

**An Bord Achomharc Um Cheadúnais Dobharshaothraithe
Aquaculture Licences Appeals Board**



Natural resources and Waste Policy Section,
Department of the Environment, Climate and Communications,
29-31 Adelaide Road, Dublin 2.

12 October 2021

Our Ref: AP11/2019

Site Ref: T08/106 B, C&D

Re: Appeal against the decision of the Minister for Agriculture, Food and the Marine to refuse to grant a Licence to Moyasta Oysters for authorisation to cultivate Pacific Oysters using bags and trestles/hanging baskets and trestles on sites T08/106 B, C&D at Querrin, Poulnisherry Bay and Cammoge South, Shannon Estuary, Co Clare

To whom it may concern,

I refer to the above Appeal.

Pursuant to **Section 47(1)(a)** of the Fisheries (Amendment) Act, 1997, as amended, ("the Act"), where the Board is of the opinion that any document, particulars or other information is or are necessary for the purposes of enabling the Board determine the Appeal, it may serve a notice on a party requiring that party to submit to the Board such documents, particulars or other information as are specified in the Notice.

Having considered the appeal and the information provided to it, the Board has determined that further documents, particulars or information are necessary for the purposes of enabling the Board determine these Appeals.

The Board understands your Department has responsibility for oyster fishery orders. The

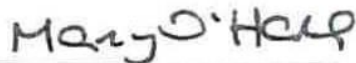
Board requires any information your Department holds on levels and area of use of oyster orders active in the Lower River Shannon, specifically T08/004A, T08/004B & T08/008. A copy of this notice has also been sent to Inland Fisheries Ireland.

If you require further clarification of the Board's requirements, please contact the Board's Technical Advisor, Dr Ciar O'Toole on 087-4097160 or ciar.otoole@alab.ie.

In accordance with section 47 (1) (a) of the Act, the Board requires this information within **30 days** of receipt of this letter. Please note that if the documents, particulars or other information specified above are not received before the expiration of the period specified above, or such later period as may be agreed by the Board, the Board will, without further reference to you, determine the appeal.

Please also note that a person who refuses or fails to comply with a requirement under section 47 (1)(a) shall be guilty of an offence.

Yours sincerely



Mary O'Hara
Secretary to the Board



18 November 2021

Ms. Mary O'Hara
Secretary,
Aquaculture Licence Appeals Board
Kilminchy Court
Dublin Road
Portlaoise
Co. Laois
R32DTW5

Info@alab.ie

Dear Ms. O'Hara,

I refer to your recent correspondence to the Department in respect to the Appeal against the Decision of the Minister for Agriculture, Food and the Marine to grant a licence to Moynasta Oysters for Authorisation to cultivate Pacific Oysters on sites T08/106 BC& D at Querrin, Poulnasherry Bay and Cammoge South, Shannon Estuary, Co. Clare.

As the Aquaculture Licence Appeals Board is aware the governance and licensing of aquaculture (farming) and native oyster fisheries in Ireland are entirely separate matters and administered separately by The Department of Agriculture, Food and Marine (DAFM) in respect of Aquaculture activity and by the Department of the Environment, Climate and Communications (DECC) and its State Agency Inland Fisheries Ireland (IFI) in respect to Oyster Fishery Orders (as acknowledged in your letter).

In response to the ALAB's request for information, DECC would advise as follows:

In some areas, the management of oyster fisheries has been devolved to Co-operatives or Societies via orders under Chapter III of the Fisheries (Consolidation) Act, 1959, No. 14 of 1959, under which the Minister for the Environment, Climate and Communications has vires in this matter. For ease of reference the most relevant sections of that Act are sections 256-270 inclusive. Oyster Fishery Orders are administered by DECC and its State Agency IFI) under this Act. In the interests of completeness, you might also note the reference, in section 270 of the Fisheries (Consolidation) Act, 1959, to section 9 of the Shannon Fisheries Act 1938, No. 7 of 1938 given the statutory responsibilities of the Electricity Supply Board (ESB) for fisheries on the Shannon.

Oyster Fishery Orders are essentially legal instruments which convey a right of exclusive access to a specified co-op or group within the order area. The order conveys the exclusive right of depositing, propagating, dredging, and fishing for and taking oysters, and, in exercising of that right the Grantee may within the limits of the said fishery make and maintain oyster beds and at any season collect oysters and remove them from place to place and deposit them as and where the Grantee thinks fit. As stated, these are exclusive rights and should not be interfered with. For information, the Grantee

does not own the order area, nor can the grantee equate the holding of an Oyster Order with a foreshore lease or licence as required for aquaculture activity.

ALAB might clarify the context of its request for information regarding the use of the Oyster Orders. DECC's view is that the relevance of any consideration given to this aspect in the appeal is not readily apparent as exclusive rights exist in the areas in question. The long-standing policy of DECC and IFI would be to protect the integrity of the areas over and the exclusive rights which exist by statute and it is not appropriate that other activity, including aquaculture activity, over these areas for which we have statutory responsibility is permitted in potential contravention of the established rights.

In that regard, according to records available in DECC, the Oyster Orders referred to in your correspondence and the exclusive rights conferred by same remain in existence. In our view the vires to change or determine such orders is vested exclusively in the Minister (ECC). Records available in DECC do not indicate any alteration or determination by the Minister of the Orders referred to and consequently the orders, and the exclusive rights conferred thereby, remain in being.

DECC would be happy to assist ALAB further. Direct contact with Mr. Denis Maher, Head of Inland Fisheries may be made at 087-2565927.

Tom O'Brien
Inland Fisheries Division

01-6782051

Tom.O'Brien@decc.gov.ie