



PROPOSED CONSTRUCTION OF THE BALLINLAW TO BELVIEW PIPELINE

Report on Oral Hearing into:

Applications to the Commission for Energy Regulation for consent to the construction of a natural gas transmission pipeline.

Application to the Commission for Energy Regulation for the relevant Acquisition Orders.

**Report of
Maurice O'Connell
April 2014.**

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Report on Oral Hearing

1. Introduction

1.1 The Oral Hearing

As directed by the Commission for Energy Regulation I, Maurice O'Connell, hereafter referred to as The Inspector, held an Oral Hearing arising from objections received in relation to the proposed construction of the Ballinlaw to Belview Gas Pipeline for the purpose of supplying gas to the new Glanbia milk processing plant currently under construction at Belview Port, County Kilkenny. The Oral Hearing pertained to all the statutory procedures under the 1976 Gas Act as amended. Specifically the Hearing related to:

(a) Applications to the Commission for Energy Regulation for consent to the construction of a natural gas transmission pipeline.

(b) Application to the Commission for Energy Regulation for the relevant Acquisition Orders.

1.2 Venue and Dates

The Oral Hearing was held at the Granville Hotel, Waterford on Wednesday 12th March 2014. The Hearing concluded on the same day.

1.3 Site Inspection

A site inspection was undertaken on Tuesday 11th March 2014.

Because of the short length of pipeline it was possible to see all points of interest on the proposed line.

1.4 Statutory Requirements

All of the statutory requirements appear to have been complied with. These include the preparation of an Environmental Report, public consultation, appropriate notices to affected parties, submissions to prescribed bodies, etc.

2. Proposed Scheme

2.1 Pipeline

Bord Gais Eireann (BGE) intends to construct a gas pipeline between Ballinlaw and Belview County Kilkenny. The pipeline will have a nominal diameter of 200 millimetres. It will run entirely underground at a minimum depth of cover over the top of the pipe of 1.2 metres but that depth of cover will be increased at various points where additional cover is required. It will have a design pressure of 85 Bar and a maximum operating pressure of 70 Bar. The pipeline length will run to some 5.4 kilometres. The first 2.47 kilometres of the pipe will have a wall thickness of 7.11 millimetres. This represents the section from the off take at Ballinlaw as far as Luffany Stream. For the remainder of its length it will consist of 2.93 kilometres of heavy wall pipe of a thickness of 11.91 millimetres.

2.2 Acquisition Orders

A total of 11 Acquisition Orders in respect of wayleaves and lands were applied for by BGE to the Commission for Energy Regulation (known as the Commission) in November 2013, comprising lands for:

(a) Ten wayleaves for the pipeline from Ballinlaw to Belview. [See Table 1.](#)

(b) One Above Ground Installation Ref. BLB.AGI.01 [See Table 1](#)

Ballinlaw to Belview Pipeline			
Ref. No.	Reputed Owner(s)	Townland(s)	County
BLB.07	Patrick Kearney, Reps. of Alice Kearney & Reps. of Martin Kearney (deceased)	Drumdowney Upper & Drumdowney Lower	Kilkenny
BLB.09	Michael Irish (Junior), John Irish & Margaret Irish	Drumdowney Upper	Kilkenny
BLB.11	William Heffernan & Mary Heffernan	Drumdowney Upper	Kilkenny
BLB.12	James Walsh & Anne Walsh	Drumdowney Upper	Kilkenny
BLB.13	Tom Butler & Mary Catherine Doherty	Gorteens	Kilkenny
BLB.14	Francis Conway	Gorteens	Kilkenny
BLB.16	Patrick Daniel Sands	Gorteens	Kilkenny
BLB.17	Michael Vereker	Gorteens	Kilkenny
BLB.18	Robert A. Doherty	Gorteens	Kilkenny
BLB.20	John Fitzpatrick	Gorteens	Kilkenny
Ballinlaw to Belview Pipeline Schedule A			
Ref. No.	Reputed Owner(s)	Townland(s)	County
BLB.AGI.01	Eamonn Conway	Ballinlaw	Kilkenny

Table 1

3. Appearances

3.1 On behalf of BGE

Mr. David Holland, Barrister
Instructed by Mr. Michael Bolger, Solicitor of O'Flynn Exhams, Solicitors, 58 South Mall, Cork;
Mr. Brian Sheehan, BGE;
Mr. Paul Brady, Consultant;
Mr. Gary Senior, Consultant;
Mr. Dan Garvey, Environment;
Dr. Edward Bolger, Consultant;
Mr. Vincent Murphy, Ecology.

3.2 On behalf of Objectors

Mr. Tom & Mrs. Mary Butler and their representative, Mr. Denis Weir.

3.3 Other Submissions

Mr. Gordon Murphy, Glanbia Ingredients;
Mr. Denis Malone, Senior Planner, Kilkenny County Council (Written).

4. Preliminary / Procedural Announcements

At the commencement of the Oral Hearing the Inspector identified himself and stated that he had been appointed by the Commission for Energy Regulation, herein after referred to as the Commission, to conduct the Oral Hearing. There was one official objection received in relation to Acquisition Order, No. BLB.13. The Commission is required to hold a public hearing where an objection has been received.

The Inspector informed the hearing that he was to be assisted with the proceedings by Ms Yvonne D'Arcy, stenographer. Participants were asked to speak into one of many microphones that were distributed around the room.

The Inspector then informed the hearing of the manner in which it was intended to conduct the business of the day. He would ask BGE, as the proposer of the scheme, to present its case and present such evidence as it wished to, including any observations that it considered appropriate in relation to the grounds of objection that had already been notified.

5. Bord Gais Eireann Evidence

5.1 Mr. David Holland

Mr. Holland outlined the purpose, extent and nature of the project as follows:

The hearing was informed that there are two separate applications to the Commission, one being under Section 39A of the Gas Act 1976 for consent to the construction of a Natural Gas transmission pipeline from Ballinlaw to Belview Port in County Kilkenny. The second application before the Commission is under Section 32 of the 1976 Act asking that the Commission make acquisition orders in respect of various landholdings over which the pipe is to pass and the Acquisition Order will if granted permit BGE to lay and maintain the pipeline on the lands in question and to maintain a particular width which varies depending on the location of wayleave over those lands and further under Section 32 the Commission is asked to confirm deviation limits.

BGE proposes at the request of Glanbia Ingredients to construct this natural gas transmission pipeline from Ballinlaw to Belview Port all through County Kilkenny to supply a new Glanbia milk processing plant currently under construction at Belview Port. The pipeline will draw its supply from the Great Island Pipeline which is currently under construction at a take-off point at Ballinlaw and at that point there will be an isolation valve to isolate the new pipeline in the event of an emergency. The isolation valve is already installed on the Great Island Pipeline to avoid the necessity in due course of what is called a hot tap.

From that take-off point the pipe will run about 5.4 kilometres in a south westerly direction through generally agricultural lands in the townlands of Drumdowney, Upper Mortarstown, Drumdowney Lower and Gurteens to an above ground installation at the Glanbia factory. In its latter sections it runs through more generally industrial zoned lands having regard to the presence of the general industrial area of the port facility. The pipeline will cross drainage ditches, farm access tracks and field boundaries. It will cross a National road, the N29, it will cross three local roads, and a stream called Luffany Stream. It will twice cross the disused Waterford to New Ross railway and it will twice cross the entrance to the IDA lands at Belview Port. The Above Ground Installation (AGI) at Glanbia will contain pressure reduction equipment to reduce the gas pressure from a maximum operating pressure of 70 Bar down to 19 Bar which is the pressure suitable for use in the plant and it will also contain gas heating and boiler equipment, metering, filtering, pig trap and again isolation facilities.

The route selection process identified three possible corridors of which corridor C was the chosen option. Within corridor C the precise route was then identified. Evidence as to that route selection process would be presented later. The pipeline will be designed, constructed and operated to the Irish standard IS328 of 2003 which is entitled the Code of Practice for Gas Transmission Pipelines and pipeline installations, edition 3.1. The pipeline will run entirely underground at a minimum depth of cover over the top of the pipe of 1.2 metres but that depth of cover will be increased at various points where additional cover is required. The pipeline will

have a nominal diameter of 200 millimetres. Therefore in the scheme of gas pipelines it would be at the smaller end of the scale of transmission pipelines. It will have a design pressure of 85 Bar and a maximum operating pressure of 70 Bar.

The pipeline length will run to some 5.4 kilometres. The first 2.47 kilometres of the pipe will have a wall thickness of 7.11 millimetres. This represents the section from the off take at Ballinlaw as far as Luffany Stream. From there it will consist of 2.93 kilometres of heavy wall pipe of a thickness of 11.91 millimetres. This represents the section from the Luffany Stream to the Glanbia Plant.

The pipe will be a welded steel pipe. Every weld will be x-rayed to ensure its integrity and once laid the pipeline will be tested under high pressure water to ensure that there is no leakage. The pipe will be pre-coated with a three layer anti-corrosion coating of fusion bonded epoxy and polyethylene and that will be supplemented by a cathodic protection system. An additional fibrous cement outer coating will be applied at trenchless sections. The Board intends to carry into effect the same efficient tried and tested constructions methods it has used in all previous high pressure pipelines and it is worth observing that in all Bord Gais Eireann owns and maintains 2,500 kilometres of Natural Gas Transmission Pipeline.

A six month construction period of six day weeks and 12 hour days from 7 a.m. to 7 p.m. is envisaged. There will be a possibility of work at night in respect of very limited matters. Construction is planned to commence in May 2014. The total cost is estimated at €6.45 million.

Mr. Holland further stated that in relation to the Acquisition Orders and deviation limits the application has been altered somewhat in so far as a number of landowners had since the application was made reached agreement with BGE as to the wayleaves in question and accordingly it is now intended not to seek orders for these. Mr. Holland informed the hearing that agreement has been reached in the case of the following wayleaves: 16 in the names of Sands, 18 in the name of Doherty, 19 in the name of Norris and 20 in the name of Fitzpatrick.

The wayleaves sought are depicted on maps deposited as part of the application. The permanent wayleaves are either 8 or 14 meters in extent along the length of the pipeline.

These wayleaves sit within what are described as deviation limits and deviation limits are prescribed by the relevant Gas Act as having two functions. The first is that they allow BGE, if the necessity arises, and it is a case of necessity only arising to deviate from the line of the pipeline if for any reason that becomes necessary. He emphasised that BGE strenuously endeavours to adhere to the existing red line of the intended pipeline and so significant deviation is in practice extremely rare.

The second function of a deviation limit is that it provides a temporary working area in which the contractors can work when laying the pipeline.

Along the line of the pipeline there will be a running track for machines to allow them travel up and down the pipeline. The running track is of considerable importance during construction because it allows the relevant machines to move along the pipeline as they are laying it. It also allows the machinery to move forward and back along the entire stretch without going on to the public road network. Therefore it is of particular importance that the running track is continuous along the entire length of the pipeline because that means that excavators and other large machines don't have to be loaded on to trucks and taken out on to the public roads and moved from one location to another.

Mr. Holland went on to state that as far as BGE was aware none of the objectors to his knowledge has raised any objection as to the formal proofs nor has any been made known to BGE otherwise. All the requisite formal proofs have been complied with.

Mr. Holland confirmed that the Secretary of BGE, Mr Liam O'Riordan, has provided a written statement of such compliance and his statement and the relevant documents were available for inspection. Mr Holland informed the hearing that Mr O'Riordan could be made available in the afternoon if anyone present wished to raise any matter arising in this regard.

As to Environmental matters, Mr. Hand stated that the Commission is obliged by law to formally consider whether formal Environmental Impact Assessment and/or Appropriate Assessment under the Habitats Directive are required. He stated that it is BGE's contention that neither an EIA nor an Appropriate Assessment is required taking the nature and extent of the pipeline route into account.

Mr. Holland also stated that Kilkenny County Council had drawn exactly the same conclusion and had provided to BGE and to the Commission in their observation a copy of their screening report. In summary both the Bord and Kilkenny County Council and their advisors have concluded that no Appropriate Assessment is required and no Environmental Assessment is required. He also stated that the Commission has not exercised its power under Section 40A of the Gas Act to require sub threshold EIS from which we infer that the Commission has screened for EIA and concluded that it is not required.

Mr. Holland finally stated that he wanted to briefly deal with landowner liaison and reinstatement of the lands after the pipe had been laid. This would be undertaken in accordance with the BGE General Pipeline Specification Part 2 which deals in considerable detail with both liaison between BGE and landowners during and after the construction work and also land reinstatement under the following headings:

- Temporary Fencing and Access;
- Precautions against the spread of contagious animal disease;
- Water supplies;
- Surface Stripping;

- Excavation and Pipe Laying;
- Land Drains;
- Re-instatement of the Working Width;
- Renewal of Boundaries;
- Remedial Works;
- Emergency Services;
- Procedures for Liaising with Landowners

BGE has in addition appointed an independent agricultural consultant Dr. Edward Bolger to oversee the procedure from an agricultural point of view.

At this juncture Mr. Holland made reference to what he termed the only objection that had been received being that from Thomas and Mary Butler on Wayleave number 13. He stated that the Wayleave across their land is 43 metres long by 8 metres wide. The objection is dated the 12th February 2014 and asserts physical damage to the land, the disturbance of a natural wildlife sanctuary and that the main reason for the objection is based on their having been misled in the process from the start and the "trust between ourselves and Bord Gais and their representatives has been lost". Mr. Holland stated that the land was to be crossed by a trenchless cut method which is both less intrusive on the stream and on the Butler lands.

Mr. Holland proceeded to explain that it was vital from both BGE's operation perspective and the contractor's on the one hand and also for the purpose of minimising inconvenience to the public on the road system on the other that a *running track* extend along the entire length of the pipeline. What that means in respect of the Butler lands is that while it is possible to dispense with the 30 metre working area the running track was vital. Mr. Holland elaborated that what is proposed is an 8 metre running track and it is also proposed that whereas ordinarily the running track and the working area would involve the removal of all vegetation and topsoil such as the running track is placed on the under burden, in this case relating to the Butler's land it is intended not to remove the topsoil or the vegetation save the larger vegetation and instead to lay directly on it what is called bog mat, in essence a wooden track, a very heavy wooden track of about between five and eight metres laid over the lands on top of the vegetation. The number of trees to be removed will be minimised. To achieve this, the route may move in one direction or another and further that BGE will seek to consult with Mr. Butler and Mrs. Butler in that regard. However some trees will have to be removed. Once the pipe has been laid and the bog mats have been removed the land will be reinstated and the trees will be replaced with trees of similar species.

Mr. Holland stated that a variety of efforts had been made and put in writing to Mr. Butler as to how BGE could ameliorate his position. Because the pipeline is going through this land using a trenchless cut method BGE has agreed that it will not remove the trees from over the pipeline itself. This approach is not normal practice. However the situation has been analysed by the

Engineers and by the Ecological advisors and they are happy that given the depth under the stream at which the pipe is being put the roots of those trees won't cause a problem.

Referring to the letter of objection Mr. Holland stated that there was a suggestion that the lands owned by the Butlers are a natural wildlife sanctuary. While he didn't doubt that may be correct in a non technical fashion he stated that the lands were not in any sense a designated wildlife sanctuary through any of the statutory or environmental processes.

Mr Holland concluded his opening contribution by informing the hearing what his proposals were in relation to the calling of witnesses.

The first witness would be Mr. Brian Sheehan who is Head of Asset Management in BGN and he would give a very general overview of the project.

The second witness would be Mr. Paul Brady, Senior Projects Engineer, who would deal with the issue of routing.

These two speakers would be followed by Mr. Gary Senior dealing with codes and safety, Mr Dan Garvey dealing with Environmental matters, Mr. Vincent Murphy will deal with Ecology and Appropriate Assessment and Dr. Edward Bolger with Agriculture. Mr. Moore is available, if required, to cover matters relating to Cultural Heritage.

5.2 Evidence of Mr. Brian Sheehan

The witness is a Mechanical Engineer in the direct employ of BGE.

Mr. Sheehan's presentation covered an overview of the Bord Gais Natural Gas Network. The extent of the existing network was described so as to give an overview of the Bord Gais Natural Gas Network. The hearing was informed of the extensive network that extends right throughout the country of Ireland and also links with the UK network through two inter connectors to Scotland. BGE has close on 2,500 km of transmission steel pipelines laid to date. It has over 11,000 kilometres of distribution network. It has over 650,000 gas users in Ireland today.

Mr. Sheehan stated that BGE had undertaken a detailed routing process, considered three route corridors of which the one shown on the map was the preferred route corridor running in South, South Westerly direction from the Great Island pipeline to the site at Belview.

Mr. Sheehan confirmed that the 19 Bar Gas supply was critical to the operation of Glanbia's new ingredients facility at their Belview Plant.

That ended his direct presentation. Mrs. Butler then asked when the decision was made on the corridor for the preferred route. She was informed that this issue would be addressed by the next presenter for BGE.

5.3 Statement of Mr. Gordon Murphy, Glanbia Ingredients Ireland Ltd

Mr. Murphy informed the hearing that he was the Chief Financial Officer of Glanbia Ingredients Ireland Limited who is developing the plant and that he was a Director of the Company.

Glanbia ingredients processes about a third of Ireland's overall milk pool. Currently today it process about 1.6 billion litres. By 2020 it would probably be expected to be processing somewhere in the region of 2.5 to 2.6 billion litres.

Mr. Murphy stated that gas is the only fuel that Glanbia can consider in relation to operating this plant. Electricity wouldn't be able to cater for the volume of heat and power and steam that was needed on the site. Fuel oil isn't an option because of logistics in moving oil to the various sites. Glanbia's other plants in Ireland, Ballyragget, County Kilkenny and Virginia, County Cavan both operate on gas so it is critical that Glanbia has gas for this facility.

5.4 Evidence of Mr. Paul Brady

The witness is an Associate Director with Arup Consulting Engineers based in the Cork Office.

The witness, Mr. Brady, informed the hearing that he is the Project Manager for the design team and is responsible for amongst other things pipeline routing design, Environmental Report and procurement and for co-ordinating all aspects of the project but in particular the routing methodology. The route selection process is a process which is stipulated by IS 328 and BGE internal procedures.

The process was identified as having three stages.

The first being route corridor selection which involves two processes. Firstly it involves a number of different corridors each of roughly 400 metres in width which might be suitable for selection for the route. The second part of that particular stage is deciding as between those, in this case three, which is the preferred corridor.

The second stage then addresses only that preferred corridor and looks at finding a preliminary route within that particular corridor.

The third stage involves detailed route design. He also confirmed that as one passes through these stages of the process the level of information and the level of analysis and the level of research that is done and the level of consultation that is undertaken with various interested parties gets more and more intensive over time.

The process commences with desktop studies and then it moves into more detailed studies as outlined coupled with site visits at all locations.

Mr. Brady confirmed that stage one was carried out between November 2012 and the end of March 2013. Three corridors of roughly 400 metres wide each were identified as A, B and C and by the end of March 2013 it was determined that corridor C was the preferable corridor.

Stages two and three were carried out from April to September 2013 and in that period what was being examined was a route within corridor C and refining the route down to the detailed route which is now before the Commission.

He confirmed that he consulted with the National Parks and Wildlife Service in relation to designated conservation sites. He identified rivers and streams, recorded archaeological sites, sites of geological heritage and areas of high amenity and in particular examined the planning objectives for the area.

He confirmed that the final chosen route, corridor C, is the shortest length and the lowest cost. It has the least number of crossings of ribbon developments. It avoids the most populated areas and there is no known archaeology within this route.

The hearing was then informed by Mr. Brady that the next step in the process was to decide on the specific line that the pipeline would follow within this chosen corridor. As part of that process many bodies were consulted namely landowners, farming organisations and the National Park and Wildlife Services as well as Glanbia.

Mr. Brady identified the key constraints (text related to describing a slide on view). The first main constraint is the tie-in to the Great Island Pipeline. That is a fixed starting point. The proposed route then heads directly south. He then proceeded to outline the route demonstrating where the line of the pipeline was placed so as to avoid one off domestic dwelling houses and other ribbon development. The next significant feature that influenced the proposed alignment relates to the crossing of existing overhead power lines. There is a combination of 220 KV power lines and 110 KV power lines. They are to be crossed in a perpendicular manner so as to minimise the work that will be carried out underneath these overhead power lines.

Mr. Brady then described the proposal as it relates to the crossing of the Butler property extending to 43 metres. This also involves crossing the Luffany Stream within the Butler lands. At this point aerial photographs were circulated showing the line of the pipeline and the suggested route of the running track. Mr. Brady explained to the hearing that BGE was trying to find a location that could be agreed with Mr Butler. It was further stated that there was a willingness on the part of BGE to move the running track away from the pipeline to reduce the impact on some mature trees both over and near the line of the pipe. It was also explained that the route indicated is not necessarily set in stone.

5.5 Evidence of Kilkenny County Council (written submission)

Mr Holland then proceeded to comment on the submission from Kilkenny County Council with particular reference to its request to have the costs of monitoring the works to be undertaken covered by BGE. Mr. Holland stated that BGE was adamantly opposed to any such condition.

Mr. Holland went on to make reference to three points towards the end of their submission where the suggestion is made that conditions should be imposed on the Section 39A consent. They relate to the hedgerows and preservation of hedgerows and archaeology. Mr. Holland

stated that the evidence of Mr. Brady had alluded to BGE's policy of trying to minimise the impact on hedgerows. Some hedgerows will undoubtedly be affected. That has been already kept to a minimum by the design of the route and they will be restored once the pipeline has been laid and essentially in substance that is what Kilkenny County Council has asked for. It was stated that BGE does not disagree with anything that Kilkenny County Council wants to achieve. The same is true in respect of archaeology.

Mr. Holland went on to state that the only point where BGE comes to disagree with Kilkenny County Council is where it is suggested that specific conditions should be imposed in the Section 39A consent. Mr. Holland stated that this was not necessary as in the ordinary way BGE would expect that consents under Section 39 would include a general condition which covers these matters. He referred to the Section 39A consent in the Mungret to Inchmore Pipeline project and condition 5 of that consent which was dated the 12th July 2013:

"BGE shall ensure that the works will be carried out in accordance with that described in the Environmental Appraisal Report and that the mitigation measures proposed are implemented" He contended that covers the issues of archaeology and hedgerows because everything BGE propose is in agreement with the Council and is in the Environmental Report. It was BGE's contention therefore that no additional conditions are needed. The final condition they suggest is that BGE will be responsible for unspecified costs of Kilkenny County Council in monitoring and supervising the works. Mr. Holland stated that BGE is adamantly opposed to any such condition.

In support of this view Mr. Holland stated that: *"the power to impose conditions under Section 39A arises under Section 39A (4) and it is only conditions with respect to the construction of the relevant pipeline which can be imposed.....In my respectful submission from a legal point of view conditions that we would pay costs to Kilkenny County Council are not conditions with respect to the construction of the relevant pipeline and the imposition of any such condition would be ultra vires a commission"*.

Following on from this Mr. Holland stated that the next three witnesses namely Mr. Gary Senior dealing with codes and safety, Dr. Edward Bolger dealing with Agriculture and Mr. Declan Moore dealing with cultural heritage had all made written statements which he asked be taken as read. This was proposed on the basis that anybody who wished to cross-examine on those statements could do so as the witnesses were present. No requests were made to cross examine.

5.6 Evidence of Mr. Dan Garvey

The witness is a Senior Environmental Scientist with Arup Consulting Engineers based in the Cork office.

Mr. Garvey informed the hearing that the project was sub threshold project as far as EIA is concerned and so concluded that an EIA is not required.

It was put to Mr Garvey by Mr. Holland that the suggestion has been made that one could avoid traversing the Butler lands by omitting them or in some way omitting the track over the Butler land so dividing the pipeline into two strips. He further stated that a consequence of that would be that large machines which would otherwise move up and down the entirety of the pipeline without going on to the public road would be forced on to the public road.

Mr. Garvey stated that the use of public roads for this purpose from an environmental point of view would be an undesirable outcome. He expanded on this by stating that part of what is looked at in Environmental Assessment would be impacts on humans as well as the prescribed headings that have to be covered. Heavy traffic on roads is to be avoided as far as practicable. He stated that the use of a running track would be environmentally preferable.

Mr Garvey through his written and verbal submission gave evidence on the following matters: The environmental effects of construction, landscape & visual, noise & vibration, air quality and soils geology, surface & ground water. His written submission concluded as follows:

Construction Activity: Subject to the construction contractor and management team implementing the mitigation measures outlined in Chapter 2 of the environmental report, no significant residual impacts on the environment are predicted as a result of the construction activities, and the long-term effects will be negligible.

Landscape and Visual: There will be temporary visual impacts along the pipeline construction spread due to the topsoil stripping and removal of portions of hedgerows and some trees. The construction area will be reinstated promptly after construction, during suitable weather conditions. The construction of the pipeline will be visible from locations on local roads close to the route. There will be no residual landscape and visual effects once reinstatement is established.

Noise and Vibration: With the implementation of the good construction practice measures outlined in Chapter 4 of the environmental report, there will be moderate noise impacts for approximately two weeks at locations near the first road crossing. No significant noise and vibration impacts are predicted arising from either the construction or operation of the pipeline.

Air Quality: There will be minor emissions to the atmosphere during the construction phase, and negligible emissions during normal operation. Containment and dust suppression techniques during construction will be sufficient to ensure that any off site impacts are negligible. Therefore, it is not envisaged that the pipeline will have any significant adverse impacts on ambient air quality.

Soils, Geology, Surface Water and Groundwater: Potential impacts on soils, geology, surface water and groundwater will be avoided and minimised by implementing appropriate construction techniques and pollution control measures. These are well-established, and no significant residual impacts on soils and geology are predicted, and long term effects will be negligible.

As part of the questioning on Mr. Garvey's submission Mr. Denis Weir, on behalf of Tom & Mary Butler, questioned what had been said in relation to the recovery period relating to the mature Ash trees on the Butler site. Mr. Weir also took issue with his comments on the environmental effects of using the public roads on either side of the Butler lands.

Mr. Garvey stated that in relation to the first question there will be short term impacts in terms of visual impacts on hedgerows. They are visible for a while. There was no significant medium to long term impacts arising from the project. The construction of running track through the Butler lands will result in the vegetation in the foot print of the running track being temporarily affected. However as the roots would not be interfered with this area would recover quickly.

Mr. Garvey went on to say that BGE is planning the removal of a very small number of trees to get the running track through. Clearly that is a local impact. It was his understanding the BGE had committed to the provision of replacement trees at the tree lines at the Butler lands. With reference to the running track Mr. Garvey contended that the movement of heavy machinery through the use of public roads was less desirable than routing it on the running track largely through agriculture lands. He stated that from his point of view in terms of assessing impacts he would consider that approach as a lesser impact on the local human community.

5.7 Evidence of Mr. Vincent Murphy

The witness is a Field Ecologist employed by Dixon Brosnan Environmental Consultants.

Mr. Murphy confirmed that his company had been retained to carry out the ecological sections of the Environmental Report. He confirmed that the initial task in this context is to undertake an Appropriate Assessment pursuant to the Habitats Directives to decide whether a particular development can go ahead and whether it might affect such a site.

Mr. Murphy stated that he performed a screening exercise for Appropriate Assessment in respect of this project. He confirmed that this project at no point impinges directly on any protected site. He also stated that BGE intends to cross the Luffany Stream using trenchless technology. This approach will minimise any potential impacts.

Mr. Murphy was then asked to describe the Butler lands from an ecological point of view.

He gave the following description: *"Their land is quite a narrow long strip of riparian woodland, the trees I recorded there were Ash, Alder, Fairywillow and Goat Willow. The ground flora, vegetation can be described as riparian as though it were not marshland but it had influences from wetland habitat. Other species such as Yellow Flag Iris, Rosebay Willowherb, water dropworth, hogweed and other grasses were also present. The woodland is of moderate value locally, it is not of any higher value than that. It is not of any further use to species other than nesting birds. There might be some use of other species but it would be very limited given that it is such a small piece of land"*. It was then put to Mr. Murphy that it has been described as a nature reserve so he was asked if he agreed with this description from a professional Ecologist's point of view. He was also asked if the site was likely to be part of an official

designated nature preservation site of any kind. He replied that the answer was no. It is not part of Natura 2000 network and therefore it is not an SAC or an SPA. He further stated that it is not likely to be included in that category at any point in the future. He also confirmed that the planned approach of BGE meant that the river bed itself won't be disturbed because it is to be spanned with a Bailey bridge and the pipeline is to go underneath through the use of trenchless technology.

Mr. Garvey then went on to deal with the logistics of placing the Bailey bridge over the Luffany Stream and the bog mats on the remaining lands excluding access road and former mill race.

In relation to the placement of the bog mat it was stated that this would form part of the 8 metre running track over the Butler lands. In the short term the placement of the bog mat would kill off the underlying vegetation. In placing this mat to form the running track some trees would also be removed. Mr. Garvey was then asked if he had concerns from an ecological point of view on this approach i.e. based on the assumption that the loss is mitigated by the replacement of those trees at some different level of maturity. He stated that he had no concerns about such an approach.

Referring to the undergrowth he was asked if such undergrowth would recover and if so over what period. He stated that the bog mat will just be placed directly on to the ground vegetation. The vegetation will die off temporarily. However once the bog mat is removed because the seed bed will have been undisturbed it will recover to almost unnoticeable levels within a year. In relation to the trees the timescale for recovery will be influenced by the maturity of the replacement stock. He thought the period would be between 3 & 5 years for full screening to return.

Mr. Murphy was then asked by Mr. Weir on behalf of the Butlers if in his professional opinion he thought the lands would be able to sustain the weight of the machinery that is proposed to be running over the track for a period of eight months.

As this was classified as an engineering question the matter was responded to by Mr. Brady.

Mr. Brady explained as follows: The whole purpose of bog mats is to spread the load of the tracked machines. The bog mats are five metres wide so tracking over the top causes much reduced unit load on the supporting soil. He further explained that machinery would not be traversing the particular ground on each day of the proposed construction period. The methodology of the pipelaying operation was then described so as to illustrate how it would affect the Butler lands.

Mr. Brady explained that the general approach In relation to machine movements would be that one would start at one end and finish off at the other end. It could happen that a machine may have to come backwards for various phases of work. Some lighter machines might have to go back and forward a little from time to time as the project was developing even though the general movement would be from one end to the other.

Mr. Brady in response to a further question from M. Weir confirmed that he was confident as a result of the test that was carried out on in the land that through the use of the 5 metre bog mats the machinery would not sink on the Butler lands.

Mr. Weir then asked for a more detailed explanation of how this general approach would work on the Butler lands taking the incline of the ground into consideration. Mr. Brady responded by stating that these bog mats are only a metre wide so they can come down the slope and if required they can be bolted together. They can individually link together to actually come down the slope. By way of a detailed view of the approach on the Butler land the following outline was given:

To the south of the surface track there is a ditch with hedgerow trees. Next to that is the mill race and next to that we encounter trees and then it drops down into the area which is cleared down into the stream area. From the stream the ground rises slightly to another tree row. What is proposed is to open the first ditch on the south side and place gates there. The surface track will be left as is other than to protect the surface in the context of traffic crossing. A pipe will be placed at the mill race with stone on top. This detail will be reversed on completion. An 8 meter wide gap will be opened on the next ditch and a set of gates will be put in place. From there it is proposed to commence the placement of the bog mats commencing three to four metres back from the actual stream. It is then proposed to approach the stream from the north side and repeat the procedure by making a gap of 8 metres in the ditch to facilitate the running track. Bog mats will be placed from this ditch to the northern side of the stream. It is then proposed to place a Bailey bridge approximately ten metres in length to span the stream. In order to provide a foundation for this temporary bridge it will be necessary to place stone footings on the bog mats on either side of the stream.

At this juncture Mr. Butler expressed concern that the marshy ground would not be able to take the weight and so both stream banks would be pushed into the stream.

6. Objector's Evidence

6.1 Evidence of Mr. Tom Butler & Mrs. Mary Butler

Mrs. Mary Butler commenced by informing the hearing that she had heard a lot of the detail relating to their lands for the first time today. It had been established for her that the corridor was chosen in March 2013. She stated that as late as May the Liaison Officer did not make that clear to her or to Tom. She had the impression from that encounter that two corridors were still being considered. She stated that she didn't want another easement on the property. She felt that they had been bullied into accepting the decision without proper explanation. Mrs. Butler stated that both she and Tom found the whole process frustrating.

Mr. Tom Butler stated that as contact continued BGE offered to bore under the stream. When he objected it was proposed that the pipeline would be placed in a bored tunnel under the entirety of the Butler lands. However he still felt aggrieved as the running track needed to go through on the surface even though there was flexibility in the line to be used.

Mr. Butler stated that he was willing to have the pipeline go through his lands underground but he did not want the running track. This would mean the removal of mature trees along with damage to the natural shrubbery on the site. He further contended that the ditches have their own growth. They have fern and other unusual plants. He was not prepared to accept that it would take up to seven years for the trees to re-establish. The main reason they bought the land place was because it was overgrown and mature. It was exactly what they both wanted.

Mrs. Butler then stated that in their dealings with BGE they let it be known that they would accept the pipeline underground provided the running track stopped on either side of their land.

Mr. Weir spoke to summarise the situation as the Butlers saw it. He stated that up until this morning they were under the impression the proposed pipeline was going underground and that the hedgerows, trees, vegetation and everything would be ripped down, hard core put on the soil, bog mats on top of it in order to facilitate the running track. He further stated that from Tom's and Mary's point of view up until this morning apart from BGE being very understanding agreeing to put the pipeline in a trenchless cut underneath the ground there had not been any leeway at all on the method or line to be followed in going over ground to provide for the running track. Mr. Weir stated that all discussions that he had witnessed on site displayed no flexibility on the part of BGE as to the line of the running track. He stated that this afternoon, is the first time there has actually been any leeway or flexibility in where this running track can actually go.

Mr. Holland then confirmed that at every point at which the pipe crosses the Butlers land it will be tunnelled.

Mr. Weir also confirmed that it was their understanding since December 2013 that the pipeline would go under the Butlers land via a tunnel. However this proposal was dependent on the outcome of site investigation hence the delay to December.

Mr. Holland disputed that the Butlers had received no leeway from BGE. He contended that they had received repeated and very considerable consideration from BGE. He outlined that BGE had committed to not clearing the trees off the route of the pipeline and also that the pipeline would be underground for the total length of the Butler lands. This is not being done for any other location. Mr. Holland stated that concessions don't matter to the Butlers on one particular issue. They are not willing to have the track across the lands. There is no concession to be made on that in principle. Either it happens or it doesn't.

Mr Butler commented on the fact that notwithstanding the present proposal he still had concerns about the bank of the stream. This matter was commented upon by Mr. Brady to the effect that the base of the bridge would be located far enough from the bank so it won't have any impact on the river bank. It was also confirmed that the topsoil would not be stripped from any part of the Butler lands. This had been communicated to the Butlers by way of letter dated 3rd September 2013 – it stated - *"The running track will run parallel to the pipeline route, about five to six metres off the centre line of the pipeline and will consist of bog mats laid over the existing vegetation on your client's land"*.

Mr Holland then advised the hearing that the letter from the Butlers, dated the 7th March 2014, states that they are willing to have the pipeline but are not willing to have the wayleave or the running track. Mr. Holland stated that it is not possible to put in the pipeline unless the wayleave is also secured.

Mrs. Butler alluded to the content of some of the correspondence she had received which as far as she was concerned states that if anything goes wrong while they are doing this work, BGE has a line in that says it can do anything it likes. It therefore appeared to her that BGE was negating every agreement and that was an issue that needed to be addressed.

Mr. Holland confirmed that deviation from the planned pipeline route within the designated corridor was extremely rare and not envisaged as being in any way likely here. He confirmed that the inclusion of the deviation reference is part of the statutory process and it cannot be changed. The Act provides that where a notice under Article 3.2 of the second schedule to the Act has been served then the deviation limits can be availed of.

Mrs. Butler did confirm that as a result of today's proceedings that she had a better understanding of how the corridor was chosen. She also confirmed that there was more flexibility in relation to the exact route of the running track than she understood prior to today's hearing.

Mr. Weir suggested at this juncture that they had heard quite a lot and stated he would welcome a break to confer with Mr. and Mrs. Butler.

The hearing adjourned for twenty minutes

On resumption Mr. Tom Butler addressed the hearing and commenced by stating that his position had not changed namely he was willing to let the pipeline go through but was not willing to have the running track cross over his land. Mrs. Mary Butler then stated that she likened what was happening to them as similar to a death sentence.

Mr. Holland was then asked to make his closing statement to the hearing. He commenced by stating that BGE had made many concessions towards the Butlers in order to get their agreement to pass through their lands and grant BGE permission to place the running track adjacent to the said pipeline. He stated that BGE had been rigid in one respect which is that it needs the track and that he thought to that extent the differences are simply irreconcilable. He further stated that in fairness to both Mr. Butler and to BGE, both had been perfectly clear with each other on that issue at all times. BGE had always said it wanted the track and the Butlers have always said they wouldn't permit it.

Mr. Holland expressed his gratitude on behalf of BGE.

The Hearing then concluded.

7. Inspector's Assessment of Evidence - BGE

7.1 Proposed Project

BGE gave evidence giving an overview of the BGE Natural Gas Network. The extent of the existing network was shown on screen so as to give an overview of BGE's Natural Gas Network. The extensive network extends right throughout the country of Ireland. BGE has close on 2,500 km of transmission steel pipelines laid to date. It has over 11,000 kilometres of distribution network. It has over 650,000 gas users in Ireland today.

The need for the Ballinlaw to Belview pipeline was outlined as follows:

It was confirmed that the 19 Bar Gas supply was critical to the operation of Glanbia's new ingredients facility at their Belview Plant. Glanbia ingredients processes about a third of Ireland's overall milk pool. Currently today it process about 1.6 billion litres. By 2020 it would probably be expected to be processing somewhere in the region of 2.5 to 2.6 billion litres.

Nobody present or through written submission challenged the need for this extension to the Glanbia facility.

Kilkenny County Council, in its written submission, had sought to have the Commission impose conditions on BGE to bear the cost of monitoring and supervising the works associated with the construction of the pipeline. Mr. Holland, on behalf of BGE informed the hearing (Section 5.5, paragraph 4, page 12) that imposing such a condition had no legal standing. This contention is accepted!

The need for the project was demonstrated and is therefore deemed acceptable and necessary.

7.2 Pipeline Safety

Evidence was given by BGE that this pipeline will be routed, designed and will be constructed, tested and operated in accordance with the requirements of IS328. IS328 is the national standard of Ireland for transmission pipelines. It is used by BGN in the design construction and operation of all pipelines in its transmission systems within Ireland. The code fully complies with the requirements of the European Transmission Pipeline Code IE EN 1594. The Irish Code to which the pipeline will be constructed and operated is stricter in some areas such as built up areas or road crossings where it requires the use of thicker pipe than would be used or specified in the European Code.

The pipeline will have a nominal diameter of 200 millimetres. It will have a design pressure of 85 Bar and a maximum operating pressure of 70 Bar.

The pipeline length will run to some 5.4 kilometres. The first 2.47 kilometres of the pipe will have a wall thickness of 7.11 millimetres. This represents the section from the off take at Ballinlaw as far as Luffany Stream. From thence it will consist of 2.93 kilometres of heavy wall pipe of a

thickness of 11.91 millimetres. This represents the section from the Luffany Stream to the Glanbia Plant.

The pipe will be a welded steel pipe. Every weld will be x-rayed to ensure its integrity and once laid the pipeline will be tested under high pressure water to ensure that there is no leakage. The pipe will be pre-coated with a three layer anti-corrosion coating of fusion bonded epoxy and polyethylene and that will be supplemented by a cathodic protection system. An additional fibrous cement outer coating will be applied at trenchless sections. The Board intends to carry into effect the same efficient tried and tested constructions methods it has used in all previous high pressure pipelines and it is worth observing that in all Bord Gais Eireann owns and maintains 1,650 kilometres of Natural Gas Transmission Pipeline.

There were no specific submissions in respect to safety.

The project is deemed satisfactory in relation to this issue.

7.3 Construction Details

Written evidence presented by BGE described the procedure that will be undertaken commencing with fencing of lands, stripping of topsoil followed by trench excavation. Pipe stringing then takes place followed by welding. As already stated every weld is subject to x ray. This is followed in turn by water pressure testing when the pipe is in the ground.

Trenchless technology is proposed where the pipeline traverses the Butler lands. The lands are then restored to original state and use over the next or subsequent growing season.

Planned approach to the permanent work deemed satisfactory

7.4 Statutory Procedures

The hearing was informed that all of the statutory procedures had been complied with. These included the appropriate Consents, Acquisition Orders, etc., sought from the CER in relation to the pipeline.

Other requirements of the legislation were also undertaken. Other tasks included the preparation of plans, the placing of advertisements/notices in the press, the deposition of documents for public scrutiny, etc.

The appropriate documentation was made available for inspection at the Oral Hearing.

No questions arose at the Oral Hearing in relation to this topic.

The project is deemed satisfactory in relation to this issue.

8. Inspector's Assessment of Evidence - Objectors

8.1 Mr. Tom Butler & Mrs. Mary Butler - Ref. BLB.13

The hearing was attended by Mr. Tom Butler & Mrs. Mary Butler. Mr. Denis Weir also attended as a personal support.

Mr. & Mrs. Butler's concerns and the matters giving rise to their objection related to the following:

The initial approach from BGE to the Butlers was on the basis that the proposed pipeline would go through their land in open cut other than the section under the Luffany Stream which was to be undertaken using trenchless technology. The Butlers also had the impression that vegetation and topsoil would be removed to facilitate the laying of the pipeline and to allow for the provision of a running track for all machinery engaged in the pipelaying project. They also believed that many mature trees in the hedgerows would be removed and that this whole approach would irreparably damage the amenity value of their holding. The main reason they bought the place was because it was overgrown and mature, it was exactly what they both wanted.

They also stated that they had heard a lot of the detail relating to their lands for the first time today. It was also stated that they didn't want another easement on the property. They felt that they had been bullied into accepting the decision without proper explanation. They had both found the whole process frustrating. It was accepted by the Butlers that on this day of the hearing for the first time they became aware that there was flexibility as to the line the running track might take.

Mr. Holland contended that they had received repeated and very considerable consideration from BGE. He outlined that BGE had committed to not clearing the trees off the route of the pipeline and also that the pipeline would be underground for the entirety of the Butler lands.

Mrs. Butler alluded to the content of some of the correspondence she had received which as far as she was concerned states that if anything goes wrong while they are doing this work, BGE has a line in that says it can do anything it likes. It therefore appeared to her that BGE was negating every agreement and that was an issue that needed to be addressed.

Mr. Holland confirmed that deviation from the planned pipeline route within the designated corridor was extremely rare and not envisaged as being in any way likely here.

Despite an adjournment to allow further consideration on resumption Mr. Tom Butler addressed the hearing and informed the hearing that his position had not changed namely he was willing to let the pipeline go through but was not willing to have the running track cross over his land.

Having regard to the foregoing it is recommended that the Commission request BGE to liaise with Mr. and Mrs. Butler in order to agree the most acceptable line for the running track and that site boundaries that need to be removed to facilitate this running track be reinstated using the most mature replacement trees possible.

Proposed Ballinlaw to Belview Gas Pipeline

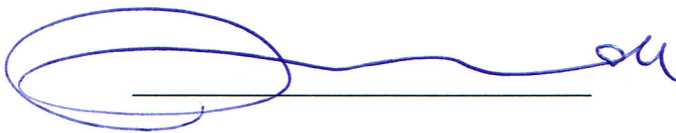
Having considered the objections and the subsequent clarifications the planned route is deemed reasonable.

9. Inspector's Recommendations

Having regard to the above assessment, it is recommended that the CER should grant consent to the construction of the Ballinlaw to Belview Gas Pipeline for the purpose of supplying gas to the new Glanbia milk processing plant currently under construction at Belview Port, County Kilkenny, as sought by BGE.

It is also recommended that the CER should make Acquisition Orders in respect of wayleaves and lands comprising lands for

- a. Ten wayleaves as listed in the application made by BGE relating to the Mungret to Inchmore Pipeline;
- b. One Above Ground Installation

A handwritten signature in blue ink, consisting of a large, loopy initial 'M' followed by a wavy line and the letters 'J O'Connell'.

Maurice J. O'Connell

Dated:

9th April 2014

10. Table of Acronyms

AGI	Above Ground Installation.
BGE	Bord Gais Eireann
BGN	Bord Gais Networks
CER	Commission for Energy Regulation