

Subject: Aughinish Alumina Ref: S0026-2

From: Aine Ni Cheannabhain [REDACTED]
Sent: Friday, February 16, 2024 4:47 PM
To: Licensing Staff <licensing@epa.ie>
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ENVIRONMENTAL PROTECTION AGENCY,
PO BOX 3000,
Johnstown Castle Estate,
Wexford,
Co. Wexford,
Y35 W821.

16 February 2024

Re: Submission in response to the Dumping at Sea Permit Application by Aughinish Alumina Ltd. Ref. S0026-02.

Dear Sir or Madam,

I, Áine Ní Cheannabháin and on behalf of Wild Ireland Defence (WID), hereby make a submission in relation to the Dumping at Sea Permit Application, (EPA Ref No. S0026-02) by Aughinish Alumina Ltd., to dump in the Shannon Estuary.

For the following reasons, we believe that the dredging and Dumping at Sea license should not be given:

Water Framework Directive:

In 2008, the EU Directive 2008/105/EC – *Environmental Quality Standards in the Field of Water Quality Policy – Amended*, mandated each EU state to publish an Environmental Quality Standard (EQS) for sediment under the Water Framework Directive.

At least twelve substances that are listed in the AAL application Sediment Analysis are listed as priority substances listed in *Annex 1 of Directive 2008/105/EC*, whose emissions, discharges and losses should be ceased or phased out.

According to *Ireland's National Water Framework Directive Monitoring Programme 2019- 2021*^[1] published by the EPA, page 23 mentioned that there are only eight substances on the priority substances list being monitored, and another two still need to be commenced.

The EU Directive 2008/105/EC list of priority substances contains twenty substances. Without monitoring of all these priority substances, no license for dredging or dumping at sea can be issued, nor can they be issued for the initial release of these substances into the environment.

Impact of chemical content of sediment:

Local knowledge tells us, that due to avoidable and unavoidable errors and spillages during unloading of raw bauxite and the loading of alumina for export, we believe that a build-up, over the last forty years, of both these substances will be present in the sediments on the sea floor in zones A to D of the dredging application.

Furthermore, due to the long-term leakage from the original unlined BRDA into the River Shannon it is also believed that higher levels of toxicity and radioactivity are likely to be present in the sediment in question.

The act of dredging and proposed ploughing of this likely contaminated sediment will disturb any wildlife that is still surviving around the AAL complex. We know from Dr. Harinder of the Malaysian Society of Marine Sciences and a marine expert at the Malaysia National Oceanographic Data Centre that bauxite (spillage) 'affects all forms of life, from planktons to top carnivores in the area, even the marine mammals.' He continues that 'these sediments will clog the gills of the fish, and the breathing systems of the clams. What is when all the marine life will start dying and it will be a dead zone.'^[2]

It also will cause an enlargement of the contaminated area leading to further loss of habitat and wildlife in the surrounding areas.

Sediment testing methodology

It appears to us that core samples of the proposed dredging site were not taken. This methodology would be appropriate given the four decades history use of the jetty for the plant. Also, it is our opinion that one single test sample from each of the large dredging sites is insufficient to give an average or maximum chemical content, including the residue from bauxite from different suppliers, from different continents. A licence cannot be granted without a more thorough sediment testing and a complete overview of the different chemicals in the sediment on the proposed dredging sites.

Volume of material/ noise pollution:

The sheer volumes of material, 668,454 tonnes, applied for in the AAL application to be disturbed and dumped in the environment will have a significant impact on marine life, benthic life and possibly on human health when considering fishing, swimming and the wider degradation of our ecosystems. Swimming and fishing activities are not limited to official locations. Can the EPA ensure that the dredging/ dumping will not affect public health? Also, the timeframe of 24hr/day for 21 days, twice a year would be disruptive to wildlife and is not insignificant.

Impact on Biodiversity / Special Areas of Conservation and Special Protection Area

In April 2023, the European Environment Agency published their 'State of Nature in Europe; A Health Check' report on the status of nature in the Europe and made the following statement that:

'Only 27 % of protected species indicate a good conservation status, whilst 63 % have a poor or bad status. The situation is worse for habitats - just 15% having a good status. The vast majority (81%) are in a poor or bad status.'

'Most protected species in Europe have a poor or bad conservation status because of ongoing pressures from changes in land and sea, overexploitation and unsustainable management practices. Pollution of air, water and soil also has an impact on most species.'

More detailed information from the 'The Status of EU Protected Habitats and Species in Ireland' 2019, shows that Estuaries, Tidal Mudflats and Sand Flats and Lagoons are inadequate, deteriorating, bad.

1130 Estuaries

'The Overall Status of the habitat is Inadequate and deteriorating. This status is the same as the 2013 assessment; however, the trend has changed, due to more accurate data, from improving to declining. This decline is considered to have been on-going since before the last assessment.'

The Shannon Estuary will not be improved by dredging, ploughing or dumping at sea of contaminated sediment and therefore a licence cannot be issued.

Cumulative effects of activities in the Shannon Estuary SPAs and SAC

The cumulative effects in the rivers and estuary from the proposed dredging and dumping at sea must be taken into account together with AAL's other activities, those of the other major polluters on the Shannon Estuary, as well as raw sewage, agriculture, chemicals, pesticides, forestry, other industries and mining.

Environmental Protection Legislation

Since 2019 we are living in a declared Climate and Biodiversity Emergency and as such, we must act accordingly; including adhering to the following legislation.

- In December 2022, at COP15 Biodiversity, the Irish State signed up to: 'Reduce to near zero the loss of areas of high biodiversity importance, including ecosystems of high ecological integrity and to reduce by half both excess nutrients and the overall risk posed by pesticides and highly hazardous chemicals.'

- 'EU Biodiversity Strategy to 2030', and 'Ireland's Marine Strategy Part 3: Programme of Measures' (2023)

- European Green Deal

- Proposed Natural Heritage Areas

Proposed Natural Heritage Areas (pNHAs) give, albeit, limited protection, in the form of:
'Recognition of the ecological value of pNHAs by Planning and Licencing Authorities.'

pNHAs have not been assessed in the NIS report for the AAL dredging and Dumping at Sea application. However, the EPA must recognise the ecological value of the pNHA when assessing the application and therefore we believe that potential damage to these habitats has not been assessed and so a license cannot be issued.

The following pNHAs are relevant:

In very close proximity of the proposed dredging (and dumping) sites is the pNHA 00435- *Inner Shannon Estuary, South Shore*.

Across the estuary but still under potential threat from proposed disturbances is the pNHA 002048 – *Fergus Estuary and Inner Shannon North Shore*. Near the proposed dumping site there is pNHA 001436 – *Sturamus Island* and pNHA *Cahiracon Wood*.

- Marine Environmental Policy Framework Directive - Hazardous Substances

- REACH regulation - To protect human health and the environment against the harmful effects of chemical substances. [\[2\]](#)

- EU Action Plan "Towards Zero Pollution for Air, Water and Soil" - Chemicals for sustainability towards a toxic-free environment.

- 'EU strategy – pathway to a healthy environment for all'

- Citizens' Assembly on Biodiversity Loss

The 'Final Report of the Citizens' Assembly on Biodiversity Loss' April 2023:

'Proposes a series of changes to the Constitution to ensure people have a right to a clean, healthy, and safe environment. In addition, the Assembly recommends that nature be provided with protections within the constitution to allow it to continue to provide the necessities of life including food, clean freshwater and air, as well as providing a clean and healthy environment for wellbeing now and in the future. Such recommendations follow a growing international trend highlighting the necessity to protect nature to protect humans.' [\[3\]](#)

- Rights of Nature

Rights of Nature is:

'the recognition that our ecosystems – including trees, oceans, animals, mountains – have rights just as human beings have rights. Rights of Nature is about balancing what is good for human beings against what is good for other species, what is good for the planet as a world. It is the holistic recognition that all life, all ecosystems on our planet are deeply intertwined. Rather than treating nature as property under the law, rights of nature acknowledges that nature in all its life forms has the right to exist, persist, maintain and regenerate its vital cycles. And we – the people – have the legal authority and responsibility to enforce these rights on behalf of ecosystems. The ecosystem itself can be named as the injured party, with its own legal standing rights, in cases alleging rights violations. For indigenous cultures around the world, recognizing rights of nature is consistent with their traditions of living in harmony with nature. All life, including human life, are deeply connected. Decisions and values are based on what is good for the whole'.[\[4\]](#)

The Department of the Environment, Climate and Communications and the EPA could and should play a huge part in protecting and celebrating the importance of our waterways, canals, rivers, transitional- and coastal waters and all the beautiful species which try to survive in them.

- Ecocide

According to the Independent Expert Panel for the Legal Definition of Ecocide:

'Ecocide' means unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts.' [\[5\]](#)

Currently, there is a big push to amend the Rome Statue of the International Criminal Court (ICC), which currently lists the following crimes: Genocide, Crimes Against Humanity, War Crimes and Crimes of Aggression, to include Ecocide as the fifth International crime.

The latest development in relation to 'Ecocide' is that 'The European Union has become the first international body to criminalise wide-scale environmental damage 'comparable to ecocide''.[\[6\]](#)

'The revised EU law [Environmental Crime Directive] specifies which kinds of environmental activities are covered. These include water abstraction, ship recycling and pollution, the introduction and spread of invasive alien species, and ozone destruction.' ^[1]

Conclusion

In our opinion the contaminated dredged sediment cannot be dumped at sea because of the reasons listed above and needs to be brought to land, and contained and monitored appropriately to avoid further damage to aquatic life.

Sincerely,

Áine Ní Cheannabháin, on behalf of WID, North Allih

^[1] <https://www.epa.ie/publications/monitoring--assessment/freshwater--marine/irelands-national-water-framework-directive-monitoring-programme-2019-2021.php>

^[2] <https://www.straitstimes.com/asia/se-asia/pahang-coast-contaminated-by-bauxite-doomed-for-three-years-says-scientist>

^[3] <https://citizensassembly.ie/report-of-the-citizens-assembly-on-biodiversity-loss-report-launches/>

^[4] <https://www.garn.org/rights-of-nature/>

^[5] <https://www.stopecocide.earth/what-is-ecocide>

^[6] <https://www.theguardian.com/environment/2023/nov/17/eu-criminalises-environmental-damage-comparable-to-ecocide>

^[7] idem