



Mr. Francis Gallagher,  
Derryness,  
Ardara,  
Co. Donegal.

**10 October 2019**  
**Our Ref: T12/405A**

**FISHERIES (AMENDMENT) ACT, 1997 (NO.23)**  
**NOTICE OF MINISTERIAL DECISION TO REFUSE AN AQUACULTURE LICENCE AND FORESHORE**  
**LICENCE.**

Dear Mr. Gallagher,

I wish to inform you that the Minister For Agriculture, Food and the Marine has refused the granting of your application for an Aquaculture Licence and accompanying Foreshore Licence, for the cultivation of Pacific Oysters using bags and trestles in Loughros Mór Bay, Co. Donegal on Site Reference T12/405A (see attached information note). I enclose a copy of the public notice of the decision which **the Department** has arranged to have published in “**The Donegal Democrat**”.

Any person aggrieved by the decision may, in accordance with Section 41 of the Fisheries (Amendment) Act 1997, appeal against it in writing to the Aquaculture Licences Appeals Board. This appeal must be lodged within one month beginning on the date of the publication of the decision.

In addition, a person may question the validity of the Foreshore Licence determination by way of an application for judicial review, under Order 84 of the Rules of the Superior Court (SI No. 15 of 1986). Practical information on the review mechanism can be obtained from the Citizens Information Board at: <http://www.citizensinformation.ie/>

Yours Sincerely,

**Evan Kelleher**  
*Executive Officer*  
*Aquaculture & Foreshore Management Division*



**S.12 (3) OF THE FISHERIES (AMENDMENT) ACT, 1997(NO.23)  
INFORMATION NOTE TO APPLICANT FOR THE PURPOSE OF REGULATION 18 OF THE  
AQUACULTURE (LICENCE APPLICATION) REGULATIONS 1998**

**REFERENCE NO:** T12/405A

**APPLICANT:** Francis Gallagher

**AQUACULTURE TO WHICH  
DECISION RELATES:** Pacific Oysters (*Crassostrea Gigas*) using bags and  
trestles in Loughros Mór Bay, Co. Donegal with  
Site Reference **T12/405A**

**NATURE OF DECISION:** Refusal of Licence.

**DATE OF DECISION:** 10 October 2019

**REASON FOR REFUSAL:**

The Minister for Agriculture, Food and the Marine has determined that it is not in the public interest to grant Aquaculture/Foreshore Licences for this site. In making his determination the Minister considered those matters which by virtue of the Fisheries (Amendment) Act 1997, and other relevant legislation, he was required to have regard. Such matters include any submissions and observations received in accordance with the statutory provisions. The following are the reasons and considerations for the Minister's determination to refuse the Licences sought: -

- *The proposed site is unsuitable for aquaculture for reasons including the high elevation of the site, water quality concerns and long exposure times of oyster stock to the air;*
- *The high elevation of the proposed site relative to the bay would result in poor growth and survival conditions for the oysters. This is due to long exposure times of oyster stock to the air when the tide goes out. The oysters would be uncovered for approximately four hours per tide cycle leading to food safety concerns and high mortality rates;*
- *The primary outfall discharge point for the Ardara sewage scheme is proximate to the site (Coordinates 171679, 391662). The presence of a town sewage outfall in close proximity to the proposed aquaculture raises significant water quality and food safety concerns due to the enclosed nature of the bay and the*



*continuous discharge from the outfall. The centre of Site T12/405A is within 450m of the outfall location. As the outflow is not restricted to high tides, effluence remains in the bay for longer periods;*

- *Possible scenic impacts from the proposed aquaculture are considered moderate. Views may be affected from the Wild Atlantic Way;*
- *Parts of the site extend into the low water branch of the Owenea River and would potentially impede salmonid migration upstream for spawning;*
- *Public access to recreational and marine leisure activities may be hindered by this project;*
- *The proposed site is not located within a designated Shellfish Growing Waters Area. Oysters in this area are currently not classified under Annex II of EU Regulation 854/2004;*
- *Taking account of the issues raised during the public and statutory consultation phase.”*



**Extract from Copy of Public Notice to be inserted  
in 'The Donegal Democrat'  
by the Department**

**FISHERIES (AMENDMENT) ACT, 1997 (NO. 23) & FORESHORE ACT, 1933 (NO. 12)  
NOTICE OF DECISION TO REFUSE AQUACULTURE AND FORESHORE LICENCES**

The Minister for Agriculture, Food and the Marine has decided to refuse Aquaculture and Foreshore Licences to:

<b>File Reference</b>	<b>Applicant</b>	<b>Minister's Decision</b>	<b>Species, Location, No. of Sites and Site Reference</b>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T12/405A	Francis Gallagher, Derryness, Ardara, Co. Donegal.	Refuse	Pacific Oysters using bags and trestles in Loughros Mór Bay, Ardara, Co. Donegal – 1 site: T12/405A

The reasons for these decisions are set out on the Department's website at:

<https://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquaculturelicencedecisions/donegal>

An appeal against the Aquaculture Licence decision may be made in writing, within one month of the date of its publication, to THE AQUACULTURE LICENCES APPEALS BOARD, Kilminchy Court, Portlaoise, Co. Laois, by completing the Notice of Appeal Application Form available from the Board, phone 057 86 31912, e-mail [info@alab.ie](mailto:info@alab.ie) or website at <http://www.alab.ie/>

A person may question the validity of the Foreshore Licence determination by way of an application for judicial review, under Order 84 of the Rules of the Superior Court (SI No. 15 of 1986). Practical information on the review mechanism can be obtained from the Citizens Information Board at: <http://www.citizensinformation.ie/>



**FORESHORE ACT, 1933**  
**NOTICE OF DECISION TO REFUSE FORESHORE LICENCES**

The Minister for Agriculture, Food and the Marine has decided to refuse Foreshore Licences to:

<b>File Reference</b>	<b>Applicant</b>	<b>Minister's Decision</b>	<b>Species, Location, No. of Sites and Site Reference</b>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
T12/405A	Francis Gallagher, Derryness, Ardara, Co. Donegal.	Refuse	Pacific Oysters using bags and trestles in Loughros Mór Bay, Ardara, Co. Donegal – 1 site: T12/405A

to carry out Aquaculture on an area of foreshore in Loughros Mór Bay, Ardara, Co. Donegal. The reasons for these decisions are set out on the Department's website at:

<https://www.agriculture.gov.ie/seafood/aquacultureforeshoremanagement/aquaculturelicensing/aquaculturelicencedecisions/donegal>

A person may question the validity of the Foreshore Licence determination by way of an application for judicial review, under Order 84 of the Rules of the Superior Court (SI No. 15 of 1986). Practical information on the review mechanism can be obtained from the Citizens Information Board at: <http://www.citizensinformation.ie/>

The documentation upon which the Minister determined the application may be inspected free of charge at the Department's Offices in Clonakilty, Co. Cork, by contacting the Aquaculture & Foreshore Management Division on 023 8859500.