

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



Appeal Form

**Please note that this form will only be accepted by REGISTERED POST
or handed in to the ALAB offices**

Name of Appellant (block letters)		John Harrington	
Address of Appellant		Kush Seafarms Ltd,	
O'Shea House,			
New Road,			
Kenmare,.			
County Kerry, Ireland			
Phone:		Email:	ii
Mobile:		Fax:	
Fees			
Fees must be received by the closing date for receipt of appeals		Amount	Tick
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.			
(Cheques Payable to the Aquaculture Licences Appeals Board in accordance with the Aquaculture Licensing Appeals (Fees) Regulations, 1998 (S.I. No. 449 of 1998))			
Electronic Funds Transfer Details	IBAN:	BIC: AIBKIE2D	
	IE89AIBK93104704051067		

Subject Matter of the Appeal

Appeal against the granting of licence (Ref AQ155) for site T06/106 operated by Shamrock Shellfish Ltd.



Site Reference Number: - T06/106
(as allocated by the Department of Agriculture, Food and the Marine)

Please forward completed form to: Aquaculture Licences Appeals Board, Kilminchy Court, Dublin Road, Portlaoise, Co. Laois. Tel: (057) 8631912 Email: info@alab.ie



RL 75557941 6IE



Extracts from Act

40.—(1) A person aggrieved by a decision of the Minister on an application for an aquaculture licence or by the revocation or amendment of an aquaculture licence may, before the expiration of a period of one month beginning on the date of publication in accordance with this Act of that decision, or the notification to the person of the revocation or amendment, appeal to the Board against the decision, revocation or amendment, by serving on the Board a notice of appeal.

(2) A notice of appeal shall be served—

(a) by sending it by **registered post** to the Board,

(b) **by leaving it at the office of the Board**, during normal office hours, with a person who is apparently an employee of the Board, or

(c) by such other means as may be prescribed.

(3) The Board shall not consider an appeal notice of which is received by it later than the expiration of the period referred to in subsection (1)

41.—(1) For an appeal under *section 40* to be valid, the notice of appeal shall—

(a) be in writing,

(b) state the name and address of the appellant,

(c) state the subject matter of the appeal,

(d) state the appellant's particular interest in the outcome of the appeal,

(e) state in full the grounds of the appeal and the reasons, considerations and arguments on which they are based, and

(f) **be accompanied by such fee**, if any, as may be payable in respect of such an appeal in accordance with regulations under *section 63*, and

shall be accompanied by such documents, particulars or other information relating to the appeal as the appellant considers necessary or appropriate.

Appeal Ground 1: Unsustainable density of layout

In 2017 Gary Mc Coy ⁽³⁾ produced a report for the BIM (*Bord Iascaigh Mhara*) on shellfish farming in Kilmackilloge Harbour – the same area in which site T06/106 is located . This report (provisionally) entitled '*Kilmackilloge Harbour 2017 Study*' is currently being held by DAFM (Department of Agriculture, Fisheries and the Marine) and the Board should be able to obtain a copy (it is currently not being given out in full to the general public or appellants).

The Board will be aware of a not dissimilar study carried out in 2013 by AQUAFACT, acting as technical advisors to ALAB in relation to Killary Mussel Licence Renewal Appeal at Site T9/389 ⁽⁴⁾. The UISCE (Understanding Irish Shellfish Culture Environments) 2010 carrying capacity study is also relevant ⁽⁵⁾, as is Nunes et al 2010 ⁽⁶⁾.

All of the above reports have been seen by Kush Shellfish and the concurring conclusions of them can be summarised thus:

1. Overcrowding has already contributed to a significant decline in mussel growth rates and reduction in mussel quality. There are a number of mechanisms for this, including reduced flow rates of water in and out of the bay a decrease in phytoplankton food as it is consumed by existing farms.
2. Higher densities present a greater risk of disease
3. High densities employed by one farm will adversely affect other farms nearby.

The licence layout plan has 28 longlines of 110 m each (14 double lines of 220m each) as set out in site layout, this is a net increase in the lines in this site, as lines that were previously sited illegally on a nearby salmon farm have been added to the licence. This is too many to allow all other farms in Kilmackilloge to function as commercial entities.

The license T06/106 was issued at 4 hectares originally with permission for 5 longlines per hectare, so 10 double longlines were allowable, total of 20 longlines. The lines were outside the perimeter of the site, so the hectares were increased to take in all the lines and anchorage. Now it seems that there is a license issued for 14 double longlines, total 28 longlines. The effective density is 7 longlines per hectare based on the original licence, this is a national record.

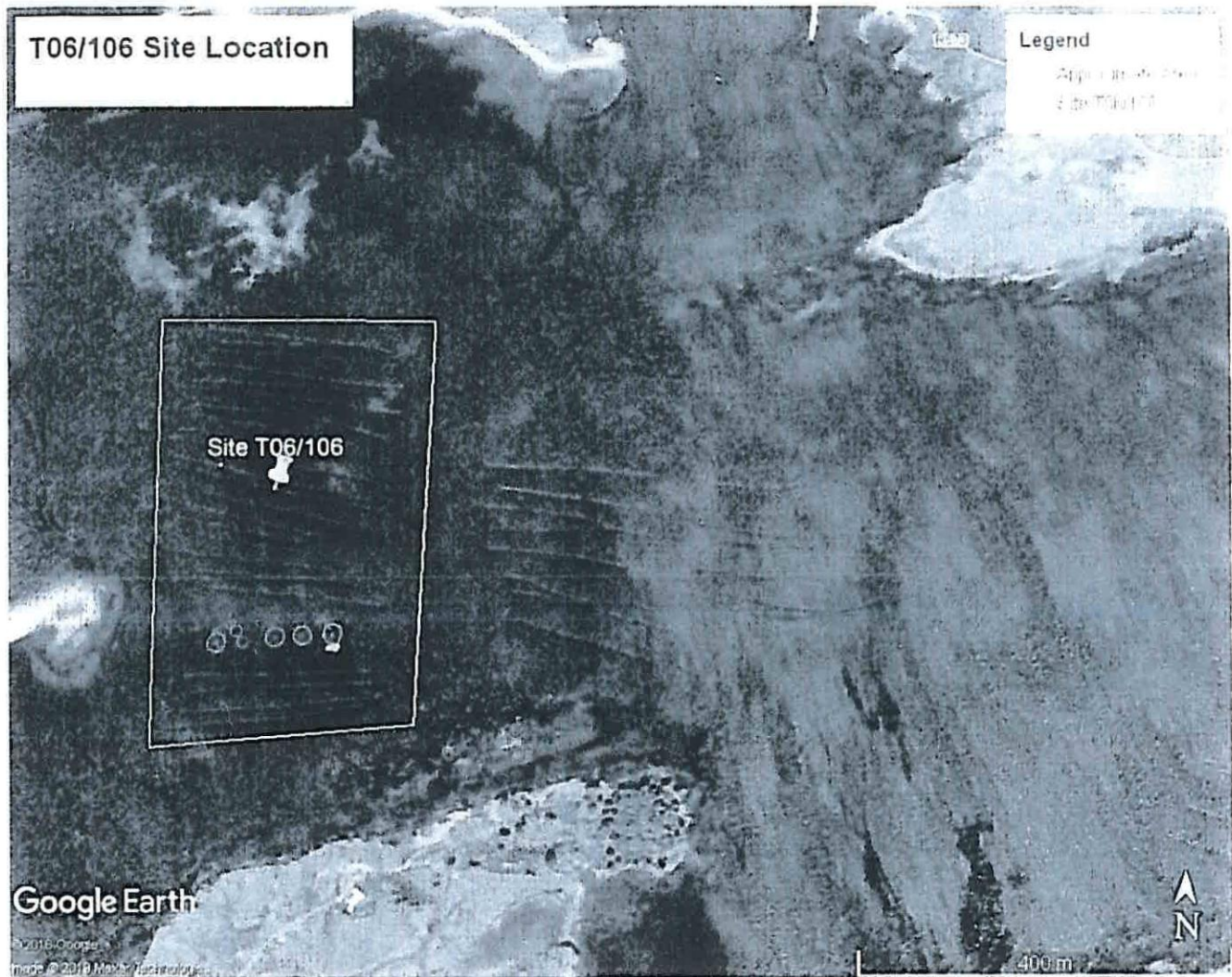
It would be ecologically unsound to increase the number of longlines per license in Kilmackilloge in light of the BIM/ Garry McCoy Report, as there is a stocking density issue to be considered. A uniform longline stocking density of 3 longlines per licenced hectares, based on previous original licenced hectares, is an appropriate stocking density for successful growth of all mussels in all farms. 5 longlines per hectare was excessively high and 7 longlines per hectare is effectively a micro filter stopping all food to other farms. The site should be allowed 10 longlines or 5 double longlines at most. I believe that this is the highest density of longlines ever applied for in Irish aquaculture (see Google Earth image as Appendix 2).

References:

1. Harnessing Our Ocean Wealth, DAFM, 2012
2. Marine Planning Policy Statement, DHPLG, 2019
3. G. McCoy * 'Kilmackilloge Harbour 2017 Study' (Provisional title) BIM / DAFM
4. AQUAFAC AP2/2013 Killary Mussel Licence Renewal Appeal, AQUAFAC International Services Ltd, 2013
5. The UISCE (Understanding Irish Shellfish Culture Environments), UISCE report for DAFF on Killary Harbour, August 2010.
6. Nunes, J. P., J. G. Ferreira, S. B. Bricker, B. O'Loan, T. Dabrowski, B. Dallaghan, A. J. S. Hawkins, B. O'Connor, and T. O'Carroll. Towards an ecosystem approach to aquaculture: Assessment of 40 JN1204 Killary Harbour Mussel Licence Renewal Appeal Aquaculture Licences Appeals Board June 2013 sustainable shellfish cultivation at different scales of space, time and complexity. Aquaculture 315, no. 3 (2011): 369-383.
7. Co-ordinated Local Aquaculture Management Systems (C.L.A.M.S.) Explanatory Handbook http://www.bim.ie/media/bim/content/BIM_CLAMS_Explanatory_Handbook.pdf

* Shellfish Productivity Optimization Officer at Bord Iascaigh Mhara

Appendix 2: Google Earth image of site showing very high concentration of long lines.



Note: Image shows site when it featured a salmon farm (circular enclosures). This area has now been covered with long lines. The concentration of so many lines on one site is believed to be unprecedented in Ireland.