

AP2/4/2015

**MESSRS DENIS,
KIERAN&JASON O'SHEA**

APPEAL



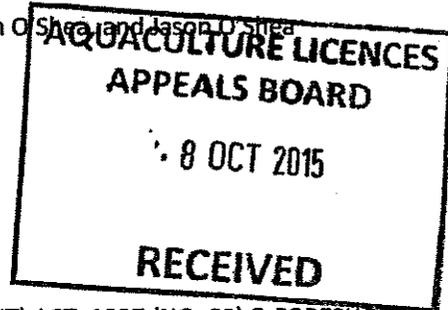
**NOTICE OF APPEAL UNDER SECTION 40(1) OF FISHERIES (AMENDMENT) ACT
1997 (NO. 23)**

Name and address of appellant: Denis O'Shea, Kieran O'Shea and Jason O'Shea

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Subject matter of the appeal: FISHERIES (AMENDMENT) ACT, 1997 (NO. 23) & FORESHORE ACT, 1933 (NO. 12) NOTICE OF DECISION TO GRANT AQUACULTURE AND FORESHORE LICENSES. The Minister for Agriculture, Food and the Marine has decided to grant an Aquaculture License and a Foreshore License to, Bradán Fanad Teo t/a Marine Harvest Ireland, KINDRUM, FANAD, LETTERKENNY, CO. DONEGAL, REF: T5/555 for the cultivation of Atlantic Salmon; *Salmo Salar* on a site on the foreshore at SHOT HEAD, BANTRY BAY, CO. CORK.

Site Reference Number:- T5/555 (as allocated by the Department of Agriculture, Food and the Marine)

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

The development of a 42.5 hectare salmon farm at Shot Head will be detrimental to local inshore fishermen such as our selves. Our objections relate to:

1. Inadequate coverage within the Environmental Impact Assessment of potential environmental impacts. Most notably no consideration has been given to the impacts of salmon farming and related use of dangerous substances in the form of veterinary on fish spawning grounds and stocks.
2. Inadequate provision with the license to contain dangerous substances / chemicals when released post fish treatment as veterinary medicine waste.
3. Impact of a salmon farm on navigational safety for inshore fishermen. Another area not given due consideration within documentation submitted during the license application process.
4. Excessive focus on aquaculture within local developments, at the cost of traditional inshore fisheries.
5. Conflict of interests within the decision making process to award license T5/555.

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):

1. Inadequate coverage within the Environmental Impact Assessment of potential environmental impacts. Most notably no consideration has been given to the impacts of salmon farming and related use of dangerous substances in the form of veterinary on fish spawning grounds and stocks.

The area around Shot Head, in Bantry Bay is highly valuable to inshore fishermen. Currently a number of boats, including two of our own and approximately five boats belonging to others fish the area. Between us we support 8 to 10 jobs catching lobster, prawn, shrimp and crab.

We were shocked to see the Environmental Impact Assessment submitted by Marine Harvest as part of their license application, and upon which the decision to grant their license was based, gave no consideration to the impact of such a development on local crustacean populations. To not include an assessment of the potential impact of salmon farm operations on lobster, prawn, shrimp and crab, all of which spawn in this area, is serious oversight and neglectful.

Any local fishermen will tell you, including ourselves who have fished the area for generations, lobster, prawn, shrimp and crab all spawn in this area. You find the following spawning patterns in the Shot Head area:

- Lobsters: Early September till late November
- Shrimp: Early December to February
- Crab: Mid February till early May
- Prawn: March till early May

During these months, the vast majority of female specimens caught carry eggs (known as 'berries').

Young specimens of lobster, prawn, shrimp and crab are highly susceptible to the dangerous substances contained within veterinary medicines used to treat sea lice in salmon farms. Sea lice are themselves a small crustacean, and it is well established that treatments designed to kill them also kill young lobster, prawn, shrimp and crab.

The treatments the license permits Marine Harvest to use at the Shot Head site include:

- SLICE® (Emamectin Benzoate) which is noted in its Safety Data Sheet to be 'very toxic to aquatic organisms' and 'may cause long-term adverse effects in the aquatic environment'.
- Alphamax® (Deltamethrin) which is noted to be 'toxic to crustacean animals, and must not be used... when local sea currents leads to risk of exposure'.
- Excis® (Cypermethrin) noted to be 'hazardous for the environment' in the safety data sheet for this particular formulation, while being noted to be extremely dangerous to fish in other safety data sheets.
- Hydrogen Peroxide, whose eco-toxicity is unknown, though it has been stated to be highly aversive to fish and can cause mortalities.

A recent Norwegian research study "Do Antiparasitic Medicines Used in Aquaculture Pose a Risk to the Norwegian Aquatic Environment?" (by Katherine H. Langford,* Sigurd Øxnevad, Merete Schøyen, and Kevin V. Thomas, Norwegian Institute for Water Research, Gaustadalé en 21, NO-0349, Oslo, Norway) examines the impacts of diflubenzuron, teflubenzuron, emamectin benzoate, cypermethrin, and Deltamethrin and noted:

"Diflubenzuron, teflubenzuron, and emamectin benzoate were detected, and the data was compared the UK Environmental Quality Standards. The concentrations of emamectin benzoate detected in

sediments exceed the environmental quality standard (EQS) on 5 occasions in this study. The EQS for teflubenzuron in sediment was exceeded in 67% of the samples and exceeded for diflubenzuron in 40% of the water samples collected. A crude assessment of the concentrations detected in the shrimp collected from one location and the levels at which chronic effects are seen in shrimp would suggest that there is a potential risk to shrimp. It would also be reasonable to extrapolate this to any species that undergoes moulting during its life cycle."

Meanwhile, in Scotland, fishermen have reported dead and dying Nephrops (prawns) in creels following sea-lice treatments at nearby fish farms in 2010 (Salmon & Trout Association (2012) Reported sea lice treatment chemical residues in Scottish sea lochs).

And, in Canada research indicates that lobster catches significantly reduce when salmon farms are operating in the area (Loucks, Ronald H., Ruth E. Smith, and E. Brian Fisher. "Interactions between finfish aquaculture and lobster catches in a sheltered bay." Marine pollution bulletin (2014)).

To grant a license for salmon farming, in a known spawning area for lobster, crab, shrimp and prawn, between the months September till May, without having done any assessment to determine potential impacts of operations on these valuable species is wholly neglectful.

We therefore request our appeal is upheld and the license for salmon farming at Shot Head in Bantry Bay is withdrawn.

2. Inadequate provision with the license to contain dangerous chemicals when released post fish treatment as veterinary medicine waste.

The current license granted states Marine Harvest must:

"Ensure that that the discharge of a Dangerous Substance occurs within the licensed area only, as shown on the attached map. Discharges outside the licensed area are not permitted unless otherwise approved by the Minister and in accordance with such conditions as may be attached to such."

Marine Harvest currently operate a salmon farm of similar size at Roancarrig, 8km further out the Bay from the Shot Head site. Based on current practice at the Roancarrig location, and information given within the Shot Head EIS, Marine Harvest plan to treat salmon with veterinary medicines using a well boat.

As local residents will tell you, their well boat is regularly seen travelling between the Roancarrig site to Leahill quarry (a source of fresh water about 10km further into the bay) and to Castletownbere Harbour (approximately 8km further out of the bay) where it moors. Following treatment, waste water, containing the veterinary medicines, is discharged from the well boat directly to the sea. Thus all the dangerous substances may be found well beyond the licensed area of salmon farm operations – instead anywhere between Castletownbere and Leahill quarry – a total distance of about 18km.

What is more, simply asking such discharges of dangerous substances occur within the licensed area only, does not ensure the substances will remain contained within this area over time.

Another oversight of the Environmental Impact Assessment was not to assess the carrying capacity of Bantry Bay to determine how local waters would disperse dangerous substances. This is a serious omission given it is known that Bantry Bay has limited dispersal capacity. The Cork County Council

Water Quality Management Plan notes that *'the lack of a well-defined tidal circulation poses serious problems as regards flushing and possible assimilative capacities'* (Cork County Council, April 1988, Water Quality Management Plan for Bantry Bay - Main Report, Section 5.1.2: Implications of Bay Circulation Characteristics). This means the waste water containing dangerous substances discharged by the well boat will remain in the waters anywhere between Castletownbere and Leahill quarry for a considerable time. As a result a very wide area of spawning grounds for lobster, crab, shrimp and prawn will be impacted.

We therefore request the licence is withdrawn.

3. Impact of a salmon farm on navigational safety for inshore fishermen. Another area not given due consideration within documentation submitted during the license application process.

A further oversight during the Public Consultation period was to discuss navigational safety with inshore fishermen. While the Harbour Masters were consulted in regard to larger vessels, the impact of a salmon farm at Shot Head on inshore fisherman has not been considered.

In a northerly or north-westerly wind smaller fishing boats must tack around the shore for shelter when going up and down the bay to collect or set pots. The salmon farm is extremely large at 42.5 hectares, and fishing boats would need to go far outside the cages for the boats and equipment to remain safe. This would mean going well out into the Bay during northerly or north-westerly winds, is impossible. As such northerly or north-westerly winds make up approximately a third of the year this would result in a significant reduction in local inshore fishermen's income, risking viability of their businesses. The only other option being to take substantial risk to our own safety, to ensure we stay remain financially afloat.

4. Excessive focus on aquaculture within local developments, at the cost of traditional inshore fisheries.

Bantry Bay already contains two salmon farm operations and a number of mussel farms. Today there are 50 shellfish aquaculture licences in the bay. This has had the impact of significantly reducing the size of fishing grounds for inshore fishermen.

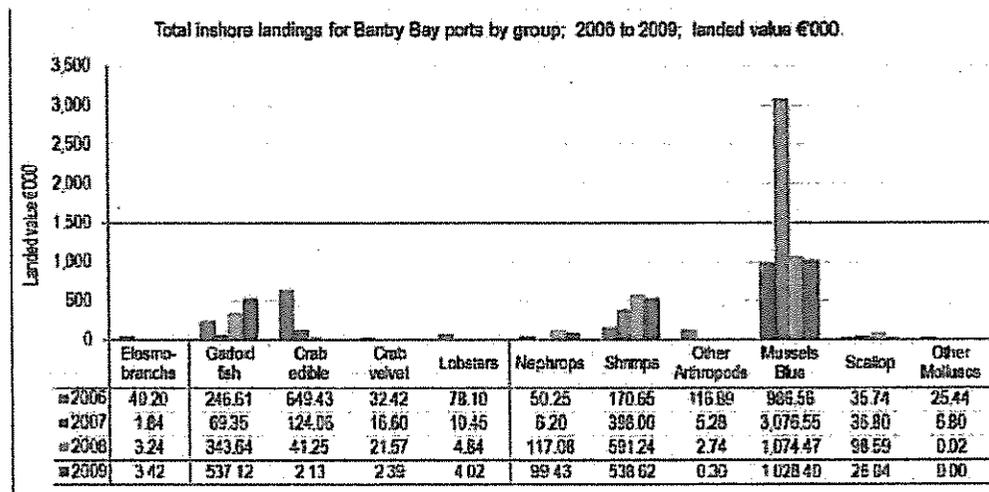
In addition, in 31 July 2006 the salmon drift net ban was put in place, also impacting numerous inshore fishermen's businesses.

Now, with the granting of a license at Shot Head to further expand salmon farming in the bay, and the associated risks to lobster, prawn, crab and shrimp stocks, we as inshore fishermen are questioning government priorities.

For generations there has been room for everyone to work together in Bantry Bay. However, now it seems priority is being given to the operations of big business.

In-shore fisheries jobs in Bantry Bay are in small owned family businesses. They are a key element of the heritage and social make-up of the area. For many families, including our own, have fished for generations, passing skills from father to son. Our profits benefit local communities, keeping the young people in the area.

Marine Harvest environmental impact assessment offers some information regarding the scales of these operations noting that in 2009 €646,590 of prawn, shrimp, crab and lobster were landed in Bantry Bay. Much of this catch is processed nearby at Deenish Island.



In contrast, Marine Harvest who have been granted this licence currently operate over 75% of Ireland's salmon farms. Their profits benefit few other than the Norwegian stock exchange. What is more the numbers of jobs they are offering (between 5 and 8) are less than the number of jobs currently supported by inshore fisheries in the area.

Economically speaking it would be shortsighted to have everything invested in a single multi-national whose company policy may change on a whim. This is even more the case with Marine Harvest whose company reports show its salmon farming operations in Ireland to be precarious at best.

It is far preferable economically to have numerous local family businesses operating in an area. In addition, there're the social and cultural issues. The basic principles of social responsibility states it is preferable to:

- maintain the economy in a manner which genuinely benefits the local community;
- supports existing jobs that are sustainable and harmonious with the environment;
- ensures local culture, traditions and ways of life are upheld.

The granting of the Shot Head salmon farm will compromise the viability local fishermen, many of whom have drawn their livelihood from this Bay for generations. It will be our remote coastal community and cultural heritage that pays the price of the ever greater exploitation of Bantry Bay from industrial scale salmon farming.

The value of this asset is highlighted by the recent success of the 'Wild Atlantic Way' – a wonderful draw for tourists to the area who wish to see not only the desolate land and seascapes but also experience the

way of life. They too contribute so much to the economy, which might also be risked by over developing this fragile environment.

These impacts have again not been fully considered with the EIA. The loss of this asset cannot be recovered. We therefore ask that our appeal is upheld and this license withdrawn.

5. Conflict of interests within the decision making process to award license T5/555.

The recommendation to approve the license for a salmon farm at Shot Head has been made by a panel appointed by the Minister for Agriculture, Food and the Marine. The panel includes:

1. Kevin Hodnett, Department of Agriculture Food and the Marine
2. Aengus Parsons, The Marine Institute
3. Donal Maguire, Bord Iascaigh Mhara
4. Terry Mc Mahon, The Marine Institute
5. Tony O'Sullivan, Department of Agriculture Food and the Marine
6. Tommy Power, Department of Agriculture Food and the Marine
7. Dave Jackson, The Marine Institute

Minister Coveney's adopted a number of policies to expand salmon farming in Ireland. His support for the expansion of salmon farming in Ireland clear.

To have all those on the panel working either directly beneath him in DAFM, or in organisations under his Department's remit, is not in line with receiving independent or impartial advice. This license will significantly increase Ireland's farmed salmon output. Thus, for any of these panel members to state concerns regarding the award of this license would risk going against the policy set by the most senior person to whom they are answerable.

What is more, many of the panel members have publicly stated their support for salmon farming. Most notably Donal Maguire, whose very job as Director of the aquaculture development division at Bord Iascaigh Mhara requires him to expand the salmon farming industry.

Overall, there is a fundamental conflict of interest within this system which prevents this panel from being either independent or impartial in the advice they have given when recommending whether or not to grant license T5/555 for salmon farming at Shot Head.

We are therefore not surprised the license has been granted, despite evidence being repeatedly submitted during the decision making process which directly contradicts to their claim:

"This determination takes into consideration that the proposed aquaculture will be located in suitable waters, has potential economic benefits, will have no significant ecological effects on wild fisheries, natural habitats, flora and fauna or the environment generally."

Now we present our case to you, the Aquaculture License Appeals Board. We have examined who is currently on you panel and note:

1. Ms Imelda Reynolds (Chair)
2. Mr Sean Murphy

3. Mr Michael Sweeney
4. Mr Jim Power
5. Dr Owen McIntyre
6. Mr Lorcán Ó Cinnéide

We are concerned that various panel members may have a conflict of interest, and will not be impartial when hearing our case. These include:

- Mr Sean Murphy, we understand has connections to the Irish Farmer Association Aquaculture team. IFA Aquaculture are a known promoter of salmon farming and the expansion of this industry in Ireland. We believe he has been vocal in offering support to Marine Harvest. We are also concerned this may be the same Sean Murphy who was a Director of Trouw Aquaculture (sometimes trades as Skettering) who supply feed to the salmon farm industry and would thus have a vested interest should this licence be granted.
- Mr Michael Sweeney, who is employed by Farrelly & Mitchell a specialist food and agribusiness consulting and investment firm known to work with the aquaculture industry.
- Mr Lorcán Ó Cinnéide, Chief Executive of Irish Fish Processors and Exporters Association; Board Member of the Marine Institute. He is also a former CEO of the Irish Fish Producers Organisation, and former chairman of the Federation of Irish Fishermen; and we believe may be a former employee of BIM. Such connections mean he has a vested interest in this licence, as the greater salmon output will benefit those he represents in the fish processing industry.

The above information is based on our own research, as detailed information on each panel member is not in the public domain. We are uncertain if there may be further conflicts of interest, and request a full investment profile and employment history is published for all ALAB panel members.

We are further concerned your panel too is appointed by the Minister for Agriculture Food and the Marine, and ALAB members may be under pressure to 'tow the line' with DAFM policies to expand salmon farming.

Lastly, your panel includes no representation from non-government organisations whose remit is environmental or wildlife protection.

Once more it feels fair representation is a challenge, as the system established is weighted towards the salmon farming and related industries.

We therefore ask you uphold our appeal on grounds of conflicts of interest within decision making process.

Fee enclosed: 152.37..... €

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

Signed by appellants:

Denis O'Shea *Denis O'Shea*

Kieran O'Shea *Kieran O'Shea*

Jason O'Shea *Jason O'Shea*

Date: *6/10/2015*

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 license 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.