

Ref:- B. A. 1
(Please quote the above reference no)

AN BORD PLEANÁLA	
TIME <u>3/26</u>	BY <u>Henel</u>
20 JUN 2003	
LTR.- DATED _____	FROM _____
PL _____	

Michael Hoey &
Quigleys Boat Hire
Spencer Bridge
Rathangan
Co Kildare

20th June 2003

An Bord Pleanála
64 Marlborough St.
Dublin 1

Meath Eastern Regional Water Supply

Provisional Order

0502 MH.

File Ref:- CW0505

Petition

Further to your recent public Notice, wish to lodge a petition to the Board not to confirm the above Provisional Order without further enquiry.

On the grounds,-

1. All aspects of the prescribed regulations have not been complied with.
2. That An Bord Pleanála is a planning Appeals Board and is not designated as a competent authority to grant development consent.
3. There is no statutory basis for carrying out an Environmental Impact Report it is a **lame excuse for not doing an Environmental Impact Statement as required.**
4. There is no statutory mechanism activated or invoked to establish what alternatives were considered.
5. There is no statutory mechanism activated or invoked to establish the cumulative effects.
6. The fact that the Bord have accepted an Environmental Impact Report indicates that an Bord Pleanála are not a competent Authority.

7. The inconsistencies in decisions taken by the Board for failure implement the EIA Directive in relation to, in relation to surface and groundwater abstractions in Counties Meath, Kildare, Laois and Offaly is further proof of an incompetent Authority.
In Particular:
ED 2019, ED2020, ED2021, ED2023
EC2011, EC2012,
CW0501
8. All Plans and Schemes prepared by a Local Authority are to be Subject to The EIA/ SEA Directive
9. There is a mandatory requirement to apply the EIA assessment and the SEA.
10. The board do not have the necessary information to establish the sustainability of this project in compliance with of Section 34 (2)(a) of the Planning and Development Act 2000. In that the necessary assessment has not been carried out.
11. I have been denied access to the complete file by Meath County Council last Wednesday the 11th June 2003 therefore I am unable to make a fully informed submission.
12. This development impacts directly on a SAC The Boyne River, The habits regulation require the an Environmental Impact Statement be submitted on this proposed development.
13. This project requires an EIA to be carried out and An EIS presented which will enable the public to engage in the decision making process in a meaningful way.
14. Water from the Mid Kildare Aquifer precipitates into the drains and streams and tributaries of the River Boyne an therefore this development is premature pending the outcome of South Easter and Eastern River Basin Management projects which are being established to protect and restore the Quality and Quantity of Water.
15. The effects on the Navigation have not been assessed properly.
16. I am Objection under section 21 of the Water Supplies Act 1942
In that the taking of water in accordance with such proposal will make the navigation of such navigable water impossible or unreasonably difficult.
17. The source of the water has not been identified or assessed properly.,

Reference No1 of 1942

“Definitions.

1.—(1) In this Act—

the expression "source of water" means any lake, river, stream, well, or spring; the expression "ancillary operations" means any of the following operations, that is to say, the embanking, damming, dredging, deepening, widening, straightening, diverting, altering the level of, or otherwise affecting a source of water or any lake, pond, river, canal, or other water connected directly or indirectly with a source of water;”

17. Specific and or Fundamental Argument

Article 1(1) of the Directive 97/11/EC states that:-

"Member States shall adopt all measures necessary to ensure that, before consent is given, projects likely to have significant effects on the environment by virtue, inter alia, of their nature, size or location are made subject to a requirement for development consent and an assessment with regard to their effects. These projects are defined in Article 4."

Article 4 (2) provides that:

"Projects of the classes listed in Annex II shall be made subject to an assessment, in accordance with Articles 5 to 10, where member states consider that their characteristics so require. To this end member states may inter alia specify certain types of projects as being subject to an assessment or may establish the criteria and/or thresholds necessary to determine which of the projects of the classes listed in Annex 2 are to be subject to an assessment in accordance with Articles 5 to 10."

Article 4 requires that projects of classes listed in Annex 1 to the Directive are made subject to such an assessment. Article 4 (11) defines groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres. The Irish authorities transposed the European (EIA) Directive 97/11/EC into Irish Law, under the provisions of the European Communities (EIA) (Amendment) Regulations, 1999 (S.I. No 93 of 1999 and the Local Government (Planning & Development) Regulations 1999 (S.I. No. 92 of 1999). These regulations establish that an EIS is required if the expected supply would exceed 2,000,000³ per year, which equates to approximately 5,480³ per day.

. In the Supreme Court in *(Nathan-v-Bailey Gibson)* [1996] ELR 114 at 124 ruled that

"It is well established that national or domestic courts in interpreting a provision of national law designed to implement the provisions of a Directive, should interpret their national law in the light of the wording and the purpose of the Directive in order to achieve the results envisaged by the Directive."

The purpose of Directive 97/11/EC is to provide the competent authority/s and the public with specified information to enable them to take a decision on a specific project in full knowledge of the project's likely significant impacts direct and indirect on the environment. The environmental assessment procedure is a fundamental instrument of environmental policy as defined in Article 130r of the European Treaty and of the European Fifth Environmental Action Programme of policy and action in relation to the environment and sustainable development

Therefore I am requesting the Board to refrain from confirming the above Provisional Order without further enquiry and the submission of the mandatory Environmental Impact Statement for public consultation.

Yours Sincerely



Michael Hoey and for and on behalf of and Quigley's Boat Hire