

PHILIP LEE

"nothing in the wording of the directive to support an interpretation which would allow Member States not to designate all shellfish waters; that would, moreover, be contrary to its purpose, which is the protection of the environment and the abolition of unequal conditions of competition.... Nor is there any support in the wording of the [directive] for the argument... that [the directive] permits the designation of shellfish waters provided for therein to be gradual".

We believe that the Minister for Communications, Marine and Natural Resources ("the Minister") has no discretion to refuse to designate Newport Bay waters as Shellfish Waters under the Directive and is in breach of the Directive. Furthermore, as a direct result of complaints made by the Irish Shellfish Association, of which our client is a member, the European Commission has decided to issue infringement proceedings against Ireland for (a) failing to implement adequate pollution reduction programmes and (b) failing to designate adequate 'Shellfish Waters' for areas where shellfish culture takes place and requires protection. The Commission has formally warned Ireland twice, and Ireland has said that it would designate more shellfish waters. It has not done so. The Commission has also recognised that the Directive is directly effective against state bodies. Therefore, notwithstanding the Minister's failure to formally designate the waters as Shellfish Waters, Mayo County Council must treat the Newport Bay waters as Shellfish Waters in accordance with the Directive.

An EIS for either of the proposed developments which does not take into account our clients' previously notified concerns or the designation of the waters as 'Shellfish Waters' shall not be in compliance with the relevant EU legislation, including the EIA Directive 85/337/EEC. The emission limit values required to be observed under the Directive must be respected in relation to waters which should have been designated under the Directive.

If Mayo County Council fails to take into account that Newport Bay constitutes 'Shellfish Waters' in an EIS for any development which may impact on the waters, this letter shall be relied upon in an application for our client's costs in respect of any legal action which may be taken to protect the quality of the "Shellfish Waters" in accordance with the Directive.

Whilst our clients do not object to the proposed Newport Waste Water Treatment Plant in principle, this letter should not be taken to indicate a waiver of our client's right to take action in respect of any contravention of the Directive through the existing discharge from Newport, or that the existing level of pollution in Newport Bay is acceptable. Our client is happy to meet with you to discuss the impact of this for your proposed developments.

A full submission will be sent to the Minister for Communications, Marine and Natural Resources and the Minister for the Environment, Heritage and Local Government on this issue of local and national importance within the next two - four weeks. Mayo County Council will be copied with this submission when it is made.

Yours faithfully,


PHILIP LEE SOLICITORS

PHILIP LEE

SOLICITORS

cc Law Agent, Mayo County Council

Minister for Communications, Marine and Natural Resources

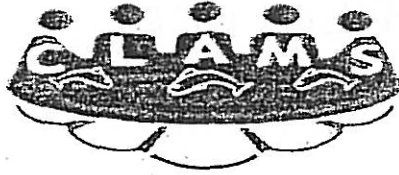
Minister for the Environment, Heritage and Local Government

The Marine Institute

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Bord Iascaigh Mhara
Irish Sea Fisheries Board



Marine Institute
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Mr. Brian Beckett
EcoServe
Unit 19B
KCR Industrial Estate
Kimmage
Dublin 12

19th November 2004

Re: EcoServe baseline aquatic ecological studies at Newport, Co. Mayo – assessments in relation to production of an EIS for the proposed Newport wastewater treatment plant (WWTP) discharge.

Bear Brian

Further to our recent meeting in the BIM Newport office, I am writing to you to convey the views of the Clew Bay CLAMS Group in relation to the proposed location of the combined outfall pipe for the Newport WWTP and the treated leachate from Derrinnumera Landfill.


As you are aware Clew Bay is under an Oyster Fishery Order that was granted to the Clew Bay Oyster Co-operative in 1979. In 1994 Clew Bay was designated as shellfish waters under the Quality of Shellfish Waters Regulations of 18 July 1994 (SI No 200 of 1994). Both areas covers the inner part of Clew Bay up to the high water mark. The Bay is also a candidate Special Area of Conservation under the Habitats Directive.

The Group welcomes the proposal for a new wastewater plant in Newport, as it will improve overall water quality by reducing human faecal coliforms and viral loading of the waters of Newport Bay and Clew Bay. However the Group have very grave concern regarding the disposal of leachate into Clew Bay. In addition the Group would question the location of the proposed combined outfall pipe, as it is closer to shellfish beds than the current location of the sewage outfall at Newport Quay. They feel that this proposed outfall will pose a greater threat in this ecologically sensitive area, to the shellfish and fish,

particularly in times of storm surges and when you take into account the volume and contents of the leachate from Derrinnumera Landfill. I have attached the last submission that was forwarded to Mayo County Council outlining the concerns of the Clew Bay CLAMS Group.

With regard to the EIS and the work that EcoServe is currently carrying out, the Group feel that the timescale you have been given for sampling is exceptionally short and inadequate given that it will only give you a brief early-winter ecological picture of the lower Burrishoole, Newport Bay and the inner Clew Bay area. As Mayo County Council itself regards the proposed outfall area to have a potentially significant environmental impact due to the very sensitive nature and international importance of the aquatic environment in the area, a more thorough EIS would seem more appropriate.

Yours sincerely


Mary Hannan
Co-liaison Officer
Clew Bay CLAMS Group.

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Mr Brian Beckett,
EcoServe,
Unit 19B, KCR Industrial Estate,
Kimmage, Dublin 12

12th November 2004

Re: *ECOSERVE baseline aquatic-ecological studies at Newport, Co. Mayo – assessments in relation to production of an EIS for the proposed Newport waste water treatment plant discharge.*

Dear Mr. Beckett,

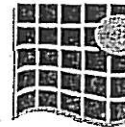
Further to your recent letter to Dr Poole and our brief phone conversation some weeks ago I am writing to confirm our views regarding the proposal to relocate the outfall of the Newport Sewage treatment works, including leachate from the Derrinnumera landfill, to the outflow from the Burrishoole system at Rosgibblin point.

As you are aware the Marine Institute, and formerly the Salmon Research Trust of Ireland Inc. and Salmon Research Agency of Ireland, has for the past 50 years operated fish census and biological research programmes in the Burrishoole catchment. Over the past 40 years the continuous monitoring of salmon, sea trout, and eel stocks has been fully quantitative and represents a unique data set of global importance. As a result, the Burrishoole system is regarded as a major European and in the case of Atlantic salmon, a world index site. The Burrishoole data are fundamental to international assessments of stock status for salmon, eel and sea trout as carried out by the International Council for Exploration of the Seas (ICES), the European Inland Fisheries Advisory Commission (EIFAC) and the North Atlantic Salmon Conservation Organisation (NASCO).

The unique habitats contained in the Burrishoole catchment, including its discharge zone into inner Clew Bay, enjoy a high level of protection under various EU Directives and under national legislation. For example the catchment is a Scientific Area of Conservation and its salmon stock is protected under the EU Habitats Directive. Clew Bay itself is designated under the Quality of Shellfish Waters Directive, Water Framework Directive for transitional and coastal waters, and is a candidate SAC. Lough Furnace is now listed as an ANNEX I Priority Habitat under the Habitats Directive, as one of the few permanently stratified (meromictic) lagoon lakes in Britain and

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Ireland. Other areas of Clew Bay are also listed as ANNEX I Priority Habitats.

The provision of a wastewater treatment plant for Newport is to be welcomed and will doubtless lead to an improvement in water quality in the Newport River. However, as previously discussed, we have serious concerns regarding the proposed relocation of the outfall from the existing Newport River discharge point to the proposed outfall point at Rosgibblin. We would argue that the discharge of the effluent in this ecologically sensitive area poses a major risk to the status of adjoining area of the bay, the Burrishoole estuary and Lough Furnace. We are particularly concerned regarding the proposed inclusion of effluent from the Derrinnumera dump site. Mayo County Council itself considers the marine outfall to have a potentially significant environmental impact due to the very sensitive nature and international importance of the aquatic environment in the area.

With regard to the EIS, which your company is currently carrying out, we are concerned that the timescale you have been given for sampling is extremely limited and will provide no more than a brief early-winter snapshot of the lower Burrishoole and inner Clew Bay areas. We suggest that a comprehensive EIS would require monitoring of a comprehensive range of tidal regimes and seasonal factors. It should also take into account the current status of a broad range of sensitive aquatic species such as: wild and cultured shellfish, wild and cultured finfish, lobster, shrimp and scallop fisheries.

Despite the above limitations we are anxious to work closely with you and to provide to EcoServe with as much background information as possible on the Burrishoole system. My colleague Dr Poole has forwarded to you, under separate cover, a comprehensive pack of relevant publications and reports. Should you require any additional information or clarification on data already provided, please do not hesitate to contact either myself or Dr Poole.

Yours sincerely,

pp: 

Dr Ken Whelan,

Director,

Aquaculture & Catchment Management Services
Marine Institute
Newport

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