

AP3/2014

Site T5/547A

Appeal

The Seefin Group



1 of 11

Please find enclosed an appeal against the licence (T05/547A) granted by the Minister for Agriculture, Food and the Marine.

Cc to:

Environment Correspondent, Irish Times

Mr Fintan O'Toole, The Irish Times

Environment Correspondent, Irish Independent

Environment Correspondent, Irish Examiner

Environment Correspondent, Daily Mail

Southern Star

Agriculture and Environment Correspondent, RTE

Today with Sean O'Rourke

Friends of the Irish Environment

Save Bantry Bay

An Taisce

Discover Ireland Cork Office

Discover Ireland Clonakilty Office

Mr Brian Crowley, MEP

Mr Sean Kelly MEP

Ms Deirdre Clune, MEP

Ms Liadh Ni Riada, MEP

**AQUACULTURE LICENCES
APPEALS BOARD
09 JUL 2014
RECEIVED**

28F 11

NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT 1997 (NO. 23)

Name and address of appellant:

The Seefin Group
replies to: Ian Stretch
Glenlough West
Bantry
Co. Cork

Telephone:
Mobile Tel:

Fax:
E-mail address:

Subject matter of the appeal:

Please see enclosed (T5/547A) - Lack of propriety in departmental behaviour granting this licence
documents

Site Reference Number:-

(as allocated by the Department of Agriculture Fisheries & Food) (T5/547A)

Appellant's particular interest in the outcome of the appeal:

The concern of interested and committed residents about the destruction of a particularly attractive seascape on a highly sensitive route encompassing Wild Atlantic Way, Sheeps Head Way (A126) and Walk, and Natura 2000, and the advent of further aquaculture into an inlet already enduring more than its proportionate and required share.

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Outline the grounds of appeal (and, if necessary, on additional page(s) give full grounds of the appeal and the reasons, considerations and arguments on which they are based):

The procedure and granting of this licence (T5/547A) are contrary to accepted protocols defined in directives and regulations – national and European. A total lack of transparency has been shown and requests for information, even under FOI, have been denied. It seems to follow a systemic antipathy within the Department of Agriculture, Food and the Marine which is predisposed to railroad licence applications, such as this, through while totally ignoring multiuser reconciliation. The development is contrary to the well-being of the area, particularly given its adjacency to the Wild Atlantic Way, Sheeps Head Walk and a designated Natura 2000 site and, contrary to what is stated in the Ministerial Determination, a relatively

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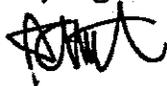
high rural population density. We request the overturning of the licence granted.

Fee enclosed:

€

(payable to the Aquaculture :Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))(See Note 2)

Signed by appellant:



Date:

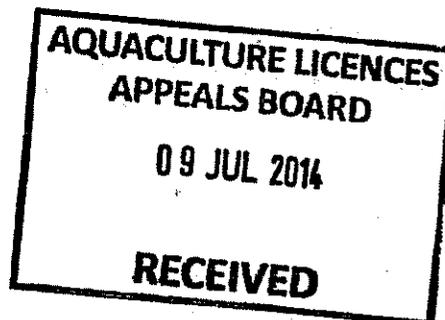
07/07/14

Note 1: This notice should be completed under each heading and duly signed by the appellant and be accompanied by such documents, particulars or information relating to the appeal as the appellant considers necessary or appropriate and specifies in the Notice.

Note 2: The fees payable are as follows:

Appeal by licence applicant	€380.92
Appeal by any other individual or organisation	€152.37
Request for an Oral Hearing (fee payable in addition to appeal fee)	€76.18

In the event that the Board decides not to hold an Oral Hearing the fee will not be refunded.



The Aquaculture Licenses Appeal Board,

Kilminchy Court

Portlaoise, Co Laois

RefT5/547A

4 July, 2014

Replies to: Ian Stretch on behalf of

Seefinn Group, Glenlough

Co. Cork

AQUACULTURE LICENCE APPEALS BOARD
 09 JUL 2014
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We wish to appeal the decision of the Minister for Agriculture, Food and the Marine granting a licence for the cultivation of macro-algae in Gearhies, Co Cork (T5/547A). Specifically, we address our appeal against the background of the Minister's decision not to seek an Environmental Impact Statement and contend that the Ministerial Determination issued in relation to the application, denying any meaningful consultative process, was indicative of the decision to grant the licence as a fait accompli and effectively denied any meaningful public engagement or consultative process. In his determination the Minister contends that 'it (proposed aquaculture activity) is not likely to have significant effects on the environment' and that an EIS is not required. Our submission details serious concerns arising from the granting of the licence - concerns that arise from specific statements which appear to have guided the Minister in granting the licence.

Giving reasons for not directing the provision of an EIS, the Minister states that he had regard to the provisions of national and European regulations and directives. Having consulted with counsel we have been advised that before seeking redress at both national and European levels we are required to exhaust established procedures and appeal the decision. Counsel has advised that, *ab initio*, the Minister's modus operandi and ultimate decision lacked transparency, that they represented clear examples of the predetermination of an outcome while an approved assessment process was available but not engaged with, that the reasons given for not requiring an EIS represented a blatant denial of potential risks and problems, that it should be contextualised against the marked avoidance of other such EIS requirements since he has taken office, and that a basis for a legal challenge to this decision is compelling and open to engagement to us at national and, if necessary, at European Union levels. We await your consideration of this submission which addresses the reasons for the Minister for choosing not to require an EIS and his granting of the licence, and your reply.

Andrew & Sandra Mott Gearhies
 Valerie Power Bush - Gearhies
 Robert Burt (Sullivan) Gearhies
 Patrick Donnell gearhies
 Ian Stretch GLENLOUGH
 Jeannie Stretch GLENLOUGH
 Mr. Stretch, Gearhies
 CONNOR WANNINGO Gearhies
 CONN WANNINGO Gearhies
 Ferman O'Driscoll, Chapel Rock, Durrus, BANTAY.

GEARHIES HOUSE
 GEARHIES BANTAY
 P.A. Dropp, Foilabik
 Man Kufu - Follanally
 Elizabeth Gurnell Bantay
 Fenula Lynch Gearhies
 J.D. Connolly, GLENLOUGH
 C. Connolly, Glenlough
 Lin Hanahan Gearhies.

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The Aquaculture Licenses appeal Board,
Kilminchy Court
Portlaoise, Co Laois
RefT5/547A
4 July, 2014

Replies to: Ian Stretch on behalf of
Seefinn Group, Glenlough West Bantry,
Co. Cork

AQUACULTURE
APPEALS
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We wish to appeal the decision of the Minister for Agriculture, Food and the Marine granting a licence for the cultivation of macro-algae in Gearhies, Co Cork (T5/547A). Specifically, we address our appeal against the background of the Minister's decision not to seek an Environmental Impact Statement and contend that the Ministerial Determination issued in relation to the application, denying any meaningful consultative process, was indicative of the decision to grant the licence as a fait accompli and effectively denied any meaningful public engagement or consultative process. In his determination the Minister contends that 'it (proposed aquaculture activity) is not likely to have significant effects on the environment' and that an EIS is not required. Our submission details serious concerns arising from the granting of the licence - concerns that arise from specific statements which appear to have guided the Minister in granting the licence.

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Jane M. Flynn Gearhies
Famula Davis / Gearhies
Susan Jacobs / TOBINS, Gearhies
Caroline Johnson > TOBINS, GERATHIES
Timothy Johnson > TOBINS, GERATHIES
Nanci Starr > TOBINS, GERATHIES
GARY STARR > TOBINS, GERATHIES
MARCIA HOOPER > TOBINS, Gearhies - Jim Hooper (PP) Marcia
Cairn MacCann Gearhies
Eithne de Buij P. PLE
Dennis Goffie Gearhies
Cora N. Bannan, Fulham
Eddie Goffie Gearhies
Martin Goffie Gearhies

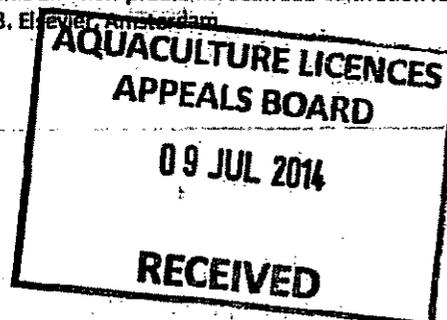
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Submission to appeals board

- a) The nature and scale of the proposed aquaculture activity: The site chosen for this proposed development is totally unsuitable. This inlet is already used intensely for salmon farming and given the major escape of approximately a quarter of a million fish as a result from cages which had not been properly maintained over the years there can be little hope that yet another ingress of aquaculture into this area of Bantry Bay will result in improved levels of environmental responsibility and propriety. The cages from which these fish escaped had already dragged their mooring attachments in 2005/2006 so little would appear to have been learned from that incident.
- b) The limited magnitude and extent of the direct impacts arising from the proposed aquaculture activity: This is totally aspirational. Studies such as those cited indicate that there are real and meaningful concerns surfacing for more than a decade. In intensive and semi-intensive aquaculture, various chemicals have been used for the prevention and control of disease, water treatment, removal of predators and prevention of fouling organisms. In some cases concern has arisen over the potential impacts of such chemicals on the environment and the health of farm workers and consumers. So far, there are only a few reports of chemicals used in seaweed culture to control disease, remove fouling organisms and predators and to assist processing. Formaldehyde has been used for controlling the growth of epiphytes on Gracilaria (Santelices and Doty, 1989)¹ and slaked lime has been used to control other predators (North, 1987).² It is important to ensure that practices continue to be conducive to production of a healthy project with minimal environmental impact. And therein lies the problem. The co-existence of two aquaculture industries side-by-side would greatly increase the probability of such seaweed culture chemicals being used. And the record of the Minister's department with regards regulation has been derisory. Two un-licensed test lines for macro-algae were anchored, seeded and harvested by the current applicants and totally ignored by the Minister's department.

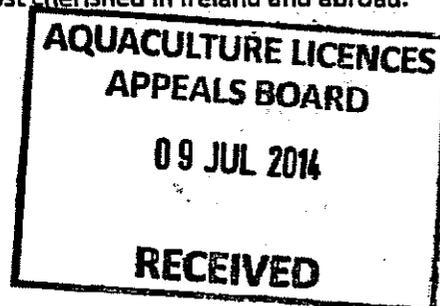
¹ Santelices, B. and Doty, M.S. 1989. A review of Gracilaria farming. *Aquaculture* 78, 95-133.

² North, W.J. 1987. Oceanic farming of Macrocystis, the problems and non-problems. *Seaweed Cultivation for Renewable Resources* (ed. K.T. Bird and P.H. Benson, pp 39-68. Elsevier, Amsterdam)

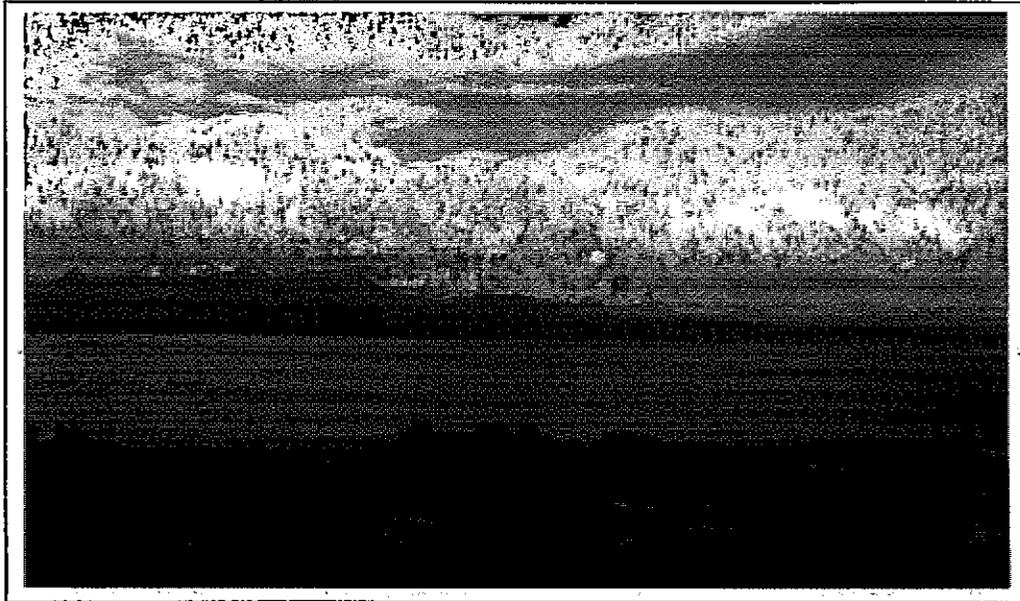


- c) **The absence of any protected structures or recorded monuments in the area of the proposed aquaculture activity:** The European Environment Agency has suggested that significant changes are already underway and more can be expected as a result of human intervention... 'Human activities are causing unprecedented environmental changes for coastal and marine ecosystems. Pressures from fishing, pollution from land- and sea-based sources, urbanisation, loss and degradation of valuable habitat, and invasions of non-native species are growing worldwide. All these impacts are likely to be exacerbated by the changing climate'.³ Virtually the entire peninsula west of the proposed site is designated as a Natura 2000 site of special environmental importance. Yet the Minister has dismissed the significance of this designation with the sweep of a keypad in suggesting that the absence of any protected structures or recorded monuments 'in the area of the proposed aquaculture activity' renders the Natura 2000 designation totally meaningless and redundant.
- d) **The low population density of the surrounding area:** This statement is factually incorrect and intentionally misleading. It is clearly intended to suggest that virtually nobody lives in the proximate area. There are in fact literally scores of homes within a very short distance of and as, if not more significantly, within full vista of the proposed site. The Minister's statement is very light on accuracy and has been presented with the clear intention of justifying the granting of the licence for this development.
- e) **The low visual impact of the proposed aquaculture activity:** Once again, this statement is misleading and does not represent the real situation. Cork County Council has recognised the visual heritage attached to the Sheep's Head Peninsula and has designated it as a scenic route and has specifically noted the importance attached to the views from the east-west road with full view of the proposed development: the A126.
If one travels this route from an eastern point of origin, e.g. The Westlodge Hotel in Bantry, the first open stretch of water one views is the site which the Minister has designated as suitable as not being injured by the low visual impact of the activity. This view is taken from high up the ridge to the south of the proposed development – a perspective from which an even more dominant impact of the site and potential impact would be visible. And this viewpoint is on the famed Sheep's Head Walk – accepted to be one of the loveliest and most cherished in Ireland and abroad.

³ http://www.eea.europa.eu/themes/coast_sea



This assertion on our part is not a localised or one made without basis. The Wild Atlantic Way is being promoted with energy to welcome additional tourist numbers to peninsulae such as that under discussion: Sheep's Head. Aesthetic aspects and multiuser conflicts have surfaced as contentious issues and the potential aesthetic impact of aquaculture has dominated arguments over aquaculture development in some countries and aquaculture planners are having to ensure that potential aesthetic changes are considered during the development of new aquaculture ventures in order to avoid conflicts with other users (Dixon et al., 1990).⁴

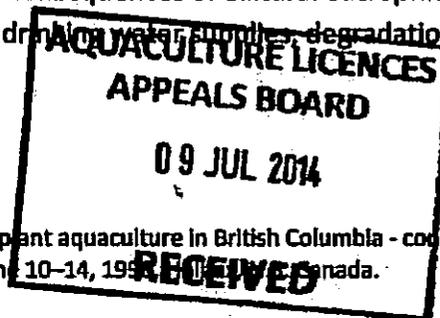


View from southern perspective looking down on proposed aquaculture site. Note the salmon cages on the left of the photo. The proposed fifteen acre site would be in the centre of the photograph between the salmon cages and Reen Point on the right of the photograph.

- f) The non-use of toxic or hazardous substances as part of the aquaculture activity: The proposed site is immediately adjacent to an existing salmon farm composed of six cages in total (two sites of three cages each). Research has indicated that eutrophication -- pollution caused by activities such as fish farming -- leads to excessive amounts of nutrients. The known consequences of cultural eutrophication include blooms of blue-green algae tainted drinking water, and degradation of recreational opportunities.⁵

⁴ Dixon, F. Cox, R. and Bourne, N. 1990. Shellfish and marine plant aquaculture in British Columbia - conflicts and solutions. Paper presented at World Aquaculture '90. June 10-14, 1990, Vancouver, Canada.

⁵ Chislock, M. F., Doster, E., Zitomer, R. A. & Wilson, A. E. (2013) Eutrophication: Causes, Consequences, and Controls In Aquatic Ecosystems. *Nature Education Knowledge* 4(4):10



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Given the widespread extent of water quality degradation associated with nutrient enrichment, eutrophication has and continues to pose a serious threat to potable drinking water sources, fisheries, and recreational water bodies.⁶

Furthermore, Art has found that in eutrophication "The nutrients especially phosphates and nitrates, typically promote excessive growth of algae. As the algae die and decompose, high levels of organic matter and the decomposing organisms deplete the water of available oxygen, causing the death of other organisms, such as fish."⁷

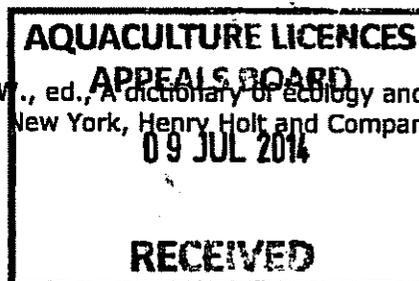
Yet, and quite incomprehensively, this licence grant ignores completely the co-existence of the salmon cages which inevitably discharge large nutrient levels into the water side-by-side with the proposed macro-algae site. It beggars belief that a rigorous scientific analysis of the two sites being placed in such proximity would result in the approval of this licence.

And if one looks at the historic development of aquaculture in this location it is striking that the (now closed) much larger scaled Bantry Bay Mussels – the premises of which are visible in the bottom-right of the photograph – never applied for mussel lines in the waters immediately in front of his factory. Why not? Quite clearly the eutrophication effect of the salmon being raised in the inlet were recognised and acted on by never applying for an unsustainable aquaculture adjacent to these salmon cages.

- g) The minor risk of accidents occurring as result of the proposed aquaculture activity: Given the history of previous incidents in associated aquaculture in this Inlet (already referred to as the 2005/2006 cages being released onto Reen Point (visible on right-hand side of photograph) and the escape of the quarter of a million salmon in February 2014 this aspiration is just that – an aspiration as opposed to a risk assessment of the potential for accidents or incidents if this development is allowed progress.
- h) The low risk of impacts on navigational safety: A reading of the justifications for not demanding an Environmental Impact Statement leads one to conclude that the writer(s) concluded that everything will be fine, everything will be okay because we hope it will be. The Whiddy Island Oil Storage facility is located in Bantry Bay, just to the east of the proposed aquaculture site. In 2012, the year for which The Central

⁶ Ibid.

⁷ Art, H.W., 1993, Eutrophication, in Art, H.W., ed., A dictionary of ecology and environmental science (1st ed.): New York, New York, Henry Holt and Company, p. 196.



Statistics Office provides its last published full-year figures, Bantry Bay received 2,264,000 gross tonnage of traffic. Virtually all of this was generated by the Whiddy facility while Glengarriff Harbour (north-east of the proposed site) has long been established recipient of luxury cruise liners and Bantry Inner harbour receives almost weekly visits by Irish naval ships who use the bay for crew changes, etc. Given the previous incidents referred to by salmon cages evacuating their moorings what guarantees can credibly be sustained in this site? And if any ropes or other attachments from these macro-algae lines gain release and enter the navigational channels for Bantry Bay what will the 'low risk of Impacts on navigational safety' count for then? The potential for a major environmental disaster are present if this development is allowed to proceed. And it is even more extraordinary for a minister of an Irish government which has a national oil reserve interest in the Whiddy Island complex to countenance the possibility of putting national interests at such a low premium. It will certainly make interesting reading to have a journalistic investigation of the ranking of priorities which are in direct conflict with each other.

- i) **The minimal impact on recreational use of the adjoining use of the adjoining foreshore: Most significantly, the health of any people using the foreshore will be put at risk if the chemicals referred to in b) above are used. It would certainly raise issues of dereliction of public responsibility if water tests indicate the presence of such chemicals and their source traced to aquaculture in the locality. There have been too many examples of hopefulness being placed behind a rigorous scientific assessment of what emerges under a properly constructed EIS. Its absence in the case of the awarding of this licence strongly resonates the avoidance of real responsibility and transparency in the salmon escape/'deaths' in February 2014 which were addressed as a Dail question and also, inter alia, featured on RTE Radio In Today with Sean O'Rourke.**

Similarly, the presence and enjoyment of the existing parking/viewing points that would overlook the proposed aquaculture development would be greatly diminished for tourists and locals alike by the fifteen acre aquaculture site immediately offshore.

- j) **Habitats Screening Matrix for aquaculture activities in outer Bantry Bay, Co Cork, 2013: In relation to the other foreshore areas of the outer bay, Gearhies is overdeveloped. Such excessive use of an area which has been designated as of high amenity value (Cork County Council), part of the Wild Atlantic Way and The Sheeps Head Walk will undoubtedly result in an intolerable spoiling of a cherished viewing inlet through additional pollution discharge and visual destruction of the placement**

of a fifteen acre site dominated by barrel flotation, longlines and accompanying raft spaces.

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**AQUACULTURE LICENCES
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NEWS IN BRIEF

SF 'reduces' property tax

A MOTION to have the property tax reduced by 15% was passed at Cork County Council this week. This was the first motion of the 10-strong Sinn Féin team in the new council and it was passed after a long debate in the chamber on Monday morning. Speaking after the meeting Cllr Rachel McCarthy said that when the party was canvassing before the election, 'the property tax and the inability of people to afford it was a topic which came up often on the doorstep.' She added that 'the disappointment that, even after paying it, there was no improvement in the provision of local services, was also very evident.' The Sinn Féin party has said that it is committed to abolishing the tax if ever in a position to do so at national level. 'At local level a 15% reduction per annum is what we can do and are doing,' a statement from the party said. Cllr Paul Hayes added the 'strong team' in County Hall now meant the party could influence the way local politics works.

Three Cork festivals in one

ORGANISED by the Midland Development Agency, Experience Fest is an evolution of the Cork Summer Show and will take place this weekend (June 13-15) in Carrigrohane, Co. Cork. While the popular programme for the Cork Summer Show will remain, the event is being added to, as Cork Food Fest and Cork Music Fest combine three shows into one to create the new Black Ash, CIT and Ballincorney Shopping Centre. The Festival has a terrific line up and will showcase the best in Irish food, music and agriculture. It opens on Friday at 1pm until 9pm; Saturday 9.30am-9pm and on Sunday 9.30am-8pm. Free Shuttle bus service available from Black Ash, CIT and Ballincorney Shopping Centre. Tickets €15 for adults, and children under 12 are free.

Sculpture trail art weekend

THE Sculpture Trail is an art and nature walk just under a mile long through the grounds of the nature reserve at An Sanctoir, Ballydehob, taking place this Saturday and Sunday, and featuring the sculpture and installation work of local artist Wendy Miles. The trail includes a woodland walk, dragonfly lake, bog meadow, riverside walk, mountain path, ancient stone walled track and meadow, all surrounded by stunning views of the local West Cork landscape. Art work by local artist Wendy Miles is located along the route. A massive 30m dragon is found by the lake, and strange figures made from old film machinery peek out from the bushes. Walkers are also invited to bring wreaths, flowers and poems for a Memorial to the Unknown Civilian, which remembers those to whom sanctuary was denied. Entry is €5, children free, refreshments available. Strollers or waterproof footwear recommended. An Sanctoir is signposted on the left 1 mile from Ballydehob, on the N71 Bantry road. Open noon-6pm.

Award for Inniscarra engineer

INNISCARRA native and engineer Tommy O'Sullivan was honoured as a graduate of the Tullow Oil Well Engineering Programme in a recent ceremony in London. Tommy, a graduate of Cork Institute of Technology, was recognised alongside seven other young engineers from around the world, including young Tullow employees from Ghana, Uganda, Pakistan, Scotland, Australia and South Africa. Tommy was the first Irish graduate of the programme, which is accredited by the Energy Institute. Follow-

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Father's Day

The Church

Sunday June 15th

MAKE FATHER'S DAY EXTRA SPECIAL THIS YEAR & TREAT YOUR DAD TO A SET MENU (4 COURSE) ONLY €25 INCLUDING COMPLIMENTARY PINT OR GLASS OF WINE FOR ALL THE DAD'S

WISHING ALL THE DAD'S A VERY HAPPY FATHER'S DAY FROM ALL AT THE CHURCH RESTAURANT

The Church Restaurant, Bridge St, Skibbereen, Co. Cork
029 23625
www.thechurchrestaurant.ie
www.facebook.com/thechurchrestaurant

FISHERIES (AMENDMENT) ACT, 1997 (NO. 23) FORESHORE ACT, 1933 (NO. 12) NOTICE OF DECISION TO GRANT AQUACULTURE AND FORESHORE LICENCES

The Minister for Agriculture, Food and the Marine has decided to grant Aquaculture and Foreshore Licences to Dáithí O'Murchu Marine Research Station Ltd., Gearthes, Bantry, Co. Cork, Ref: T5/547A for the cultivation of native indigenous macro-algae (*Ulva lactuca*) on a site on the foreshore in outer Bantry Bay, Co. Cork. The reasons for this decision are elaborated on the Department's site at www.agriculture.gov.ie/fisheries/aquaculture/foreshoremanagement/aquaculturelicences/aquaculturelicencedecisions/cork. An appeal against the decision may be made in writing, within one month of date of publication, to The Aquaculture Licences Appeals Board, Kilminkych Court, Portlaoise, Co. Laois, by completing the Notice of Appeal application form available from the Board, phone (057)8667857, fax (057)8667857, e-mail at info@alab.ie or online at www.alab.ie.



email: info@agriculture.gov.ie