

CERTIFICATE OF ASSIGNMENT OF

AQUACULTURE LICENCE NO. 389

AND

FORESHORE LICENCE GRANTED IN ACCORDANCE  
WITH SECTION 3(1) OF THE FORESHORE ACT, 1933 (NO. 12)

This is to certify that the Aquaculture Licence and Foreshore Licence referred to have been assigned, with the approval of the Minister of State at the Department of Communications, Marine and Natural Resources, from:


Alex McCarthy,  
Robin Hill,  
Kildimo,  
Co. Limerick.

to

Halcome Merchants (Ireland) Ltd.,  
Robin Hill,  
Kildimo,  
Co. Limerick.

with effect from 6 January, 2005, subject to the terms and conditions thereof.

Signed:



A person authorised under Section 15  
of the Ministers and Secretaries Act, 1924,  
to authenticate the seal of the Minister for  
Communications, Marine and Natural  
Resources.

**CERTIFICATE OF ASSIGNMENT OF  
AQUACULTURE LICENCE NO. 389  
AND  
FORESHORE LICENCE GRANTED IN ACCORDANCE  
WITH SECTION 3(1) OF THE FORESHORE ACT, 1933 (NO.12)**

This is to certify that the Aquaculture Licence and Foreshore Licence referred to have been assigned, with the approval of the Minister of State at the Department of Communications, Marine and Natural Resources, from:

**Noel and Patrick Cullen,  
11 Bernadette Place,  
Wexford,  
Co. Wexford.**

to

**Alex McCarthy,  
Robin Hill,  
Kildimo  
Co. Limerick.**

with effect from 30 September, 2003, subject to the terms and conditions thereof.

Signed:

  
\_\_\_\_\_

A person authorised under Section 15  
of the Ministers and Secretaries Act 1924,  
to authenticate the seal of the Minister for  
Communications, Marine and Natural  
Resources.

T3/46

AQUACULTURE LICENCE (NO. 389)

GRANTED BY THE AQUACULTURE LICENCES APPEALS BOARD  
ON 19 APRIL, 2002 to:-

NOEL AND PATRICK CULLEN

# **AQUACULTURE LICENCES APPEALS BOARD**

## **IN THE MATTER OF:**

THE FISHERIES (AMENDMENT) ACT, 1997 (No. 23)

## **IN THE MATTER OF:**

**APPLICATION OF NOEL and PATRICK CULLEN,  
11 Bernadette Place, Wexford, Co Wexford**

- AND -

## **IN THE MATTER OF APPEALS BY:**

**DÚCHAS, The Heritage Service, Department of Arts,  
Heritage, Gaeltacht and the Islands**

*Appellant(s)*

## **TAKE NOTICE:**

The Aquaculture Licences Appeals Board hereby grants to the Applicant an Aquaculture Licence for Bottom culture Mussels on three sites in Wexford Harbour, Co Wexford in accordance with the terms and conditions in the Schedule hereto.

**LOCATION OF LICENSED OPERATIONS**

Three Sites, Site No. 46A, 46B and 46C and specified in the attached map and map co-ordinates scheduled thereto.

**AQUACULTURE TO WHICH  
DECISION RELATES TO:**

Bottom Culture of Mussels  
in Wexford Harbour

**DURATION OF LICENCE:**

10 years from the date hereof

**CONDITIONS ATTACHED  
TO LICENCE:**

See Schedule attached

**FILE REFERENCE:**

AP38/1/01 - T3/46

**DATED** this

19<sup>th</sup>

day of April, 2002.



**CONOR J MAGUIRE, S.C.**

**Chairman, Aquaculture Licences Appeals Board**

**BOARD SEAL:**

## **Schedule**

### **SPECIAL CONDITIONS**

#### **CULTIVATION LICENSED**

- a) Bottom culture only of mussels in areas Site No. 46A, 46B and 46C and specified in the attached map and map co-ordinates scheduled thereto;
- b) No equipment is permitted to be placed on the seabed in connection with mussel culture covered by this Licence;
- c) No storage of equipment on the seashore outside the licensed area is permitted;
- d) Mussel seed may be placed by the Licensees in the licensed area immediately after the start of this Licence provided that no disturbance of the seabed is caused.

#### **1. OPERATIONAL REQUIREMENTS**

- a) The licensee shall write to Wexford Corporation requesting notification of any malfunction to the Wexford Town Sewage Treatment Plant that may result in a change in the microbiological status of the discharge and subsequently, the mussels growing particularly in Site No. 46C, which is in the vicinity of the proposed discharge pipe for the Wexford town sewage treatment plant. In any event, the Licensee shall ensure that the bivalve molluscs are produced and placed on the market in compliance with the health requirements prescribed in Council Directive 91/492/EEC of 15 July, 1991, laying down the health conditions for the production and the placing on the market of live bivalve molluscs;
- b) The licensee, in co-operation with DÚCHAS - The Heritage Service, shall not undertake any activity which will result in the deterioration of natural habitats, or the habitats of species as well as disturbances of the species for which the areas have been designated;
- c) For the avoidance of doubt, deterioration and disturbance is to be measured against the conditions that existed when the site was designated as a Special Protected Area under the Council Directive 79/409/EEC of 2 April, 1979 on the conservation of wild birds and proposed for designation as a Special Area of Conservation under the Council Directive 92/43/EEC of 21 May, 1992, on the conservation of natural habitats and of wild fauna and flora;

- d) Access to and from the site by boat only;
- e) Visits to the sites shall be kept to a minimum;
- f) The winter period, November to April inclusive, is an important time for birdlife in Wexford Harbour and environs. It is a time when disturbance and noise shall be kept to an absolute minimum, particularly boat engine noise;
- g) Seed shall only be obtained from certified disease-free sources within Ireland or other Member States of the European Community and only introduced into the licensed areas with the written approval of the Department of the Marine and Natural Resources;
- h) All vessels and components thereof shall be kept properly maintained, particularly silencers;
- i) All equipment shall be properly maintained to ensure no leakages of oil, fuel etc.,

## **2. SITE MONITORING**

- a) The Licensees shall as soon as possible after the start of this Licence advise the Department of the quantity of mussel seed placed in each of the licensed areas, the approximate date(s) of the placement and the source(s) of the seed, and likewise thereafter as and when further mussel seed is so placed;
- (b) The Licensees shall advise the Department on the 31st day of December, 2002 and on each succeeding 31st day of December for each year during which this Licence continues in force of the quantity of mussels harvested in each of the licensed areas in the preceding year and the approximate date(s) of harvesting;
- (c) Annual and other monitoring shall be undertaken by the Licensees in the licensed areas in accordance with the specifications of the Department (including the essential reference standards against which the monitoring shall be carried out).

## **3. NON-INTERFERENCE WITH OTHER USERS OF THE SEA**

- a) The Licensees shall generally conduct their operations with full regard for other persons in the area and for the environment;
- b) The Licensee shall avoid causing any hazard to the safety of navigation across or near the licensed areas;

- c) The Licensees shall co-operate with Wexford Harbour Commissioners and the Wexford Harbour Boat and Tennis Club in facilitating public sailing events in Wexford Harbour;
- d) The Licensees shall not interfere with traditional fishing activity in Wexford Harbour;
- e) The Licensee shall avoid causing damage to or undermining foundations or structures of training walls or other piers in Wexford Harbour;
- f) The Licensee shall comply with any of DÚCHAS's Conservation Plans for NATURA 2000 for the Wexford Harbour area.

#### **4. Protection of Archaeological Heritage**

The Licensees shall notify DÚCHAS - The Heritage Service immediately, if any material of archaeological significance comes to his notice in the licensed area or surrounding area.

#### **5. Disclaimer**

The grant of this Aquaculture Licence (and companion Foreshore Licence) is without prejudice to authorised dredging and dumping operations which, subject to prior consultation between relevant authorities and the Licensees may, from time to time be necessary so as to maintain navigable channels and appropriate mooring depths in Wexford Harbour and to authorised maintenance works on harbour training walls and other piers. This does not confer upon the Licensees any entitlement to damages or other compensation arising from such operations.

#### **6. REVIEW OF LICENCE**

- a) In the interest of ensuring that bottom mussel culture by the Licensee proceeds as planned, the Licensee's compliance with the Terms and Conditions thereof shall be reviewed by the Minister for the Marine and Natural Resources not later than three years from the date of the start of the licence.
- b) The Review shall be in the context of a Single Bay Management approach.

#### **GENERAL CONDITIONS**

The General Conditions are annexed hereto.



## **GENERAL CONDITIONS FOR AQUACULTURE LICENCE**

### **Fish Hygiene and Health**

1. All chemicals and antibiotics used in the licensed area shall be used in accordance with instructions issued by the Department from time to time;
2. The Licensees shall keep records of all chemicals and antibiotics with which the fish have been treated, including quantities and times of use;
3. The Licensees shall not use any substance or thing or do anything which has a deleterious effect on the environment of the licensed area including the use of organotin based anti-foulants and shall make adequate arrangements for the hygienic and disease free operation of the licensed area and shall comply with any directions issued by the Minister from time to time in that regard;
4. The Licensees shall comply with the Molluscan Shellfish (Conservation of Stocks) Order 1987, and with any other statutory instrument in force for the time being governing the movement of shellfish;
5. The Licensees shall notify the *Department of the Marine and Natural Resources, Coastal Zone Administration Division, Leeson Lane, Dublin 2; the Fish Health Unit, Marine Institute, Snugboro Road, Abbotstown, Dublin 15 and the appropriate Regional Fisheries Board* within twenty-four hours of the appearance or suspected appearance of any disease in the licensed area or any abnormal losses or mortalities in the licensed area and shall carry out any instructions issued by the Department of the Marine and Natural Resources as a result of the notification including instructions relating to the treatment, disposal and destruction of diseased stocks;

### **Inspections, Records and Returns**

6. The licensed area and any equipment, structure, thing, or premises wherever situated, used in connection with operations carried out in the licensed area shall be open for inspection at any time by an authorised person (within the meaning of Section 292 of the Fisheries (Consolidation) Act, 1959 (No. 14 of 1959) (as amended by the Fisheries Act, 1980,) other than a private water keeper), a sea fisheries protection officer (within the meaning of Section 220 of the Fisheries (Consolidation) Act, 1959) or any other person appointed in that regard by the Minister for the Marine and Natural Resources;
7. The Licensees shall give all reasonable assistance to a sea fisheries protection officer or any person duly appointed by the Minister, to enable the person or officer enter and inspect the licensed area and any equipment, structure, thing

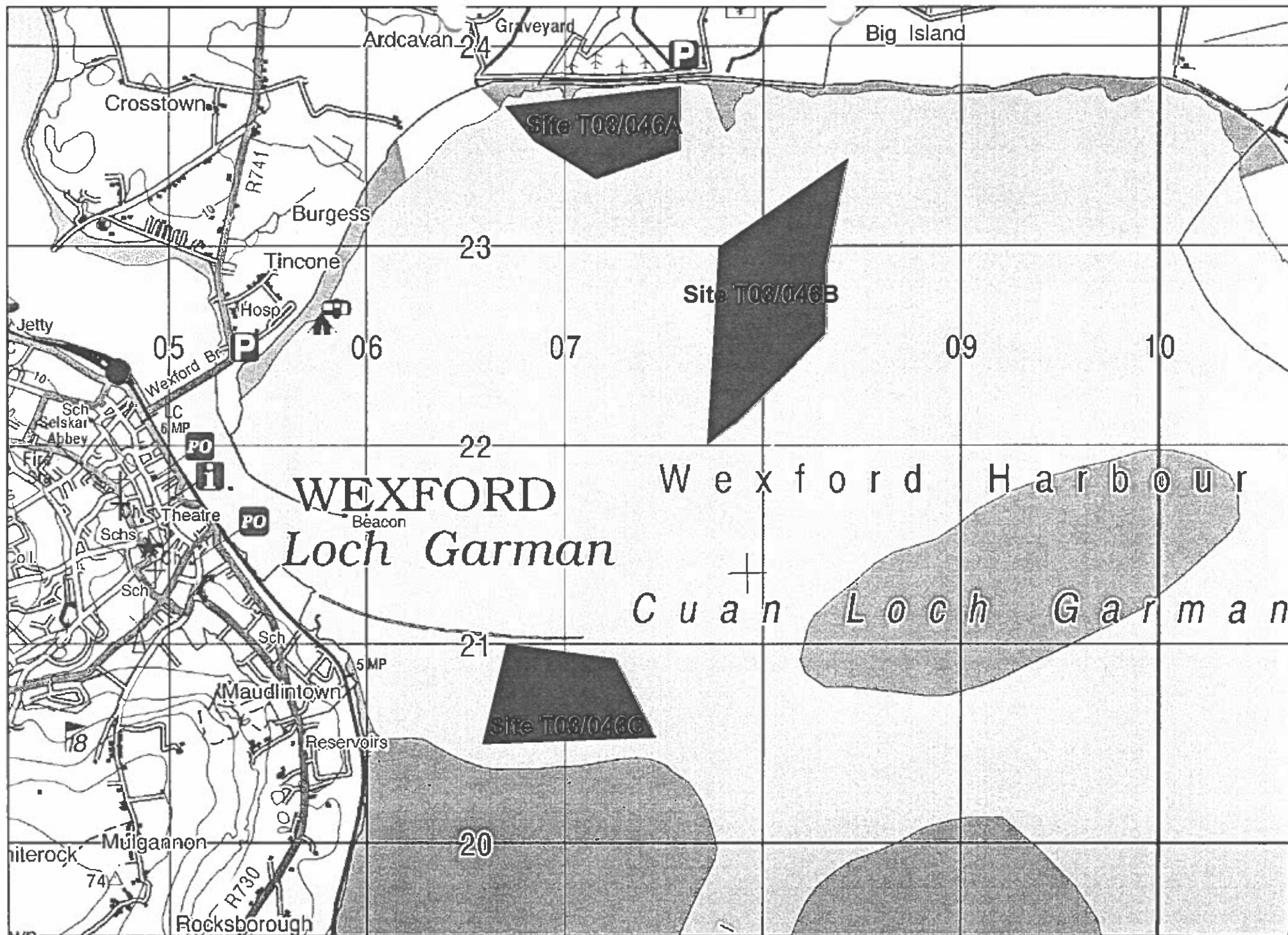
or premises used in connection with the operations carried out in the licensed area;

8. The Licensees shall furnish to the Department at the said address such returns relating to the licensed area as may be required from time to time.

### General

9. The Licensee shall not carry out any operations authorised by the licence in the licensed areas in such a manner as to interfere unreasonably with fishing or navigation in the vicinity of the licensed area and shall comply with any direction given to it in that regard by the Minister;
10. The Licensees shall indemnify and keep indemnified the State, the Minister, his officers, servants or agents against all actions, loss, damage, costs, expenses and any demands or claims howsoever arising in connection with the construction, maintenance or use of any structures, apparatus, equipment or other thing used in connection with the licensed area or in the exercise of the rights granted under the Licence and the Licensees shall take such steps as the Minister may specify in order to ensure compliance with this condition;
11. The Licensees shall, at the expense of the Licensees, if so required by the Minister, and within three weeks after receipt of such notice or on determination of the Licence from any other cause, remove the said equipment and restore the licensed area to the satisfaction of the Minister and if the Licensees refuse or fail to do so, the Minister may cause the said equipment to be removed and the licensed area restored and shall be entitled to recover from the Licensees as a simple contract debt in any court of competent jurisdiction all costs and expenses incurred by him in connection with the removal and restoration, and the Licensees shall take such steps as the Minister may specify in order to secure compliance with this condition;
12. The Minister may revoke the Licence if he considers that it is in the public interest to do so or if he is satisfied that there has been a breach of any condition specified in the Licence or that the licensed area to which the Licence relates is not being properly maintained or in the event of water quality results or general performance at the licensed area not meeting with standards set by the Department;
13. Any notice to be given by the Minister may be transmitted through the Post Office addressed to the Licensees at the last known address of the Licensees;
14. The Licensees shall not assign the benefit of the Licence without the written consent of the Minister, such consent not to be unreasonably withheld;

15. In the event of the benefit of the Licence being granted to a company (within the meaning of the Companies Acts, 1963 to 1999) the following condition shall apply, namely the Licensees shall obtain the consent of the Minister to any proposed major change in the shareholding or control of the licensee where such change substantially alters the identity of the Licensees;
16. In the event of the benefit of the Licence being granted to a society (within the meaning of Section 2 of the Industrial and Provident Societies (Amendment) Act, 1978 (No. 23 of 1978)) the following conditions shall apply, namely,
  - (i) the rules relating to membership of the society shall enable any resident of the State to become a member of it where the resident fulfils all the conditions laid down by the society for membership of it and the rules shall not lay down different conditions for different classes of people;
  - (ii) the rules relating to the society shall be submitted to the Minister as soon as practicable after such assignment and the society shall not amend the rules thereafter, other than with the consent of the Minister and
  - (iii) the Minister may, if he considers it necessary in the interests of good management of the licensed area, direct that an amendment may be made to the rules of the society, from time to time, and the Licensees shall amend the rules in accordance with that direction.



### 3 SITES IN WEXFORD HARBOUR, CO WEXFORD

#### Co-ordinates & Areas

#### SITE NO.

#### HA

T3/046A	306700 ,	123700	To Irish National Grid Reference point	26.1
	307583 ,	123798	To Irish National Grid Reference point	
	307583 ,	123485	To Irish National Grid Reference point	
	307158 ,	123339	To Irish National Grid Reference point	
	306846 ,	123530	To the first mentioned point	
T03/046B	307779	122997	To Irish National Grid Reference point	53.6
	308430	123440	To Irish National Grid Reference point	
	308325	122900	To Irish National Grid Reference point	
	308322	122561	To Irish National Grid Reference point	
	307884	122126	To Irish National Grid Reference point	
	307721	122007	To the first mentioned point	
T03/046C	306706	121004	To Irish National Grid Reference point	32.2
	307259	120929	To Irish National Grid Reference point	
	307461	120533	To Irish National Grid Reference point	
	306583	120499	To the first mentioned point	

CERTIFICATE OF ASSIGNMENT OF

AQUACULTURE LICENCE NO. 389

AND

FORESHORE LICENCE GRANTED IN ACCORDANCE  
WITH SECTION 3(1) OF THE FORESHORE ACT, 1933 (NO. 12)

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Robin Hill,  
Kildimo,  
Co. Limerick.

to

Halcome Merchants (Ireland) Ltd.,  
Robin Hill,  
Kildimo,  
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with effect from 6 January, 2005, subject to the terms and conditions thereof.

Signed:



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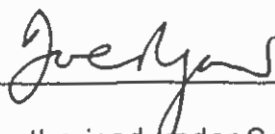
Noel and Patrick Cullen,  
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to

Alex McCarthy,  
Robin Hill,  
Kildimo  
Co. Limerick.

with effect from 30 September, 2003, subject to the terms and conditions thereof,

Signed:

  
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A person authorised under Section 15  
of the Ministers and Secretaries Act 1924,  
to authenticate the seal of the Minister for  
Communications, Marine and Natural  
Resources.

**FORESHORE LICENCE IN RESPECT OF CERTAIN SITES**  
**(NUMBERED 46A, 46B AND 46C) IN WEXFORD HARBOUR, CO. WEXFORD**

AGREEMENT made on 19 April, 2002, between the Minister for the Marine and Natural Resources (hereinafter referred to as the "Minister"), of the one part, and

**NOEL CULLEN AND PATRICK CULLEN**  
**11 BERNADETTE PLACE**  
**WEXFORD**  
**CO. WEXFORD**

(hereinafter referred to as the "Licensees") of the other part, whereby the Minister in exercise of the powers conferred on him by section 3(1) of the Foreshore Act, 1933 (No.12) hereby grants to the Licensees licence to use and occupy those parts of the Foreshore at Wexford Harbour, Co. Wexford (defined overleaf and coloured red on the attached map), for the bottom cultivation of mussels on the terms and conditions set out in the Schedule attached.

This Foreshore Licence shall remain in force for a maximum period of ten (10) years commencing on 19 April, 2002, except as hereinafter provided and only for so long as the Aquaculture Licence No. 389 granted on 19 April, 2002, is in force.



### 3 SITES IN WEXFORD HARBOUR, CO WEXFORD

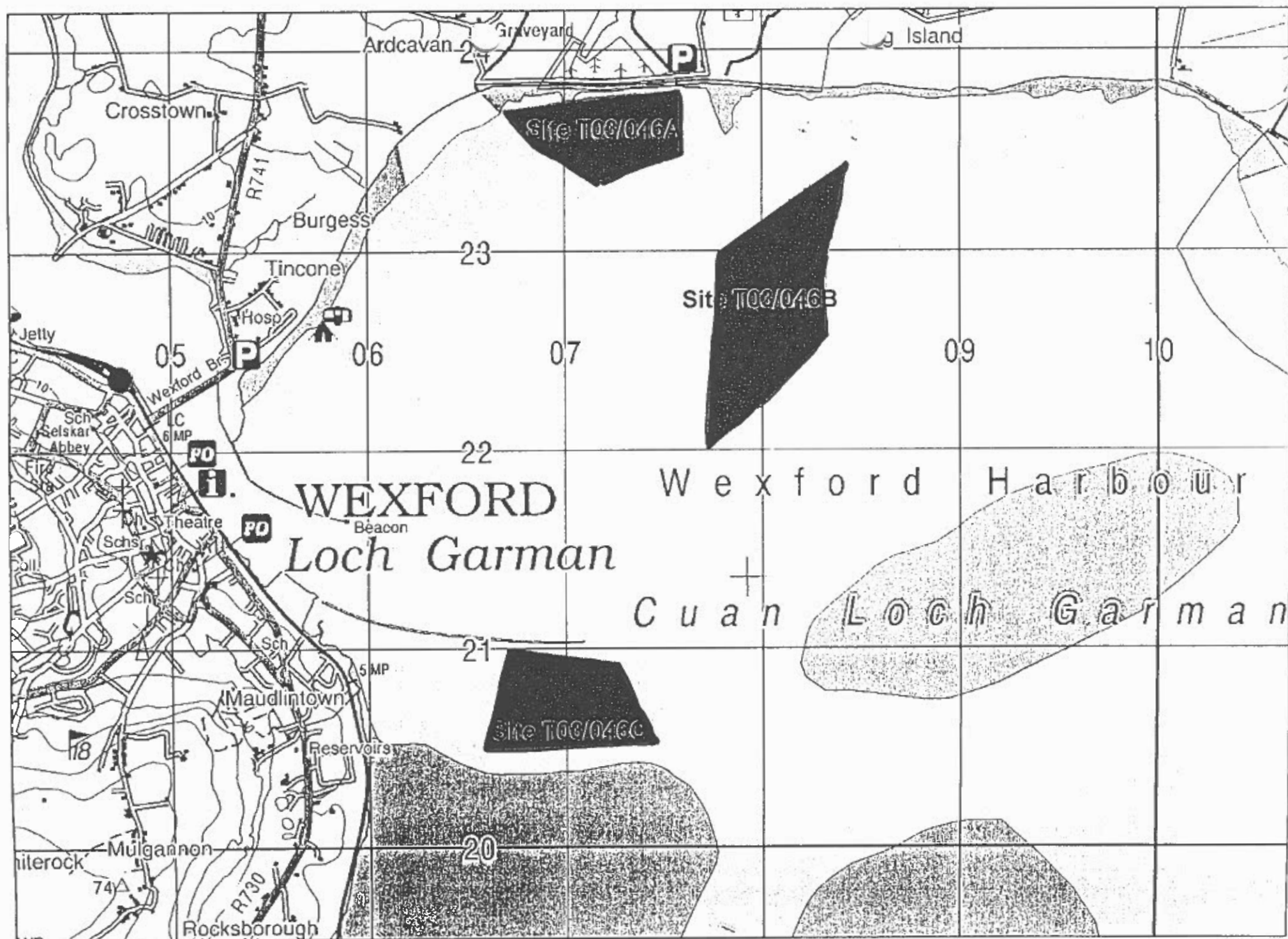
#### Co-ordinates & Areas

#### SITE NO.

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	307259	120929	To Irish National Grid Reference point	
	307461	120533	To Irish National Grid Reference point	
	306583	120499	To the first mentioned point	

161.9



**TERMS AND CONDITIONS APPLICABLE TO FORESHORE LICENCE**

**1. Cultivation Licensed**

- (a) Bottom culture only of mussels in areas 46A, 46B and 46C coloured red in attached Map.
- (b) No equipment is permitted to be placed on the seabed in connexion with mussel culture covered by this Licence.
- (c) Mussel seed may be placed by the Licensees in the licensed areas immediately after the start of this Licence provided no disturbance of the seabed is caused.

**2. Site Monitoring**

- (a) The Licensees shall as soon as possible after the start of this Licence advise the Department of the quantity of mussel seed placed in each of the licensed areas, the approximate date(s) of the placement and the source(s) of the seed, and likewise thereafter as and when further mussel seed is so placed.
- (b) The Licensees shall advise the Department on the 31st day of December, 2002 and on each succeeding 31st day of December for each year during which this Licence continues in force of the quantity of mussels harvested in each of the licensed areas in the preceding year and the approximate date(s) of harvesting.
- (c) Annual and other monitoring shall be undertaken by the Licensees in the licensed areas in accordance with the specifications of the Department (including the essential reference standards against which the monitoring shall be carried out).

**3. Non-Interference With Other Users Of The Sea etc.**

- (a.) The Licensees shall generally conduct their operations with full regard for other persons in the area and for the environment. In particular, the Licensees shall keep boat engine noise to a minimum in the vicinity of pNHA/SPA at Raven Point.
- (b.) The Licensees shall avoid causing any hazard to the safety of navigation across or near the licensed areas.
- (c.) The Licensees shall co-operate with Wexford Harbour Commissioners and the Wexford Harbour Boat and Tennis Club in facilitating public sailing events in Wexford Harbour.
- (d.) The Licensees shall not interfere with traditional fishing activity in Wexford Harbour.

**4. Protection of Archaeological Heritage**

The Licensees shall notify DÚCHAS - The Heritage Service immediately if any material of archaeological significance comes to his notice in the licensed areas or surrounding areas.

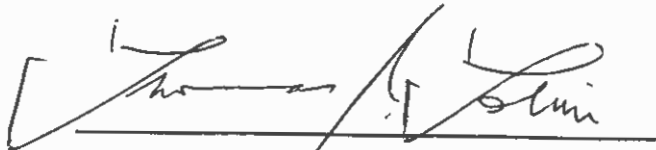
- 5. The Licensees shall ensure that the licensed areas and the adjoining areas shall be kept clear of all waste products or materials associated with the development and shall make adequate provision for the prompt removal and disposal of all wastes from those areas.
- 6. The Licensees shall indemnify and keep indemnified the State, the Minister, his officers, servants or agents against all actions, loss, damage, costs, expenses and any demands or claims howsoever arising in connection with the construction, maintenance or use of any structures, apparatus, equipment or other thing used in connection with the licensed areas or in the exercise of the

rights granted under the licence and the Licensees shall take such steps as the Minister may specify in order to ensure compliance with this condition.

7. The Licensees shall, at the expense of the Licensees, if so required by the Minister, and within three weeks after receipt of such notice or on determination of the licence from any other cause, remove the said equipment to the satisfaction of the Minister and if the Licensees refuses or fails to do so the Minister may cause the said equipment to be removed and the licensed areas restored and shall be entitled to recover from the Licensees as a simple contract debt in any court of competent jurisdiction all costs and expenses incurred by him in connection with the removal and restoration, and the Licensees shall take such steps as the Minister may specify in order to secure compliance with this condition.
8. Subject to the provisions of the Fisheries (Amendment) Act, 1997 (No. 23 of 1997), the Minister may revoke or amend the licence if he considers that it is in the public interest to do so or if he is satisfied that there has been a breach of any condition specified in the licence or that the licensed areas to which the licence relates are not being properly maintained or in the event of water quality results or general performance at the licensed areas not meeting with standards set by the Department.
9. Any notice to be given by the Minister may be transmitted through the Post Office addressed to the Licensees at the last known address of the Licensees.
10. The Licensees shall not carry out any operations authorised by the licence in the licensed areas in such a manner as to interfere unreasonably with fishing or navigation in the vicinity of the licensed areas and shall comply with any direction given to the Licensees in that regard by the Minister.
11. The Licensees shall not assign the benefit of the licence without the written consent of the Minister, such consent not to be unreasonably withheld.
12. In the event of the benefit of the licence being granted to a company (within the meaning of the Companies Acts, 1963 to 1990) the following condition shall apply, namely the Licensees shall obtain the consent of the Minister to any proposed major change in the shareholding or control of the Licensees where such change substantially alters the identity of the Licensees.
13. In the event of the benefit of the licence being granted to a society (within the meaning of Section 2 of the Industrial and Provident Societies (Amendment) Act, 1978 (No. 23 of 1978)) the following conditions shall apply, namely,
  - (i) the rules relating to membership of the society shall enable any resident of the State to become a member of it where the resident fulfils all the conditions laid down by the society for membership of it and the rules shall not lay down different conditions for different classes of people;
  - (ii) the rules relating to the society shall be submitted to the Minister as soon as practicable after such assignment and the society shall not amend the rules thereafter, other than with the consent of the Minister and
  - (iii) the Minister may, if he considers it necessary in the interests of good management of the licensed areas, direct that an amendment may be made to the rules of the society, from time to time, and the Licensees shall amend the rules in accordance with that direction.

**PRESENT** when the Seal of Office  
of the **MINISTER FOR THE MARINE  
AND NATURAL RESOURCES**  
was affixed and was authenticated  
by the Signature of:

THOMAS J. TOBIN



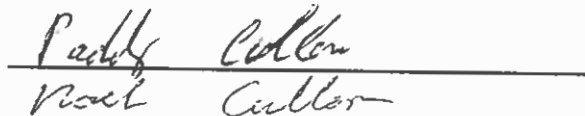
A person so authorised under Section  
15(1) of the Ministers and Secretaries  
Act, 1924 to authenticate the seal of  
the Minister.

WITNESS: Lorraine Hughes

ADDRESS: Dept. Marine & Natural  
Resources, Leeson Lane, Dublin 2

OCCUPATION: CIVIL SERVANT

SIGNED on behalf of Licensees

  
Paddy Cullen

in the presence of:

WITNESS: Helen O'Sullivan

ADDRESS: L.C. Coghlan  
Custom House Quay, Wexford

OCCUPATION: Accountant