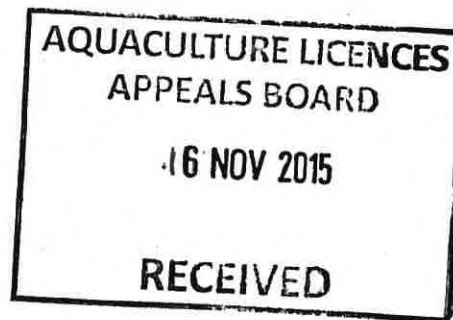


SAVE BANTRY BAY

Mary O'Hara
THE AQUACULTURE LICENCES APPEALS BOARD
Kilminchy Court
Dublin Road
Portlaoise
Co. Laois



9 November 2015

Dear Ms O'Hara;

RE: ALAB Ref AP2/2/2015 – Appeal against the refusal by the Minister for Agriculture for Food, and the Marine to grant Aquaculture Licences to Bradan Fanad Teo t/a Marine Harvest Ireland, Kindrum, Fanad, Letterkenny, Co. Donegal on site Ref: T5/555 for the cultivation of Atlantic Salmon; *Salmo Salar* on a site on the foreshore at Shot Head, Bantry Bay, Co. Cork.

We received a copy of Marine Harvest's appeal in the pack containing all appeals in relations to the award of Licence T5/555, which you posted us on 23 October 2015.

Under Section 44(2) of the Fisheries (Amendment) Act, 1997, we are entitled to make submissions and or observations in relation to the appeal. Below is our submission regarding the appeal lodged by Marine Harvest in relation to licence T5/555.

In their appeal, Marine Harvest state in the last paragraph under the heading 'Other':

'Marine Harvest Ireland submitted its application in June 2011 for this aquaculture licence and accompanying foreshore license under the applicant name Bradan Fanad Teo trading as Marine Harvest Ireland. However in the intervening 4 years, the applicant company has been consolidated into Comhlucht Iascaireachta Fanad Teoranta (CIFT) thus we request that the licences are issued under the following name:

Comhlucht Iascaireachta Fanad Teoranta, trading as Marine Harvest Ireland, Kindrum, Fanad, Letterkenny, Co. Donegal.'

However, the licence states:

'Assignment

10.4. This Licence shall not be assigned without the prior written consent of the Minister and may not be assigned during the period of three years, dating from the commencement or renewal of this licence, unless the Minister determines that it may be assigned under condition 10(5) or the condition set out in 10(6) applies.

10.5. A Licensee, who considers that there are exceptional reasons for the assignment of the Licence during the first three years, may apply to the Minister, giving those reasons, for a determination that the Licence may be assigned. The Minister may, at his discretion, having considered the reasons given by the Licensee, determine whether or not the Licence may be assigned. The determination of the Minister in this regard is final.

10.6. Where the Licensee is a company (within the meaning of the Companies Acts) and goes into Liquidation (within the meaning of the Companies Acts) in the first three years dating from the commencement of the licence, the Liquidator shall, with the consent of the Minister, be entitled to assign the licence to enable him to discharge any debts of the liquidated company.

10.7. This licence is issued subject to any order that the High Court may make under section 218 of the Companies Act 1963 or otherwise with regard to the assignment of this licence.'

Given Bradan Fanad Teo has been consolidated into Comhlucht Iascaireachta Fanad Teoranta and, as such, no longer exists as a legal entity. As part of the merger process and as a matter of Irish corporate law, Comhlucht Iascaireachta Fanad Teoranta would be expected to have assumed the assets and liabilities. In the case of an assignment of the license, however, the statute prescribes a specific procedure for, and imposes certain restrictions on the assignment of the license. These specifications govern the process for a legitimate assignment of the license (above and beyond any more general common law rules) and do not seem to have been complied with in the present circumstances.

Yours sincerely,



Alec O'Donovan,
Secretary, Save Bantry Bay
Newton House,
Bantry, Co. Cork.

www.savebantrybay.com

savebantrybay2012@gmail.com