

AQUACULTURE LICENCES APPEALS BOARD BOARD MEETING 15.0M q

Portlaoise

24 November 2015. Commencing 8am (meeting concluded at 13.00hrs).

Minutes

Present: Imelda Reynolds (Chairperson), Sean Murphy, Jim Power, Dr Owen McIntyre, Michael Sweeney, Lorcán Cinnéide

In attendance: Mary O'Hara, Board Secretary;

15.08.01 - Conflict of Interest

All Board members confirmed that they had no conflict of interest in any of the matters before the Board for consideration at the meeting.

For the information of the Board, Lorcán Cinnéide advised that his reappointment as a board member of the Marine Institute remained imminent.

Sean Murphy advised the Board that he had been CEO of Nutreco BV (Ireland) of which Marine Harvest (the Applicant, and one of the Appellants in appeal AP2/2015) was a subsidiary until 2003. Nutreco no longer owns the company. On Mr Murphy's retirement in 2003 he severed all connections with Nutreco and Marine Harvest and holds no interest in either company. He advised that he also served in the past as executive chairman of the Irish Seafood Producers Group and as director of the Irish Salmon Growers Association. Marine Harvest were shareholders in the former and members of the latter. However on his retirement in 2003 he severed all connections with both.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]



[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[REDACTED]

15.08.10 AP2 /2015 Shot Head Bantry Bay

The Board noted again the disclosures made by Board members Lorcan O'Conneide and Sean Murphy, namely as to membership of the board of the Marine Institute and as to former employment with Fanad Fisheries, in the context of Appeal AP2/2015. A discussion ensued as to

the implications of these relationships, particularly in light of the recent Supreme Court decision in the case Reid v IDA which considered the issue of bias and established a test for considering whether a perception of bias arises. The Board noted that some of the appellants in the appeal had specifically raised the issue of conflicts of interest by particular Board members. Having considered the matter the Board agreed ALAB should seek its own legal advice from Counsel in advance of any decision making of the AP2/2015 appeals. Board members Sean Murphy and Lorcan O'Conneide agreed to provide details of their resumes for this purpose. The Board noted that these interests will be recorded in the Register of Interests.

The Secretary confirmed that:

1. Acknowledgment letters had issued to each of the Appellants;
2. Copies of appeals issued to the Minister and a request was made of the Minister for the DAFM file;
3. The ALAB website had been updated;
4. Copies of all appeals (other than their own) were forwarded to each appellant in accordance with Section 44(1) of the Act and each party had been advised that the books and DVDs submitted with Appeal AP2/3/2015 could be viewed at ALAB's offices by appointment.
5. The following notice had been posted on the ALAB website in connection with this appeal:  

'In accordance with Section 45(1) a person who is not a party may make submissions or observations in writing to the Board in relation to an appeal. Such submissions or observations may be made on or before Monday 16 November 2015, being the period of one month beginning on the day on which the Board last received a notice of appeal. As provided for in Section 45(2) any submissions or observations received by the Board after the expiration this period shall not be considered by it.'
6. The DAFM file was received. Copies issued by DVD to all Board Members. The DAFM file will be sent to all Board Members using an encrypted USB. The DAFM map was provided separately by email.
7. 5 submissions were received from Appellants in respect of other submissions, and were acknowledged, as follows:

Salmon Watch (received 23 November 2015);

Save Bantry Bay (received 9 November 2015);

Mr John Brendan O'Keeffe (received 16 November 2015 along with 2 photos emailed);

Marine Harvest (received 23 November 2015 which included a Water Quality report carried out by RPS) ; and

O'Shea (received 20 November 2015).

The board noted that all these submission had been received in time.

The Board considered the matter of an Oral hearing again and confirmed that it was not as yet in a position to determine whether an Oral Hearing was warranted.

As had been agreed at the last Board meeting, the expert panel of Technical Advisors used by ALAB were requested to examine the grounds of appeal and give an initial outline for the Board as to how they would approach the evaluation of the appeal grounds. The Board had requested that the core issues of the appeal be identified and consolidated in a single report. The technical Advisors were required to submit a proposal and submission, a brief scoping study and were invited to make a presentation to the Board.

The Board noted that when contacted, Aquafact disclosed they were conflicted and therefore were not in a position to evaluate.

Reports were provided by both Altemar and RPS. The reports presented by Altemar and RPS summarised the issues each had identified and the grounds of the appeals, and suggested a proposed methodology for progressing the appeal. They identified the core issues for the Board and where information would be required.

The board noted that although RPS had submitted this preliminary report, it also disclosed that modelling reports had been conducted by RPS for the Applicant in response to a DAFM request for information. It did not consider this a conflict. The Board considered this and concluded it was a conflict which would prevent the Board engaging RPS acting as the Board's technical advisor in this appeal.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
Dated the 19 day of January 2016

Imelda Reynolds

ImeldaReynolds

CHAIRPERSON

