

**Eve O'Sullivan**

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**Subject:** Dumping at Sea Permit Application S0026-02  
**Attachments:** 231222 FPC Submission on AAL DAS Permit Application.pdf

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**From:** Eoin Brady [REDACTED]  
**Sent:** Friday 22 December 2023 17:21  
**To:** Licensing Staff <[licensing@epa.ie](mailto:licensing@epa.ie)>  
**Subject:** Dumping at Sea Permit Application S0026-02

A Chara,

I refer to the above matter.

Please see attached Submission on same made on behalf of Futureproof Clare CLG.

You might acknowledge receipt of same.

Regards,

Eoin

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Our Reference: EJB/FPC  
Your Reference:

22 December 2023

**By email**

Dumping at Sea Unit  
Environmental Protection Agency  
PO Box 3000  
Johnstown Castle Estate  
Co. Wexford

**Our client:** Futureproof Clare CLG

**Address of client:** c/o 4 Glenview Road, Ennis, County Clare

**RE:** Submission on EPA Dumping at Sea Permit Application S0026-02

**Activity:** The dredging of clean sediment from four sites around the AAL jetty and the dumping of some dredged material at a dump site off Foynes Island in the Shannon estuary. Dredging technology will include plough dredging, long reach excavator on barge, and trailing suction hopper dredger.

**Location:** The dump site is located off Foynes Island in the Shannon estuary. This site is a current licensed dump site for the Shannon Foynes Port Company. (EPA Nr. S0009-03).

A Chara,

We act for Futureproof Clare CLG (FPC), a mid-west based environmental non-governmental organization. FPC are a non-profit grassroots organisation with volunteer members from Co. Clare, Co. Limerick and other parts of Ireland. FPC are focused on local, national and global environmental issues including the wellbeing of the Shannon River and Estuary.

Our client has concerns about the increased industrialization of the Shannon Estuary, and the proliferation of polluting industries in the area, including Aughinish Alumina, the applicant for the Dumping at Sea permit in question.

This submission made on behalf of Futureproof Clare (FPC) objects to the renewal of the licence to dredging of sediment from four sites around the Aughinish Alumina (AAL) jetty and the dumping of dredged material at a dump site off Foynes Island in the Shannon estuary.

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## Overview of Objection to the proposed DAS Permit

The reason for this objection includes the risks involved with dredging within a NATURA 2000 site i.e. the lower Shannon Special Area of Conservation (SAC) 01265: <https://www.npws.ie/protected-sites/sac/002165>.

Risks associated with dredging include:

- Loss and alteration of seabed habitat and associated species at the location of the dredge/deposition areas, which lie within a Natura 2000 site
- Water quality impacts from increased suspended sediment and turbidity levels in the water column at the dredge location
- Disturbance to species through smothering from the deposition of suspended solids
- Temporary noise disturbance from dredging plant
- Water quality impacts from accidental oil spill associated with fuelling activities of the suction hopper dredger

Dredging technology will include plough dredging, long reach excavator on barge, and trailing suction hopper dredger.

Risks associated with dumping at sea, according to marine science experts include: impacting soil and coastline water quality, coral reefs, marine animals, food chains and plankton, putting fisheries at serious risk and altering the surrounding economic, social, and cultural conditions. The destruction of marine ecosystems by dumping sites causes severe environmental damage.<sup>1</sup>

Futureproof Clare objects to the AAL dumping at sea licence application on the normative basis that the full extent of the risk of the dredging operations combined with the other operations of AAL, eg disposing of bauxite residue have never been fully assessed in terms of its cumulative impact over the time of operation. Manufactured risk has characterised development of the Shannon Estuary, without consideration of the effects on the estuary's unique ecosystem, as reflected in its SAC designation. Other countries who are at the forefront of environmental protection, have designated agencies enforcing regulations regarding environmental risks, assessed on the basis of chemical, physical and biological hazards and habitat destruction.

As a designated SAC FPC believe that the estuary is vulnerable to all the above risks - a large number of protected species survive in this special ecosystem including freshwater pearl mussels, otters and bottlenose dolphins. Dolphins are particularly vulnerable to noise, and while the Natura Impact Assessment report refers to regulations involving a protocol to ensure mammals are not present while dredging occurs, there is no enforcement of this protocol.

This is an example of Ireland's slack enforcement of environmental protection laws meaning that industries can benefit from this lax regulatory framework to implement highly risky practices that imperil the habitat of humans and other species.

Now is a time when the urgency and importance of biodiversity protection cannot be overestimated: while the fundamental role of biodiversity and ecosystems to support human life does not need to be stated, according to UNEP, up to one million species are threatened with extinction globally as a result of human activities and this decade is crucial in preventing collapse of the biosphere and human civilizations.

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<sup>1</sup> Mousavi, S.H., Kavianpour, M.R. & Alcaraz, J.L.G. The impacts of dumping sites on the marine environment: a system dynamics approach. *Appl Water Sci* **13**, 109 (2023). <https://doi.org/10.1007/s13201-023-01910-9>

Taking stock of this, Ireland has declared a Biodiversity Emergency in 2019. The Citizen Assembly on Biodiversity Loss, the voice of civil society, has published its recommendations in March 2023, confirming the gravity of ecosystem loss in Ireland and warning about the dire consequences if we do not act. Among its more than 150 recommendations it urges the government to “*take prompt, decisive and urgent action to address biodiversity loss and restoration and [...] provide leadership in protecting Ireland’s biodiversity for future generations*”. The stakes have never been higher in protecting the SACs, including the Lower Shannon SAC. Currently Ireland pays fines for its lack of care of legally protected species - this must change. Last June, Ireland lost a case, which will be referred to further below, at the Court of Justice of the EU over the State’s failure to properly implement the Habitats Directive. The appropriate conservation measures to protect this SAC are not in place and this contravenes the Habitats Directive.

According to the National Parks and Wildlife Services Website “*Once special areas for conservation are designated, EU countries must introduce appropriate conservation objectives and measures.*

*They must do everything possible to:*

- *guarantee the conservation of habitats in these areas*
- *avoid their deterioration and any significant disturbance to species”.*

Futureproof Clare contends that not everything possible has been done or is being done to guarantee conservation of habitat and that granting a licence to Aughinish Alumina for dredging and dumping at sea would seriously jeopardise the protection of the Lower Shannon SAC and SPA.

The Citizen's Assembly on biodiversity loss recommended implementing a Rights of Nature legislative framework which would give due consideration to nature as a complex system that has rights which need recognition. The River Shannon and the Shannon Estuary exists itself as an entity which already has legal recognition, and these are rights which must be upheld.

The proposed dredging and dumping of materials does not recognise the importance of the natural ecosystems - instead it interferes with nature by removing and destroying a significant area of the river bed so that huge quantities of materials such as mined bauxite ore from rainforests in West Africa and Brazil can be shipped in to the AAL refinery. The processes conducted on the bauxite lends itself to heavy fossil fuel emissions as AAL relies on gas. The refining process also creates millions of tonnes of waste which are laid precariously on the banks of Shannon Estuary. The dredging of the river and dumping materials to sea by AAL is a part of the wider context of unsustainable development as well as unethical lack of regard for the national climate and biodiversity emergency, as well as the global climate and biodiversity crisis.

Within this context of unpredictability and extent of risk, and the lack of the risks proper assessment, FPC urges the Agency to invoke the precautionary principle. The principle has been enshrined in the TFEU to reflect the incompleteness of scientific evidence and the uncertainty it generates about potential harm to human health and the environment in the case of the effects of hazardous practices, such as the totality of AAL operations.

### **Prematurity of Application having regard to lack of Marine Spatial Plan**

It is noted that Ireland, in order to comply with the EU Maritime Spatial Planning Directive, adopted a National Marine Planning Framework in 2021 providing a policy framework for marine planning . It does not however, allocate where activities will take place or set out regionally differentiated priorities for the use and protection of Ireland’s marine space.

The Maritime Area Planning Act 2021 requires that Designated Maritime Area Plans (DMAPs) to be established for Ireland's marine area. It is noted that the Final Report of the Shannon Estuary Economic Taskforce was published in July 2023. However, no DMAP has yet been prepared for the Shannon Estuary. The government has recently committed to publishing a West Coast Designated Maritime Area Plan which would cover the Shannon Estuary.

Ireland is in breach of its obligations under the EU Maritime Spatial Planning Directive, to have established a marine spatial plan for the Shannon Estuary.

In that context, our client makes the preliminary objection that it would be premature for the Agency to grant this DAS permit in a context in which no DMAP has been established under the 2021 Act.

Furthermore, Ireland is to establish a network of Marine Protected Areas under the Marine Protected Areas Bill once it is enacted. This DAS permit is for dredging and dumping within the Lower Shannon SAC and SPA, which our client considers should be legally established as a Marine Protected Areas (MPA). In the event that it was established as an MPA it would be legally impermissible under Regulations to be made under Head 11 of the Bill to undertake the proposed activity as same would interfere with or damage the seabed of the MPA.

Accordingly, again the application is premature in the context of the fact that it is proposed for a potential MPA, and the application should not be considered pending the enactment of the Marine Protected Areas Act and the designation of MPA's in line with the precautionary principle.

### **Utilisation of Shannon Foynes Port Company Permit Area**

The application proposes to use the "Dumping Site C" permitted by way of Dumping at Sea permit granted to Shannon Foynes Port Company (SFPC) by the EPA under Ref. No. S0009-03 on 21 December 2020. That application was assessed by the Agency in relation to the disposal of 1,288,000 tonnes, and the Appropriate Assessment determination was conducted by reference to hydrodynamic modelling based on that tonnage. Furthermore, that determination was based on certain assumptions, including that the material to be dumped would be predominantly clean silt, sand and gravel, and alternative loading from Limerick across the A, B and C Dumpsites.

Furthermore, it was determined that the potential for significant impacts on the Qualifying Interest 1170 Reefs (*Anemone-dominated subtidal reef*) in the Lower Shannon SAC from increased sedimentation levels arising from Dumping Site C could be ruled out based on the modelling. Importantly, such modelling was predicated on the tonnage levels ultimately permitted.

Clearly, the addition of an extra 430,777 tonnes of dredged material from a different location, and one which could not be described, having regard to its heavy metals content, as "*clean silt, sand and gravel*", would have the capacity to undermine the Appropriate Assessment conclusions of the Agency in relation to the existing SFPC DAS permit.

Under Regulation 27(2) of the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended), the Agency as a Public Authority is required to exercise its functions, including its consent functions, which may have implications for or effects on nature conservation in compliance with and, as appropriate, so as to secure compliance with, the requirements of the Habitats Directive and the 2011 Regulations.

Our client submits that in that regard the Agency is precluded from granting additional dumping within the Dumping Area C which would have the effect of rendering invalid the conclusions as to lack of

reasonable scientific doubt upon which the Appropriate Assessment for DAS Permit S0009-03 was based.

Furthermore, it is noted that Dumping Area C in respect of S0009-03 is contained within the licenced area of the Foreshore License granted to SFPC by the Minister on 29 May 2023. That Foreshore Licence was subject to an Appropriate Assessment following a Screening conclusion that likely significant effects as a result of the licensable activities, alone or in combination with other plans and projects, on the conservation objectives of European sites could not be excluded. Those activities did not include the in-combination effects of the additional 430,777 tonnes of dredged material proposed in the current proposal.

The Minister conducted an Appropriate Assessment determination on 27 February 2023 which concluded that the SFPC dumping activities either alone or in combination with other projects, would not adversely affect the integrity of any European Site.

Clearly that conclusion could no longer hold in light of additional dumping proposed in this application before the Agency.

That Foreshore Licence provides commitments to be undertaken by SFPC in relation to Dumping Area C. The granting of the DAS permit will result in the Licensee being in breach of their Foreshore Licence. In that regard, the Licence defines "Operations" as the following:

*"Operations" means collectively the carrying out of maintenance dredging operations and the extraction of Material from the Extraction Area and the disposal of said Material at the Disposal Area, for the Permitted Use and as specified in the Plans, in accordance with the Natura Impact Statement and the Dumping at Sea Permit issued by the Environmental Protection Agency in the custody of and approved by the Licensor, and related ancillary activities;*

The Specific Conditions of the Licence at Clause 31 all constitute personal obligations of SFPC in relation to the carrying out of the Operations within the Disposal Area as defined.

Clause 16.1 of the Licence states that the Licence is personal to the Licensee and is not assignable and the rights given under the Licence may only be exercised by SFPC.

As referred to above, given that the Foreshore Licence was granted on foot of an Appropriate Assessment, and by specific reference to the Natura Impact Statement, any purposive alteration of the basis of the conclusions having regard to Article 6 of the Habitats Directive would give rise to a breach of the Agency's duties under Regulation 27 of the 2011 Regulations.

### **Compliance of Shannon Foynes Port Company with existing DAS Permit**

Without prejudice to the foregoing, it is noted from a review of the Agency's LEAP records in relation to the existing DAS permit for SFPC that there are compliance issues with the Permit.

It is noted that the DAS Permit was amended on 14 June 2023 to alter the coordinates of Dumping Area C.

The latest Site Visit Report conducted by the Agency on 19 October 2023 recorded a number of non-compliances with the Permit, although not recorded (inexplicably) as such by the Agency. Plough Tracking data was unavailable, bathymetric surveys were unavailable, and noise measurements do not appear to have been made available as required. All of these are essential and key requirements of the DAS permit for the protection of the environment of the Estuary. They are not mere technical breaches without any substantive impact. They demonstrate a poor environmental compliance record of SFPC.

Further non-compliances were recorded on 19 October 2021, when again there was a lack of noise measurements, vessel tracking data and bathymetric survey data as required.

Therefore it appears that the existing DAS permit of SFPC is non-compliant with its Licence. Having regard to the same, it is our clients submission that it is not permissible for the Agency to grant a DAS for further dumping into a Dumping Site where the existing Licence holder is non-compliant with its environmental obligations.

### **No WFD Assessment for SFPC and no WFD data in current DAS Application**

The Inspector's report for the existing SFPC Licence stated the following:

*Taking into consideration the scale, duration and intermittent nature of the operations, the characteristics of the material to be dumped, the characteristics of the receiving environment and the conditions included in the RP to reduce the magnitude of impacts, the proposed operations are not considered likely to impact on the achievement of the WFD objectives for the affected transitional waterbodies.*

This appears to be an instance of 'administrative throat clearing' without any reference to any actual assessment required to be conducted having regard to the environmental objectives of Article 4 of the Water Framework Directive. The Lower Shannon Estuary is a transitional waterbody (IE\_SH\_060\_0300), which is also a Protected Area under the WFD with water dependent habitats and species. The waterbody is noted as failing to achieve good chemical status in relation to the Article 4 objectives on the EPA website.

It does not appear that the Agency conducted any environmental assessment of the impact of the SFPC dumping on the Lower Shannon Estuary having regard to the Article 4 obligations of the Agency, despite concluding that it could not be excluded that the dumping would, without mitigation, have likely significant effects on the conservation objectives of the Lower Shannon SAC. Clearly such dumping has the ability to impact on the obligation to prevent deterioration of the status of the Lower Shannon Estuary and the obligation to enhance the Lower Shannon Estuary.

No data was presented in the SFPC application which would have allowed the Agency to assess the proposed impact of the SFPC dumping on the Art 4 Objectives for the Lower Shannon Estuary.

The current DAS application follows the same format of the SFPC application, concentrating on the requirements of the Habitats Directive, without any specific examination of the requirements of Article 4 of the WFD. There is a jurisdictional prohibition on the Agency from granting a DAS permit in circumstances where the Art 4 obligations of the Agency have not been addressed.

As the Court of Justice stated at paragraph 74 et seq. of C-535/18 *IL v Land Nordrhein-Westfalen*:

*Article 4 of Directive 2000/60 not only contains more long-term planning requirements provided for by management plans and programmes of measures, but also concerns specific projects to which the prohibition of deterioration of the status of bodies of water also applies. A Member State is consequently required to refuse authorisation for a project where it is such as to result in deterioration of the status of the body of water concerned or to jeopardise the attainment of 'good status' for bodies of surface water or groundwater, subject to the derogations also provided for in Article 4 (see, to that effect, judgment of 1 July 2015, Bund für Umwelt und Naturschutz Deutschland, C-461/13, EU:C:2015:433, paragraphs 47, 48 and 50).*

*More specifically, as the Court has held, when a project is liable to have adverse effects on water, consent may be given to it only if the conditions set out in Article 4(7)(a) to (d) of that*

*directive are satisfied. Without prejudice to the possibility of judicial review, the national authorities which are competent to authorise a project are required to review whether those conditions are satisfied before the grant of such an authorisation (see, to that effect, judgment of 1 June 2017, Folk, C-529/15, EU:C:2017:419, paragraphs 36 and 39).*

*It follows from the foregoing that, during the procedure for approval of a project, and therefore before the decision is taken, the competent authorities are required, under Article 4 of Directive 2000/60, to check whether that project may have adverse effects on water which would be contrary to the requirements to prevent deterioration and to improve the status of bodies of surface water and groundwater. That provision therefore precludes such a check from taking place only after that time.*

We submit that the information before the Agency in this application, which may have an adverse effect on water, is inadequate as it does not address how the requirement to prevent deterioration and to improve the status of the Lower Shannon Estuary will be met. Furthermore, as will be shown further below, the information which has been submitted shows a deterioration in the status of the Qualifying Interests of the Lower Shannon Estuary SAC. AAL have argued that this deterioration will only be temporary in nature. However, no such deterioration is permitted under the WFD regardless of the temporal extent of such deterioration.

In regard to both the Habitats and Water Framework Directives there are derogation procedures available to AAL (IROPI and Art 4 WFD derogations respectively), which they have not sought to utilise.

The Agency is therefore required to refuse authorization for the permit.

### **Concentrations of Metals in Sediment**

It is noted that the marine sediment analysis indicates elevated levels of zinc, but that '*zinc concentrations are not expected to pose any significant risk to the receiving environment*' (page 11, NIS).

There has been no assessment on the impact of the mobilisation of zinc contaminated sediment on the Lower Shannon Estuary.

Furthermore, the sediment analysis conducted found elevated levels of the determinants aluminum, iron and titanium at the dredge site presumably as a result of operational activities at the jetty for Aughinish Alumina. (page 5, Attachment B.1(iii) Sediment Chemistry Results)

Annex VIII of the Water Framework Directive lists metals and their compounds as among the main pollutants in the water environment. There has been no analysis of the mobilisation of the identified heavy metals throughout the waterbody as a result of the dumping proposed, given that the hydrodynamic modelling for Dumping Area C indicates wide dispersal across the Estuary depending on tidal conditions.

This is particularly concerning with regard to the possible impacts on licenced aquaculture sites downstream of Dumping Area C.

Again, with reference to the above it is simply not possible to describe the dredged material as 'clean' as was the case with the SFPC dredge material in their DAS permit application.

Again, there has been no assessment of whether the dispersal of metal contaminants across the Protected Area of the Lower Shannon Estuary would be such as to cause deterioration of the waterbody, or impact on the achievement of good environmental status of the waterbody under the



WFD. Our client submits that such dispersal would have such an impact. But regardless of the same, from a legal perspective the Agency is not in a position to grant the Permit as there has been no data presented by AAL demonstrating how such dispersal of metal contaminated sediments will not impact on the Art 4 objectives.

### **Effect on Anemone-dominated subtidal reef**

The application for the DAS permit correctly identifies that the dumping will cause the smothering of the epifaunal species present at Dumping Area C (Benthic Survey Technical Report 2023, page 16). However, it goes on to state that upstream populations will recolonise the lost populations within a period of less than one year.

Clearly this is an adverse impact on a qualifying interest of the SAC, although stated by AAL to be temporary.

In Case C-525/20, *Association France Nature Environnement*, the Court of Justice held as follows:

*Article 4 of Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy must be interpreted as requiring Member States, when they assess the compatibility of a particular programme or project with the objective of preventing the deterioration of water quality, to take into account temporary, short-term impacts which are without lasting consequences, unless it is clear that such impacts have, by their nature, little effect on the status of the bodies of water concerned and cannot lead to a ‘deterioration’ of that status, within the meaning of that provision. Where, as part of the authorisation procedure for a programme or project, the competent national authorities determine that that programme or project could lead to such a deterioration, that programme or project may be authorised only if the conditions set out in Article 4(7) of that directive are met, even if the deterioration is temporary in nature.*

Similarly, with regard to Article 6(3) of the Habitats Directive this is clearly an adverse effect of the project following the implementation of mitigation measures. There is no jurisdiction to authorise a project which will have an adverse impact on the integrity of the conservation objectives of the Natura 2000 site, even if one accepted that such impact was temporary in nature.

The conclusions of the Natura Impact Statement cannot be accepted based on the clear statement by AAL that the dumping will destroy part of a habitat for which the Lower Shannon SAC is protected.

Accordingly, the only permissible way in which this permit can be granted is by use of the IROPI procedure under Article 6(4) of the Habitats Directive.

### **EIA Directive**

The purpose of the EIA Directive is wide and its scope is broad. It aims to require EIA for projects that are, either alone or in combination, likely to have a significant effect on the environment.

Clearly, dumping almost half a million tonnes of material containing determinants of concern within a Natura 2000 site is likely to have a significant effect on the environment.

Notably, the developer's Environmental Report at section 6.2 deals with the requirement for Environmental Impact Assessment (EIA). It lists as relevant Schedule 5 of the Planning and Development Regulations 2001 despite the fact that they do not apply in the context of a DAS permit.

Indeed it is recognised that Ireland has failed to transpose the requirements of the EIA Directive into the Dumping at Sea Act 1996 (as amended).

The act of dredging marine sediment, transporting it, and discarding it is the disposal of waste. A defined dump-site is in our client's submission an installation for the disposal of waste (Category 11(b) of the EIA Directive). The Waste Framework Directive only excludes the dumping of marine sediments if it is proved that the sediments are non-hazardous. In our client's position the data provided by the developer in relation to chemical analysis of the sediment does not prove that the sediment is non-hazardous.

In our opinion, therefore, the dumping of the sediment in this case is caught by Category 11(b) of the EIA Directive. No EIA Screening report has been provided having regard to the same. The Agency is required to conduct a Screening for EIA for this project, yet there is no statutory basis for the Agency to do so on the basis of the failure of Ireland to transpose the EIA Directive into the Dumping at Sea regime.

Pending the resolution of this legislative infirmity, the Agency as an emanation of the State with an obligation to ensure the effectiveness of the EU Directives, is obliged to refuse permission for the activity.

### **In-Combination Effects – Habitats Directive**

Despite the fact that the current DAS application proposes to dump on the same site as the existing SFPC DAS permit, there is remarkably no analysis within the NIS of the in-combination effects of same. The only consideration is the following at section 7.1.4.1 "*SFPC is permitted to conduct annual dredging campaigns, estimating between 75,000 and 150,000 wet tons of material per annum. This includes dumping material at the dump site off Foynes Island – that AAL are now proposing to use part of*".

The lack of any analysis of in-combination effects of the dumping is simply incredible. For example, there has been no information provided as to the compliance with its DAS permit by SFPC. As we have set out above, in fact the SFPC is non-compliant with the conditions of its DAS permit. It cannot be said that the further dumping within a permitted Dumping Area of a very considerable amount of sediment in combination with a non-compliant permit holder would not have an adverse affect on the integrity of the Lower Shannon SAC and SPA.

The NIS is significantly deficient as a result. It would not allow the Agency to satisfy the *Kelly* test for Appropriate Assessment, which it is recalled requires that the Appropriate Assessment to be carried out by the Agency:

- (i) *Must identify, in the light of the best scientific knowledge in the field, all aspects of the development project which can, by itself or in combination with other plans or projects, affect the European site in the light of its conservation objectives. This clearly requires both examination and analysis.*
- (ii) *Must contain complete, precise and definitive findings and conclusions and may not have lacunae or gaps. The requirement for precise and definitive findings and conclusions appears to require analysis, evaluation and decisions. Further, the reference to findings and conclusions in a scientific context requires both findings following analysis and conclusions following an evaluation each in the light of the best scientific knowledge in the field.*
- (iii) *May only include a determination that the proposed development will not adversely affect the integrity of any relevant European site where upon the basis of complete, precise and definitive findings and conclusions made the Board decides that no*

*reasonable scientific doubt remains as to the absence of the identified potential effects.*

## **Conclusion**

Our client has set out above, its primary Objections to the proposed DAS permit. The dumping of such a considerable amount of dredged material will result in the dispersal of polluted sediment across a wide area of a protected habitat. It is wrong both as a matter of proper environmental policy and law. As set out above, any decision by the Agency to grant such a permit would impact on the ability to achieve the objectives of the Water Framework Directive and Habitats Directive for the Shannon Estuary. No relevant derogations have been sought by AAL. Thus, it cannot be lawfully granted by the Agency.

We trust that the Agency will give this submission due attention in considering the application before it.

Yours faithfully



**FP LOGUE**