



An Taisce

*The National Trust for Ireland*

5 Foster Place

Dublin 2, Ireland

D02 V0P9

Aquaculture Appeals Board,  
Kilminchy Court,  
Dublin Road,  
Portlaoise,  
County Laois.

Sent by email to: [info@alab.ie](mailto:info@alab.ie)

**RE: An Taisce submission on AB34-48/2019 (S46 01.2024)**

1<sup>st</sup> May 2024

A Chara,

Please find attached the An Taisce response in regard to appeal AB34-48/2019 for aquaculture licences in Wexford Harbour. We have the following points to raise, further to our previous correspondence on this issue from September 29<sup>th</sup> 2023.

**1. Proposed Decision**

The KLM report outlines that:

*"It is our view that, until a detailed programme of original field research is planned and empirical data gathered and appropriately analysed from this site, it is not possible to assess the potential impacts of the proposed aquaculture activities to meet the requirements of an AA"*

This view matches the concerns we outlined in our original submission to the Department, and in our appeals to ALAB, which were subsequently rejected. These concerns were further echoed in our observation on the Birdwatch Ireland appeal on one of the licences.

We welcome the intention expressed by ALAB to not grant these licences at this time, and believe it is the only correct, legally compliant decision which can be made at this point.

An Taisce is a membership-based charity | Join us at [www.antaisce.org/membership](http://www.antaisce.org/membership)

An Taisce – The National Trust for Ireland | *Protecting Ireland's heritage, safeguarding its future*

Registered Office: Tailors' Hall, Back Lane, Dublin, D08 X2A3, Ireland | [www.antaisce.org](http://www.antaisce.org) | +353 1 707 7076 | [info@antaisce.org](mailto:info@antaisce.org)

Company Limited by Guarantee no. 12469 | Charity CHY4741 | Charity Regulator no. 20006358 | EU Transparency Register no. 473905437651-60

**Directors:** Stuart McCaul (Chair), Trish O'Connell (Vice Chair), Laura Segura Gutierrez (Hon Secretary), John Conroy (Treasurer)  
Olivia Rogers, Rónán O'Brien, Finbarr Murray, Helen Shaw, Terri Morrissey, Sinead Mercier, Phil Doyle

## 2. Quashing of licences

We note that from our files it would appear that of the approximate 35 licences under appeal, circa 30 of those are renewal applications. We would assume that those seeking a renewal have continued to operate via the loophole of section 19A(4) of the 1997 Fisheries (Amendment) Act which enables a licensee to continue to operate even on an expired licence, where an application has been made:

*“A licensee who has applied for the renewal or further renewal of an aquaculture licence shall, notwithstanding the expiration of the period for which the licence was granted or renewed but subject otherwise to the terms and conditions of the licence, be entitled to continue the aquaculture or operations in relation to aquaculture authorised by the licence pending the decision on the said application.”*

As outlined in our appeal, some of these applications were lodged in the Department back as far as 2007, 2008, 2010 and 2012, and have been operating in lieu of a valid licence since that time. We submit that the ensuing ‘limbo’ is an inexcusable practice and has served to:

- Compromise rights of public participation,
- Compromise proper regulation,
- Compromise assessment obligations under both the EIA and Habitats Directive.

It is in this regard that we call on ALAB to quash the licences at issue forthwith, and not to further postpone making a decision on these licences. Both the Atkins report, and the KLM report have clearly outlined the potential risks to bird species protected under the Birds Directive and inter alia Article 6(3) of the Habitats Directive. It is incumbent on ALAB to uphold the requirements and intent of the Habitats Directive in their decision-making capacity. Any further postponement of a decision will further exacerbate the extant and very real risks to birds which should, to date, have been heavily protected under the Birds and Habitats Directives.

It is our view that Section 19(4) of the 1997 Fisheries (amendment) Act is non-compliant with the Habitats Directive, given it allows for ongoing unregulated and potentially damaging activity in a Natura 2000 site with no appropriate assessment. In light of this, it should be noted that the CJEU highlighted the supremacy of EU law, over and above national law. It held in case [C-378/17](#) that relevant decision-making bodies (defined as a national body established by law in order to ensure enforcement of EU law in a particular area) can and should disregard domestic Irish law in making their decision, if they find the domestic legislation to be incompatible with EU law, and in order to adopt all measures necessary to ensure the full effectiveness of EU law. In this regard, we call on ALAB not to seek to rely on Section 19(4), but to uphold the supremacy of EU law and quash the licences given the unacceptable risks posed to Natura 2000 protected species. To take any other course of action would be inconsistent with the requirements of the EIA Directive and the Habitats Directive that the necessary assessment must precede the activities for which authorisation is sought.

Is mise le meas,

A handwritten signature in black ink, appearing to read 'Elaine McGoff'. The signature is fluid and cursive, with the first name 'Elaine' written in a smaller, more delicate hand than the last name 'McGoff', which is written in a larger, bolder, and more stylized cursive script.

Elaine McGoff, PhD

Head of Advocacy,

An Taisce – The National Trust for Ireland