

Thursday, the 26th day of May 2005

BEFORE MR. JUSTICE ABBOTT

IN THE MATTER OF THE WATER SUPPLIES ACT 1942

**AND IN THE MATTER OF THE KILDARE WATER STRATEGY -
PROPOSAL TO ABSTRACT WATER FROM THE RIVER BARROW AT
SROWLAND ATHY COUNTY KILDARE PROVISIONAL ORDER 2003**

**AND IN THE MATTER OF THE PETITION OF CANALWAYS IRELAND
LIMITED**

BETWEEN:

CANALWAYS IRELAND LIMITED

Plaintiff/Appellant

-AND-

KILDARE COUNTY COUNCIL

Defendant /Respondent

The Appeal on behalf of the Plaintiff from the Order of the Circuit Judge for the County of Kildare made herein dated the 30th day of March 2004 pursuant to Notice of Appeal dated 7th day of April 2004 made onto the Court on the 14th day of February 2005 and same being at hearing on the 21st day of February 2005 the 14th day March 2005 the 4th day of April 2005 the 10th day of May 2005 the 11th day of May 2005 and on this day

WHEREUPON and on reading the Notice of Appeal the said Order the Affidavit of Michael Hoey sworn on the 20th day of February 2004, the Affidavit of John Murphy sworn on the 19th day of March 2004, the Affidavit of Michael Hoey filed on the 14th day of February 2005, the Affidavit of John Murphy filed on the 22nd day of February 2005, the Affidavit of Michael Hoey filed on the 24th day of February 2005, the Affidavit of Emer Joyce filed on the 28th day of February 2005,

the exhibits referred to in said Affidavits and the written legal submissions of Counsel for the Appellant and Counsel for the Respondent.

AND on hearing Counsel for both parties.

AND the Court having been informed that the petition between Valley Boats Limited, Petitioner and the County Council of the County of Kildare, Respondent (Record No. EQ008/04) had been discontinued on the 26th day of May 2004.

IT IS ORDERED that the Order made by the Circuit Court dated 30th day of March 2004 be varied as follows:

1. That the Provisional Order made by An Bord Pleanala dated the 4th day of November 2003 and entitled the "Kildare Water Strategy -- Proposal to Abstract Water from the River Barrow at Srowland, Athy, County Kildare Provisional Order 2003" do have force of law without further enquiry.
2. That in the event of the Respondent proposing to bore a well or wells within its functional area for the supply of water downstream of the abstraction point at Srowland, the Respondent shall submit all such proposals accompanied by an Environmental Impact Statement, to An Bord Pleanala for prior approval.

IT IS FURTHER ORDERED that the Notice of Motion herein to the Circuit Court dated the 20th day of February 2004 be amended by the substitution of the word "Petition" for the words "Notice of Motion" and that the Appellant do pay the appropriate stamp duty for such Petition.

AND IT IS FURTHER ORDERED that the Respondent do pay the Appellant the costs of the appeal such costs to be taxed in default of agreement.

Liberty to apply.

A Copy which I attest

P. K. Kilty
.....
Superintendent of Copyist

M. Matheson
REGISTRAR

James B. Joyce & Co.,

Solicitors for the Petitioner/Appellant

Arthur Cox,

Solicitors for the Respondent

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NO FEE
OFFICIAL DUPLICATE