

AP2/2015 Shot Head

Oral Hearing Paper provided

by

Tony Lowes

Friends of the Irish

Environment

OHara, Mary

From: Tony Lowes [admin@friendsoftheirishenvironment.org]
Sent: 20 September 2017 05:51
To: Alab, Info
Subject: Re: AP2/2015 Shot Head - website update
Attachments: ALAB P_presentation_for_19.9.17.1.docx

Presentation by Friends of the Irish Environment

Aquaculture Licences Appeals Board [AP2/12/2015]

Resumed Oral Hearing Shot Head licence Marine Harvest Ireland [TO5/555]

19 September, 2017

As requested. Please acknowledge.

Friends of the Irish Environment

*Friends of the Irish Environment is a non-profit company limited by guarantee registered in
Ireland.*

It is a member of the European Environmental Bureau and the Irish Environmental Network.

Tel & Fax: 353 (0)27 74771 / Hotline: 087 2176316

Email: admin@friendsoftheirishenvironment.org

**Registered Office: Kilcatherine, Eyeries, Co Cork, Ireland. P75 CX53
Company No. 326985.**

Directors: Caroline Lewis, Tony Lowes

On 15 September 2017 at 14:51, Alab, Info <Info@alab.ie> wrote:

To whom it concerns

Please note that additional material under the heading of Section 47 has been updated on the ALAB website including Section 47 request to the Minister for Agriculture, Food and the Marine which was subsequently withdrawn and supplemental information from Inland Fisheries Ireland in response to the Boards Section 47 request of 6 October 2016.

Regards

Mary

Mary O'Hara

Aquaculture Licences Appeals Board

Kilminchey Court

Portlaoise

Co Laois

R32 DTW5

Phone: 057 8631912

Presentation by Friends of the Irish Environment

Aquaculture Licences Appeals Board [AP2/12/2015]

Resumed Oral Hearing Shot Head licence Marine Harvest Ireland [TO5/555]

19 September, 2017

In our presentation of 14 February 2017 to this Oral Hearing, we outlined and argued that no licence should be approved by this Aquaculture Licences Appeals Board because the current governance perpetuates a real and perceived conflict of interest and an inadequate separation of functions within the Department.

Let us proceed, then, and see how this affects the document that this Oral Hearing has been reconvened to consider, 'Water Quality Modelling for all existing & currently proposed salmon farm sites in Bantry Bay' and the approval of the licence issued by the Department.

The Report we have in front of us proports to 'investigate the effects on water quality of further development of salmon farming activities in Bantry Bay, County Cork, to include the addition of a 3,500 tonne biennial production site at Shot Head, draft licence now granted, plus a harvesting site, maximum stranding stock 300 tonnes at Waterfall in Berehaven'.

At the heart of this modelling lies the number and size of the fish that are to be cultivated – the licensed stocking rate.

But as we pointed out in February, the Department's own Marine Engineering Division Marine Fish Farm Inspection Reports confirm overstocking at Marine Harvest's Inishfarnard site in the south west from at least 2012 to date, in spite of the request for additional capacity having been refused by the Minister in 2010 and in defiance of the Marine Engineering Division's explicit annual representations requesting the ending of overstocking.

New information that we bring before the Board today substantiates what we have said about the continued over stocking, and renders the stocking level on which the

analysis before us is based and so the conclusion of the Report itself on environmental impact entirely meaningless.

The new information we provide is as a result of the Decision of the Commissioner for Environmental Information on our appeal [Case CEI/16/0004 16 January 2017] against the Department of Agriculture, Food and the Marine, in which he stated 'The information on numbers of fish (and weights of fish, since that can indicate numbers of fish when their age is known) is crucially important environmental information', summarising 'I do not accept that numerical information about fish ought to be withheld from the public on grounds of commercial sensitivity'.

Thus, the Report of the Principle Officer which was provided to us initially by the Department under the Access to Information on the Environment legislation with the stocking rates at Inishfarnard redacted was replaced with a copy with the figures intact. We are submitting the unredacted documents electronically and have copies for the parties here. [Unfortunately, the Department has again redacted stocking rates in the release last week to us of the last two years Marine Fin Fish Farm Inspection Reports, requiring a replication of the appeals process which in the above case took more than a year.]

The Inishfarnard site being harvested, which is licensed to contain no more than 500 tons of fish, had a standing stock that was 26% above the permitted level before the input of 820,604 young fish in March 2014, this input itself being 105% in excess of the permitted level of 400,000 fish.

In response to this major non-conformity determined by the Aquaculture Stewardship Council the company made no apology to the certifying body or commitment to meet the stocking requirements, simply stating 'the current limit of 500 tons per annum would require harvest at 1.25 kg which is not a saleable size.' At the Lough Alton hatchery site the company freely admitted the overstocking to the Department, citing 'legitimate and thoroughly justifiable business reason'.

The Principle Officer states 'It can be reasonably stated therefore that the company knowingly breached the terms and conditions of its licence to a substantial degree for clear commercial gain'.

Donegal County Council informed the Department that Lough Alton site has been 'been consistently [emphasis in original] In breach of their [discharge] licence conditions' and 'persistent' requests for an action plan to address the breaches had been met with a refusal by the company who 'cited economic reasons for not implementing the of treatment facilities which their current production rates would demand in order to achieve compliance'.

This accords with the company itself on record to Department in stating the current licensing system is 'Anachronistic, legally and technically meaningless in its application to modern good farming practice'

Yet today the Appeals Board has been asked to accept a Report based on stocking figure for which this company has never had any regard and a system that it calls 'meaningless in its application to good farming practices'. And, yet worse, it is being asked by this company *ipso facto* to confirm the decision of the Department not to rescind their licence for overstocking but to REWARD them with another licence.

At the very least, this Board should exercise its authority under Section 46 of the Act in the interests of justice and ask the Department to address the conflict of interest in arriving at its decision to grant the licence, including seeking legal advice from the Office of the Attorney General on the matter of conflict of interest, demanding that this advice be provided to this Appeals Board

To approve this licence will confirm the objective bias arising from the failure of the Department to enforce the separation of functions arising from its dual role as Regulator and developer in the licensing process. To quote the Department itself: 'The long-term effect this would have on the development of the industry is as serious as it is obvious'.

Tony Lowes

19.09.17

