

Closing Statement on behalf of the Minister for Communications, Energy and Natural Resources to An Bord Pleanála oral hearing in respect of the Corrib Gas Pipeline

On behalf of the Minister for Communications, Energy and Natural Resources, officials of the Department, together with consultants engaged by the Department gave evidence to the oral hearing with respect to the following:

- details of the commencement of the Petroleum (Exploration and Extraction) Safety Act, 2010;
- an outline of the consent process pursuant to section 40 of the Gas Act, 1976, as amended, including submissions with respect to the Safety and EIS review elements of this process;
- the appropriate standard(s) to apply to the design and construction of High Pressure Untreated Natural Gas Pipelines; and
- security of energy supply.

To develop aspects of the evidence already provided on behalf of the Minister and in the context of queries raised and clarifications sought during the course of this oral hearing, this closing statement will address the following issues:

- monitoring of compliance with consent conditions
- standards applying to the design and construction of upstream gas pipelines
- physical security of energy installations
- energy security of supply
- appropriate assessment of any future natural gas development
- issues raised concerning the Section 40 process and its interaction with the Board's process

The Department will also provide an update on behalf of both Entec and Environ in terms of the current status of their respective reviews with regard to the safety and EIS elements of the Corrib gas pipeline application made to the Minister pursuant to section 40 of the Gas Act, 1976, as amended.

Monitoring of Compliance with Consent Conditions

In terms of safety, as described in the Department's opening statement, the methodology employed by the Minister in terms of his safety review of the Corrib Gas Pipeline is to ensure that the activities carried out by petroleum undertakings and the infrastructure they construct, design, install, maintain, modify, operate and decommission is done in such a manner as to reduce any risk to safety, to a level that is as low as is reasonably practicable in line with international best practice.

In its closing statement to the first sitting of this oral hearing, the Department set out details of the verification processes it currently employs with respect to the Kinsale and Seven Heads Gas Fields in terms of construction, commissioning and operation. Mr. Gerard Keane also provided some additional clarity in this regard, to this hearing on 8 September.

It is envisaged that these processes would apply to the Corrib Gas pipeline were the Minister minded to approve the application made to him on 31 May 2010 pursuant to section 40 of the Gas Act, 1976.

Ultimately, however, should the Corrib gas pipeline application receive all statutory approvals required, it would come under the regulatory framework to be developed by the Commission for Energy Regulation pursuant to the requirements of the Petroleum (Exploration and Extraction) Safety Act 2010. Accordingly, it would be subject to the statutory requirements set out in the risk-assessment framework being established by the Commission in terms of what the legislation provides with regard to the submission of a safety case, the criteria for the grant of a safety permit and the auditing and monitoring regime prescribed by the 2010 Act.

In relation to environmental monitoring, Condition 13 of the 2002 consent required the establishment of an Environmental Monitoring Group (EMG). The EMG, which is chaired by the Department of Communications, Energy and Natural Resources, includes representatives of a number of public bodies including Mayo County Council, local fishing representatives, community representatives and representatives of the developer. The three community representatives currently on the EMG were nominated through a process facilitated by Mayo County Council in 2007. In that process, all registered community groups within the area in which the project is located were invited to nominate candidates for election as community representatives on the EMG.

In relation to the reports of the EMG, it is the practice that the minutes of each meeting are published on the Department's website once they have been agreed at the next meeting of the EMG and the detailed reports from the developer are also published on the Department's website. I understand that following a recent re-organisation of the Department's website the link to the detailed reports was broken. This is now being restored.

Condition 11 of the 2002 consent to construct the Corrib Pipeline requires that an Environmental Management Plan (EMP) be submitted by the developer to the Minister for approval prior to the commencement of works. The EMG is among the bodies consulted on the content of the EMP as part of the Minister's assessment in considering whether or not it is acceptable.

To monitor compliance by the developer with the conditions attaching to the EMP for the construction of the offshore element of the Corrib pipeline, the Department appointed an independent ecologist who conducted a number of site visits and furnished weekly reports of the works being undertaken throughout the construction phase and their compliance with the consent conditions. These reports were made available to the EMG and were posted on the Department's website for public information.

Under the existing consents from the Minister and the Board there are two monitoring groups, i.e. the EMG which is chaired by DCENR and the PMC chaired by Mayo Co. Council. The EMG's remit relates to the existing S40 pipeline consent and the PMC's remit relates to the planning permission for the terminal.

In the event that the Minister is satisfied that he could approve the current application to construct the Corrib gas pipeline, and mindful of the necessity to implement and discharge the respective statutory obligations, similar control measures would be considered. The Minister would also give consideration to the fact that consent for the onshore pipeline has been sought from An Bord Pleanála and that in the event that the Board were to grant permission that any such consent might also include conditions in relation to monitoring.

The appropriate standard(s) to apply to the design and construction of High Pressure Untreated Natural Gas Pipelines

A Further matter for which I would like to offer clarity is with respect to the questioning of the NSAI Director of Standards with regard to why the NSAI did not include DNV-OS-F101 in a list of recommended standards for the high pressure untreated natural gas pipeline project.

The Director answered that NSAI was recommending the use of National and International Standards as these fell within its jurisdiction as a National Standards Body. Although the BSI publications do not fall within its jurisdiction, BSI is a fellow National Standards Body and thus NSAI has very often referenced its publications.

The NSAI has informed this Department that not referencing DNV-OS-F101 should not be taken as any comment by NSAI on the value of this document. The list of standards referenced by NSAI is a high level list and does not presume to be fully comprehensive. However NSAI wishes to point out that the standards referenced do also make references to other standards some of which are normative and others informative. It should be noted that PD 8010-2 does in fact reference DNV-OS-F101 amongst other DNV publications.

Physical Security of Energy Installations

The Department undertook to clarify its role in relation to a Directive concerning the security of strategic energy infrastructure. Directive 2008/114/EC deals with the identification and designation of European critical infrastructures and the assessment of the need to improve their protection. It relates to energy and transport infrastructure.

Within the Directive, 'European critical infrastructure' is defined as critical infrastructure located in Member States the disruption or destruction of which would have a significant impact on at least two Member States. While the Directive requires the identification and notification of European critical infrastructure; it does not lay down specific guidelines or measures to be taken for their protection. Infrastructure relating to the Corrib Gas project has not been designated as European critical infrastructure and is unlikely to be so designated in the future, having regard to the fact that such infrastructure must be critical to two EU Member States.

As is the case with respect to downstream security, the onus for the physical protection of the infrastructure is the responsibility of the developer in the first instance and this is underpinned by the State security services.

Energy Security of Supply

In this Oral Hearing questions were raised in relation to: the relative importance of the Corrib Gas Project for Ireland's energy security of supply; the importance of natural gas in Ireland's fuel mix; and where the gas would be sold.

It is important to note that gas is a crucial part of the mix of fuels used to generate Ireland's electricity and currently accounts for more than 50% of electricity generation. Government policy is to move away from reliance on fossil fuels and to move to a low carbon economy. However, in light of the intermittency of wind generation and the timescale for deployment of new renewable technologies, the relative cleanness of gas (when compared to other fossil fuels) and its flexibility, make it the most suitable interim fuel for electricity generation as we continue to build Ireland's capacity in renewable energy sources and phase out oil fired electricity generation. For the same reasons, gas continues to play a crucial role in electricity generation across Europe and beyond.

The degree to which gas from the Corrib Gas Field would meet Ireland's demand for natural gas is a function of the volume of gas produced and the level of demand in the market. In its 2010 Gas Capacity Statement, the Commission for Energy Regulation stated that it expected that Corrib gas could provide 72.9% of Ireland's annual gas demand in the gas year 2012/2013. The Commission goes on to say that the production profile provided to it by the Corrib partners shows production would be reduced to approximately 53% of peak-production within six years.

In relation to where the gas would be sold there is no legal obligation to sell the gas in the Irish market. The position in Ireland in this regard is consistent with international practice. Market forces, however, dictate that where a local demand exists, then natural gas will be sold locally to avoid attracting the cost of transport tariffs. It is also worth noting that at this time neither of the Interconnectors between Scotland and Ireland are engineered for reverse flow.

Appropriate assessment of any future natural gas development

During the course of the oral hearing a number of observers questioned if the Corrib Gas infrastructure might be utilised in the development of any future commercial discovery of natural gas in the region. The position here is that in the event of a commercial discovery being made in the future, the Plan of Development to be submitted to the Minister for that project would be subject to an environmental impact assessment that would include a public consultation phase.

Issues raised concerning the Section 40 process and its interaction with the Board's process

In its statement to this hearing on 17 September, An Taisce made a number of assertions with respect to the legality of the Section 40 process in terms of appropriate assessment and in terms of planning permission. That statement contended that these assertions would have implications for the Board in considering the application under the Strategic Infrastructure Act.

I would like to make the following brief remarks in response to these issues. In the first instance, the Minister is of the opinion that the consent to construct the Corrib Gas Pipeline issued in April 2002 is a valid consent.

The EIS submitted by the developer in 2002 described the proposed approach to be taken for the excavation of the “clay cliff and beach at Dooncarton”. That EIS was the subject of a full public consultation process as required by the Gas Acts as amended by the EIA Directive. It was also subsequently assessed by the Marine Licensing Vetting Committee (the MLVC) which was appointed by the Minister to assist in the assessment of the environmental implications of the Corrib Gas Field Development in light of the applications for statutory permissions to the Department of the Marine and Natural Resources.

The MLVC found that works could proceed subject to the submission by the applicant and approval by the Minister of a detailed method statement, outlining methodologies for the onshore section of the pipeline. It should be noted that such statements were submitted and approved by the Minister prior to the commencement of works in 2002, 2005, 2008 and 2009.

Finally, An Taisce made a submission about the issue of exemption from planning permission. For the information of the Inspector and the hearing, the An Taisce submission does not make reference to the amendment of article 9 of the 2001 Planning Regulations by article 3 of the Planning and Development (Amendment) Regulations 2008 (SI 256 of 2008), which may be of assistance to the Board in its consideration of this issue.

Conclusion

In conclusion, in terms of the administrative process for compliance with the requirements of section 40 of the Gas Act, 1976, as amended, additional information has been sought by the Department’s consultants to ensure that an appropriate assessment has been undertaken. In keeping with the Department’s previous practice in adherence with the provisions of section 40A of the Gas Act, 1976, should it be determined that this information could have a potential impact on the environment, then with the Minister’s permission, the applicant will be required to advertise all such information for a further statutory period of one month, inviting submissions to be made to the Minister from both members of the public and the prescribed bodies under the Gas Acts. While a recommendation has yet to be made to the Minister in this regard it would not be unreasonable to expect that the Minister’s public consultation may be re-opened.

30 September 2010