February and May permit applications are identical in their terms other than that the Technical Amendment application includes reference to specific tonnages of dredging material that is purported to be permitted.

It is submitted that it is wholly inappropriate and unlawful for the Port of Waterford to proceed with its intended application by way of Technical Amendment. What is apparent from the application documents and the map attached to the public notice is that the proposal of the of the port company is not in fact an amendment of the existing permitted area but a significant and material expansions into entirely new areas.

As a matter of fact the Port of Waterford has no existing permit for the significant areas it is proposing to expand into and it cannot seek to square that box by means of a technical amendment. As the Agency is well aware a Technical Amendment application, if applicable at all in these types of permit applications, can only be relied on to correct clerical errors or to bring clarity to an otherwise unclear condition.

2.

History of site and cumulative impacts of development

The Port of Waterford has held the previous licenses with regard to its dredging operations:

- Permit No. 189 - Granted 1994
- Permit No. 240 - Granted 1996
- Permit No. 303 - Granted 1999
- Permit No. 305 - Granted 1999
- Permit No. 321 - Granted 2000
- Permit No. 331 - Granted 2001
- Permit No. 346 - Granted 2002
- Permit No. 351 - Granted 2002
- Permit No. 355 - Granted 2003
- Permit No. 360 - Granted 2004
- Permit No. 396 - Granted 2008 (renamed as S0012-01 during the permit period)
- Permit S0012-02 – Granted 2014 and 2015 Amendment
- Permit S0012-03 – Granted 2020 and 2021 Amendment

On the 29th June 2010 Technical amendment A the Licence S0012-1 allowed for a daily limit of not more than 20,000T of dredge spoil daily and a licence limit of 2,214,000 T of dredge spoil (01st Dec 2008-30th November 2013) to be dumped at the offshore dumpsite. In addition a daily limit of 1000T up to a maximum limit of 69,000T of dredge spoil (01st Dec 2008-30th November 2013) from by plough dredging at Cheekpoint Access channel, Belview Berths, Passage East Boat house Quays and Inner boat Berths. Also allowed for was the removal of 12000 T of dredge spoil by backhoe dredging from Belview Container/Bulk Berth and O'Brien's Wharf in the period 01st Dec 2008-30th November 2013.

On the 13th of May 2011 Technical Amendment B of DAS Licence S0012-01 allowed for A further amount of 90,000 tonnes of dredge material may be loaded and dumped at sea **in any one year** covered by this permit, in the event of unforeseen adverse weather conditions causing a sudden increased rate of siltation, or in other unforeseen circumstances affecting navigational safety in the Port.

It also amended for a closed period: No loading or dumping activities shall take place between 1st March and 31st May inclusive to allow the passage of migratory fish, with the exception of the Duncannon Bar, where no such restrictions shall apply. Under their original Permit 396 which ran from 1st December 2008, until 30/11/2013 the closed period was

:- No dredging or dumping activity shall take place during the period from 10th March to 30th June (inclusive) in the first year covered by this permit, and in subsequent years of the permit no dredging or dumping activity shall take place during the period end February to 30th June to allow the passage of migratory fish (Salmon, Lamprey and Shad) in the River Suir- cSAC, River- Barrow cSAC and River Nore cSAC.

The EPA Inspectors Report stated that: *In order to mitigate against any potential adverse impacts on migrating fish the proposed technical amendment amends Condition 3(a)(vii) of the permit to remove the restriction on loading of material at the Duncannon Bar. This amendment further reduces the restriction on activities at all other areas specified in the permit from 1st March until 31st May inclusive, in line with the restrictions recommended by IFI for Waterford City Council.*

So the Technical amendment B allowed for removal of the closed period at Duncannon Bar and for a reduction in the original closed period for other dredging areas.

DAS S0012-02:

In DAS S0012-02 granted on 8th May 2014 and running from 2014-2021 (8yr time frame). Under this permit, a maximum of 4,176,000 tonnes of dredged material may be loaded by trailer suction hopper dredger and backhoe dredger and dumped offshore at an established spoil ground situated at the entrance to Waterford Harbour. This includes an annual contingency quantity of 90,000 tonnes intended to cover unforeseen events, which shall only be used if navigable depths are impaired. A further 160,500 tonnes of material may be dumped by plough dredging. So for the standard quantity to be dumped at the offshore site an approximate annual maximum amount of 442800 T (2,214,000 divided by 5 years in the S0012-01 permit duration). So this does not represent an increase in amount to be dumped per annum at the offshore site.

Dumping Site A

Year	Standard quantity (tonnes)	Maximum quantity, inclusive of contingency (tonnes) ^{Note 1}
2014	428,000	518,000
2015	442,500	532,500
2016	423,000	513,000
2017	431,500	521,500
2018	434,000	524,000
2019	431,500	521,500
2020	423,000	513,000
2021	442,500	532,500
Total	3,456,000	4,176,000

Note 1: Dumping of the annual contingency quantity of 90,000 tonnes is subject to Condition 3.8 of this permit

However in regard to plough dredging there was an increase in annual Tonnage of material to be dumped by plough dredging increased from 13,800 T (69,000T divided by 5years duration of DAS S0012-01). See table below for proposed plough tonnages under DAS S0012-02

Plough Dredge Sites

	Quantity (tonnes)
2014	21,000
2015	22,000
2016	17,500
2017	22,000
2018	19,500
2019	18,500
2020	21,000
2021	20,500
Total	160,500

A.2 Rate of Disposal

	Maximum daily rate of disposal (tonnes/day)
Dumping Site A	35,000
Plough Dredge Sites	1,000

A.6 Closed period

Applicable Timeframe	Prohibited Activity	Reason for closed period
1 st March – 30 th June.	All plough dredging activity.	Primarily for the protection of migratory fish species.

Proposed dredging and dumping activity under licence S0012-02 along with an increased daily limit up to 35,000T from 20,000T

Table 2 Quantity of material proposed to be dumped at sea

	Plough Dredging Sites (tonnes)	Dumping Site A (tonnes)			
		Backhoe	TSHD	Total	Maximum ^{Note 1}
2014	21,000	0	428,000	428,000	518,000
2015	20,500	14,000	428,500	442,500	532,500
2016	17,500	0	423,000	423,000	513,000
2017	22,000	10,000	421,500	431,500	521,500
2018	19,500	4,000	430,000	434,000	524,000
2019	18,500	10,000	421,500	431,500	521,500
2020	21,000	0	423,000	423,000	513,000
2021	20,500	14,000	428,500	442,500	532,500
Total	160,500	52,000	3,404,000	3,456,000	4,176,000

Note 1: Inclusive of contingency quantity of 90,000 tonnes per annum by TSHD, consisting of 50,000 tonnes from Duncannon Channel and 40,000 tonnes from Cheekpoint Lower.

DAS S0012-03 granted on the 14th January 2020.

In 2017 the Port then made an application for DAS licence S0012-03 which had the proposed changes:

The following specific changes to the existing permit (S0012-02) have been requested in this application: -

1. Remove seasonal restriction ('Closed Period') on plough dredging;
2. Increase annual tonnage limit on plough dredging;
3. Remove daily tonnage limit on plough dredging;
4. Increase provision for annual contingency disposal at offshore dumping site, and
5. Reduce frequency of noise monitoring at Cheekpoint Lower.

Three locations require dredging at least twice a year, referred to by the applicant as the 'primary dredge areas', namely: Belview berths at Belview Port, and sandbars at Cheekpoint Lower (at the confluence of the Suir and Barrow/Nore rivers) and Duncannon Channel (in the outer estuary). These areas were authorised as loading and plough dredging sites in the existing permit Reg. No. S0012-02. According to the applicant, maintenance of the navigation channel through the sand bars at Cheekpoint and Duncannon and at the berths at Belview is essential to maintain and improve Port safety.

A further 13 'secondary dredge areas' require less frequent dredging, or dredging in response to extreme events only, eleven of which were authorised under the current permit Reg. No. S0012-02. Two additional areas proposed for dredging, that were not included in Permit S0012-02, are: Passage East Shoal and Creadan Bank and included in S0012-03.

One can see from the table below that the yearly annual limit to be dumped at the offshore site is proposed to be increased from a maximum of **442,800T to 823,513 T wet weight per annum. Almost double the amount.** The port applied for a substantial increase in plough dredging dumping limit of 159,165 wet weight but were only granted 110,000 T wet weight plough limit per annum (56,000 T dry weight per annum) under the final decision. However this is an increase from 22,000 T dry weight ploughing limit per annum. **This is 2.55 times the ploughing limit in the previous licence.**

Table 3: Quantities of dredged material to be dumped at sea.

Year	Plough Dredging Sites (tonnes, wet weight)	Dumping Site A (tonnes, wet weight)		
		TSHD/Mechanical	Contingency ^{Note 1}	Maximum
2020	110,000	823,513	275,463	1,098,976
2021	110,000	823,513	275,463	1,098,976
2022	110,000	823,513	275,463	1,098,976
2023	110,000	823,513	275,463	1,098,976
2024	110,000	823,513	275,463	1,098,976
2025	110,000	823,513	275,463	1,098,976
Total	660,000		Total	6,593,856

Note 1: The contingency quantity is determined based on the potential requirement for dredging by TSHD at Creadan Bank (275,463 tonnes), Duncannon Channel (260,870 tonnes), Cheekpoint Lower (157,895 tonnes), and lesser quantities by TSHD/mechanical dredging at other loading areas, following storm events. Only the maximum contingency amount (i.e., that quantity required at Creadan Bank) has been requested for contingency dredging annually by the applicant as it is unlikely that more than one contingency event, if any, would occur in any one year.

From Inspectors Report for S0012-03:

The applicant requests that the 'Closed Period' stipulated in the existing DAS permit (Reg. No. S0012-022) **be removed to allow plough dredging during spring tides to facilitate, in particular, a targeted ploughing programme to counter very high sedimentation rates experienced at Cheekpoint Lower.**

Currently, under DAS permit Reg. No. S0012-02, the Port of Waterford Company is authorised to plough a maximum 22,000 (dry) tonnes annually³. An increase to 159,165 wet tonnes (81,000 dry tonnes) annually, as noted in Table 2 above, is requested to cover existing ploughing activities undertaken by the Port of Waterford Company plus a proposed targeted ploughing programme to counter very high sedimentation rates experienced at Cheekpoint Lower and other areas including Belview Berths.

It is recommended herein that the annual plough dredging quantity proposed be reduced pro-rata to account for the recommended retention of the 'Closed Period' restriction on plough dredging, lasting 4 months (March to June) annually. An annual allowance of **110,000 (wet) tonnes for plough dredging is a significant increase on the applicant's current plough dredging limit under permit Reg. No. S0012-02** and the recommended permit requires water quality monitoring (turbidity and suspended solids) of plough dredging activities at Cheekpoint Lower and Belview Berths (Condition 4.8/Schedule C.3.2) during 2020 to validate the dispersion modelling results supplied.

The existing permit (S0012-02) imposes a daily limit on plough dredging of 1,000 tonnes per day. According to the applicant, this rate was based on a specific dredging area and vessel size and is not appropriate for all plough dredging areas or vessels used by the Port of Waterford Company's dredging contractors. **The applicant requests removal of the daily ploughing limit stating that there is no environmental rationalisation for its inclusion.**

While it is appreciated that sedimentation levels vary greatly in this dynamic estuarine environment, it is considered appropriate to limit the quantity of plough dredging per day, given the unconfined nature of this dumping method. A daily limit of 3,356 tonnes (wet weight) for plough dredging is imposed in Schedule A.2. This limit is based on a disturbance rate of 44kg/s, equivalent to ploughing 1,700 tonnes dry solids per day, the rate used by the applicant to provide "a realistic worst case of the dispersal effect of the ploughing" in modelling a typical plough dredge campaign. The conversion

factors used (to convert from dry tonnes to wet tonnes) are those that apply to dredge material in Cheekpoint Lower, the most frequently dredged area. The quantity of material dumped by plough dredging shall be calculated at the end of a campaign using bathymetric surveys in accordance with Condition 3.9(viii).

The annual contingency quantity has increased from that permitted in the existing permit (Reg. No. S0012-02) - from 90,000 tonnes to 175,000 tonnes (dry weight) - due to the inclusion of a new loading area at Creadon Bank which may require dredging in any given year during the lifetime of the permit in the event of extreme sedimentation. Smaller contingency requirements are also identified for other loading areas to allow for greater than anticipated dredging requirements caused by unpredictable weather events (see Note 1, Table 3). However, only the maximum contingency amount (175,000 (dry) tonnes) has been requested annually as, according to the applicant, it is extremely unlikely that more than one contingency event, if any, will occur in any one year. According to the applicant, this contingency will only be deposited if dredging of the material is required to maintain navigable depths.

A maximum daily rate of disposal of 69,079 wet tonnes (35,000 tonnes dry weight) at the offshore dumping site, Dumping Site A, is proposed in the recommended permit. This is unchanged from the existing permit, Reg. No. S0012-02.

Final permit S0012-03

Dumping Site A:

Year	Standard quantity (tonnes, wet weight)	Maximum quantity, inclusive of contingency (tonnes wet weight) ^{Note 1}
2020	823,513	1,098,976
2021	823,513	1,098,976
2022	823,513	1,098,976
2023	823,513	1,098,976
2024	823,513	1,098,976
2025	823,513	1,098,976
Total	4,941,078	6,593,856

Note 1: Dumping of the annual contingency quantity of 275,463 tonnes (wet weight) is subject to Condition 3.6 of this permit.

Plough Dredging Sites:

Year	Maximum quantity (tonnes, wet weight)
2020	110,000
2021	110,000
2022	110,000
2023	110,000
2024	110,000
2025	110,000
Total	660,000

A.2 Rate of Disposal:

Dumping Site	Maximum daily rate of disposal (tonnes, wet weight)
Dumping Site A	69,079
Plough Dredging Sites	3,356

A.5 Closed Period

From	To	Applicable Areas	Reason for Closed Period
1 st March	30 th June	Plough Dredging Sites	Primarily for the protection of migratory fish

So the issuing of DAS licence S0012-03 represented a doubling of quantity of dredge spoil that could be brought out to the offshore dumpsite, per annum, a 2.55 increase in ploughing dredging dumping per annum and an increase in the number of areas that could be dredged.

DAS SS012-03 Technical Amendment A granted 26 March 2021

This technical amendment removed the closed period for plough dredging at Cheekpoint. Closed period at all other areas (with the exception of Duncannon) remain closed for 1st March to 30th June. So this amendment increases plough dredging annual limits yet again : up from 110,000 T wet weight per annum under S0012-03 to 159,165 T per annum under the SS0012-02 Tech Ammendment A. See table below.

Amended Condition:

Condition 3.4 All plough dredging activities at Cheekpoint, including plough dredging sites at Cheekpoint Upper, Cheekpoint Lower and Cheekpoint Harbour Access, shall be undertaken during spring tide periods only throughout the year. Plough dredging, at all plough dredging sites other than those at Cheekpoint, shall be prohibited during the Closed Period specified in *Schedule A.5 Closed Period* of this permit.

Amend Condition 3.4 of the permit, to read as above

Plough Dredging Sites:

Year	Maximum quantity (tonnes, wet weight)
2020	110,000
2021	159,165
2022	159,165
2023	159,165
2024	159,165
2025	159,165
Total	905,825

The above summary of development to date clearly demonstrates the significance of the dredging operations being undertaken and the unprecedented expansion of those dredging operations over the years. It is submitted that the entire development including the current application for development has not been subjected to any and/or any proper Environmental Assessments for the purposes of the Habitats Directive (92/43/EEC) and the Environmental Assessment Directive (85/337/EEC) as amended.

The within Technical Amendment application which seeks to have authorised a massive and ongoing operation of dredging by plough has not considered the cumulative effects of the development on previous permissions either for the purposes of the Habitats Directive and/or the EIA Directive.

3.

EIA Directive

It is clear from the application documents that the Applicant has not undertaken an EIA Screening and/or an EIAR that is compliant with the provisions of the EIA Directive. The Agency has a jurisdictional obligation to ensure that there is and will be compliance with the EIA Directive. This project requires a mandatory EIA pursuant to either paragraphs 11(b) and 2(c) of Annex II of the EIA Directive.

4.

Habitats Directive

As the Agency is aware the works the subject of the within application are being conducted within the confines of the Blackwater River (Cork/Waterford SAC). A particular conservation interest of the SAC is Estuaries [1130] and the Agency is acutely aware that this qualifying interest is under threat.

It is clear from the application documents that the Applicant has not undertaken an AA Screening and/or an AA that is compliant with the provisions of the Habitats Directive. In particular the applicant has failed to consider the question of cumulative impacts in this regard. The 2017 NIS that has been submitted with this application is clearly out of date. A critical and fatal fact of the reliance on the 2017 NIS is that it relies on a much smaller dredging area.

A further fatal outcome of the 2017 NIS is that it acknowledges that no conservation objectives are available for Reefs [1170] in the River Barrow and Nore SAC. It is our understanding that it is not possible to conduct a legally valid and sustainable AA or AA screening in the absence of specific conservation objectives.

5.

Water Framework Directive

There is no evidence in the application form and associated documents that any consideration has been given to the effects of the within application on the application of the Water Framework Directive and as the competent authority for the implementation of the Water Framework Directive the Agency must ensure compliance.

6.

Foreshore Licence

We submit that the present foreshore licence is not sufficient to authorise the works the subject matter of this application not least because this foreshore licence was granted by an entity that had no authority to do so but also because no foreshore licence has either been applied for or granted for the expanded area the subject of the within application. It is noted that the Department of Housing

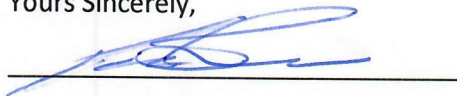
has already made a submission to this process confirming that no foreshore licence exists for this Technical Amendment application.

7.

Conclusion

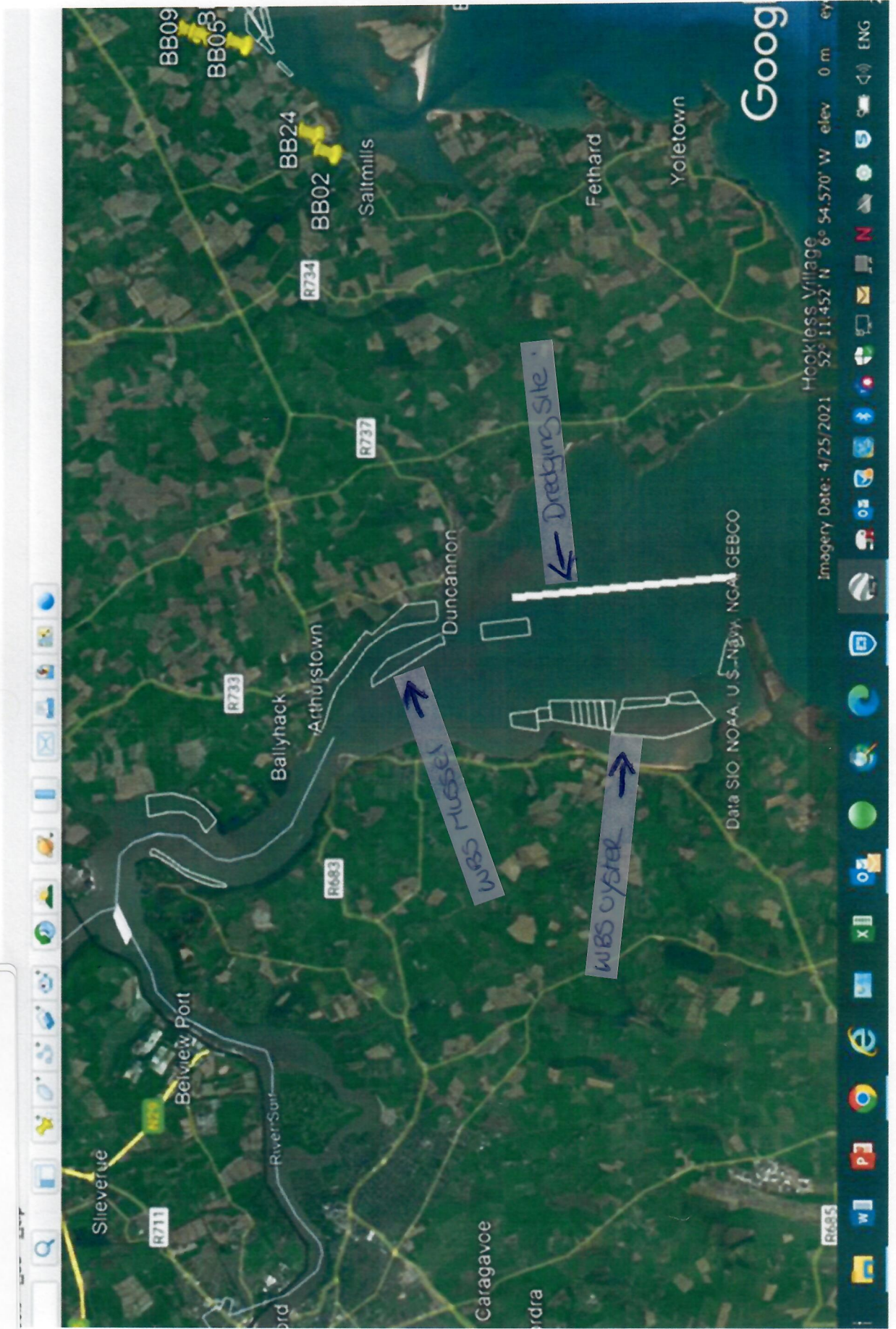
Woodstown Bay Shellfish Limited hereby requests the Agency to reject the current application for a Technical Amendment for the reasons outlined above and in particular given the fact that the Technical Amendment application process cannot be relied on to seek approval for what is sought to be achieved and the very serious negative impacts this large-scale dredging is having on the marine environment in the Waterford Estuary and our shellfish growing business.

Yours Sincerely,

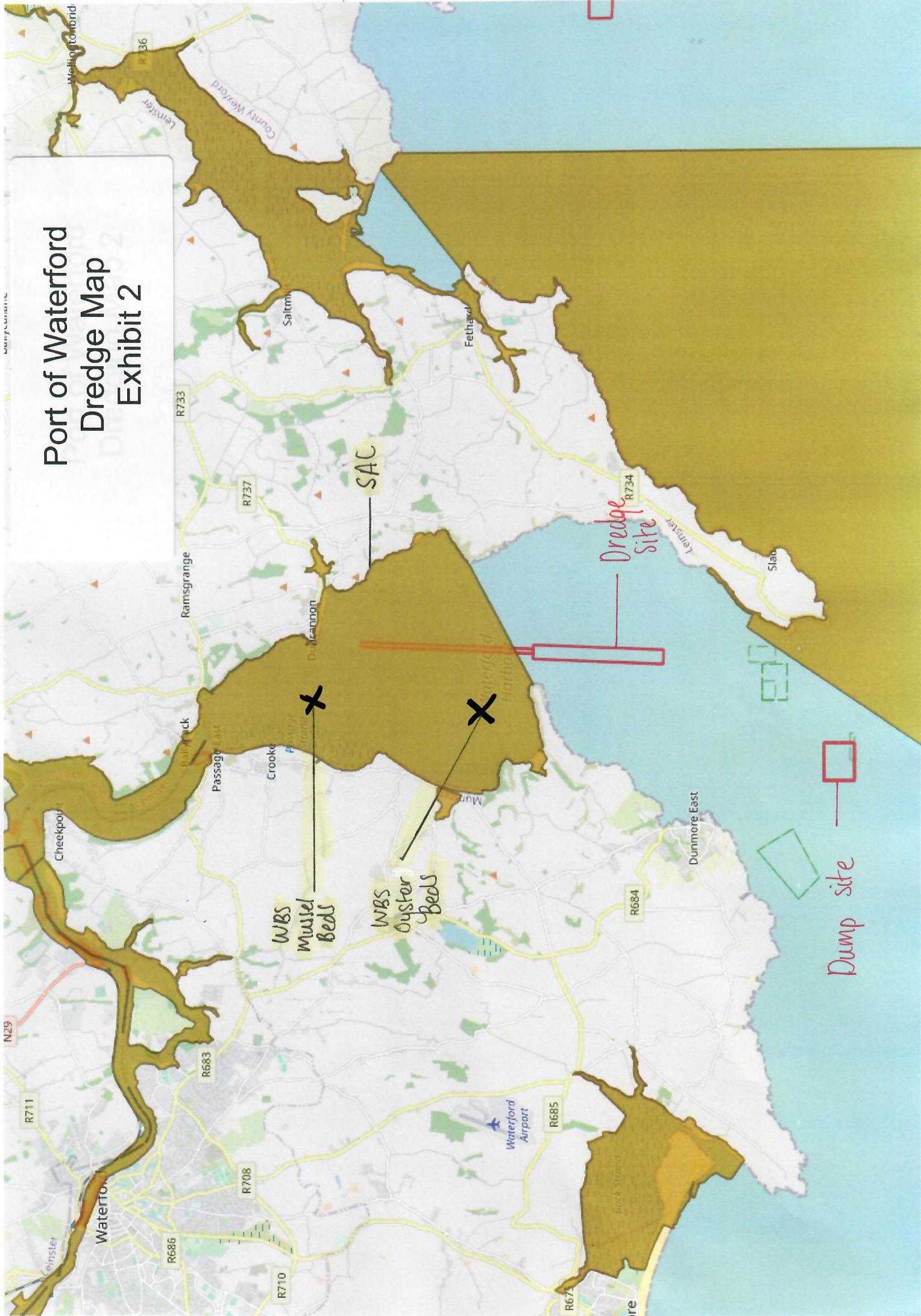


Mr Paul Barlow

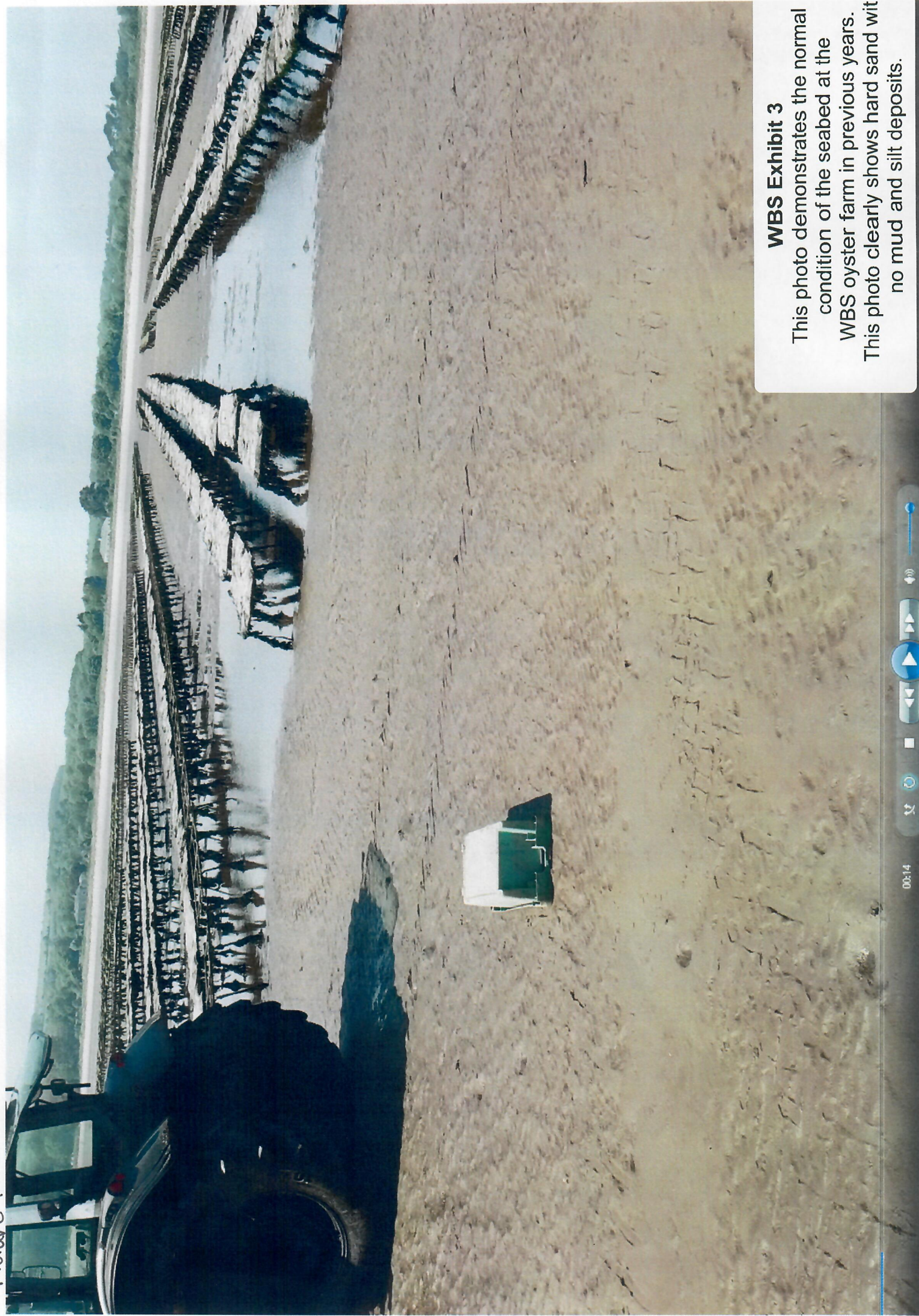
Port of Waterford Dredge Map Exhibit 1



Port of Waterford Dredge Map Exhibit 2

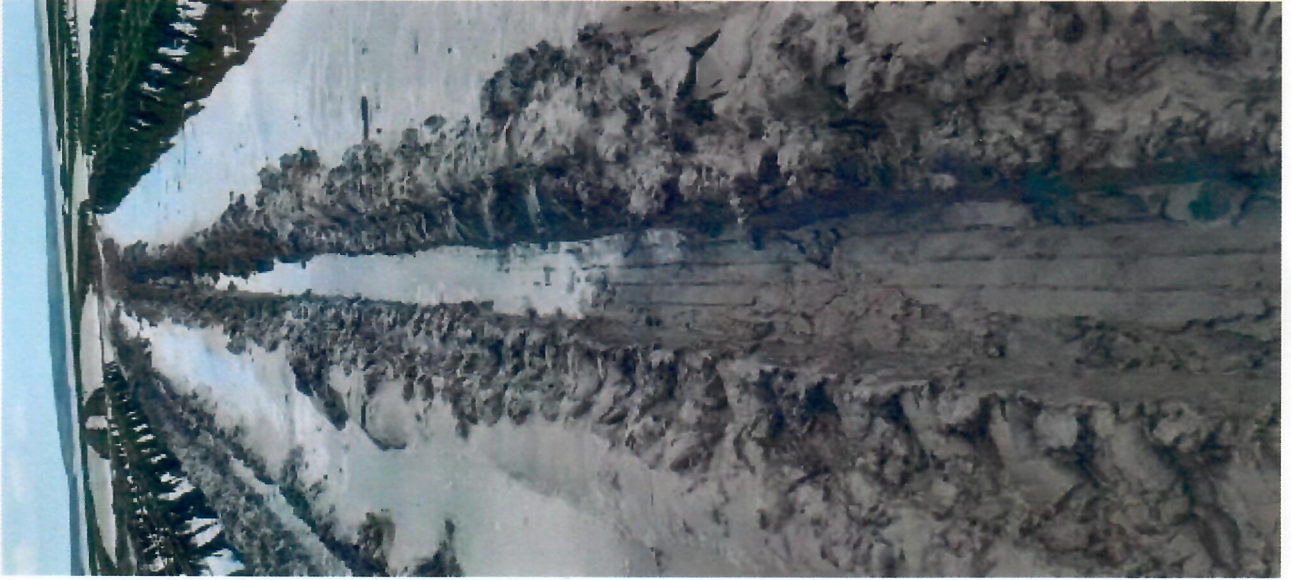


Picture 1



WBS Exhibit 3
This photo demonstrates the normal condition of the seabed at the WBS oyster farm in previous years. This photo clearly shows hard sand with no mud and silt deposits.

Picture 2



WBS Exhibit 4

This photo demonstrates the very serious impacts of the Port of Waterford's harmful recent dredging activities.

As you can see the seabed at our oyster farm is now completely covered in mud silt and spoil.

Photo taken the 01-06-2022

Photo taken on WBS's oyster
beds on 1/6/22