

Section 1 Introduction

- (a). In its correspondence dated 25th of April 2022 the Communicant states:

“The public notice for DAS permit S0004-01 indicated that the applicant sought to undertake dumping at sea between November 2009 and October 2015. However, when DAS permit S0004-01 was issued, the time limit imposed by the EPA was that “loading and dumping activities must be completed within six years of the date of commencement of activities”. The permit was first used on 23 April 2012, meaning that the permit was valid to 22 April 2018. Therefore, the operation of this DAS permit between October 2015 and April 2018 was not subject to any public participation due to erroneous information provided by the applicant in the public notice and/or use of language in the conditions of the DAS permit that did not tie the duration of the permit to the duration specified by the applicant. This relates to Article 6 of the Aarhus Convention – public participation in decisions on specific activities”.

Ireland restates its previous submission that the Communication is inadmissible. The application process in respect of Dumping at Sea (‘DAS’) Permit Reg. No. S0004-01 commenced on the 15th of October 2009 and concluded with the grant of a permit on the 28th of July 2011 prior to the ratification and the entering into force in Ireland of the Aarhus Convention (‘the Convention’) in 2012. Furthermore, and without prejudice to the foregoing the issue of public participation in DAS Permit Reg. No. S0004-01 has been responded to in the ‘Statement on preliminary admissibility at the Committee’s 53rd meeting’ dated 21/06/2016, ‘Response to the communication’ dated 05/05/2017 and ‘Comments on the communicant’s clarification of 7th December 2018 and reply to questions of 19 April 2018’ dated 11/02/2019 specifically pages 2-3, 12-15 and 3-4 respectively.

- (b). In its correspondence dated 25th of April 2022 the Communicant states:

“In trying to obtain basic information regarding DAS permit S0004-01, it was found that documents that would be expected to be available through the EPA’s online portal were not available. At the time the EPA had responded by stating that “the EPA’s Office of Environmental Enforcement does not maintain correspondence relating to Dumping at Sea permits”. In effect, the EPA was holding back documents that would reasonably be expected to have been in the public domain, protecting communications between permit holders and the regulator from third party scrutiny. The lack of public access to important documents related to DAS permits, and thus access to information on environmental matters, was the second issue raised by the original communication. This relates to Article 5 of the Aarhus Convention – collection and dissemination of environmental information.”

The Communicant’s characterisation of the EPA’s position is not accepted. In correspondence dated 12th of April 2016 between the EPA and the Communicant (see Communicant’s correspondence dated 24th March 2016) the EPA stated as follows: *“The EPA’s Office of Environmental Enforcement does not maintain correspondence relating to Dumping at Sea permits (other than the Annual Environmental Report) online”*. Accordingly, it is apparent that the entirety of EPA’s response to the Communicant has not been referred to in its letter dated the 25th April 2022.

This is important because it appears that the Communicant’s statement in its letter of the 25th of April 2022 omitted to take into account the full context of the EPA’s statement. The EPA in its correspondence dated 12th of April 2016 referred to the enforcement information available at the time on the EPA website, which was the Annual Environmental Reports (AER’s). However, it is important to note that at the time all available formal enforcement correspondence (i.e. paper files

and/or any other available formal enforcement correspondence by other means such email) was available to the general public for viewing at EPA offices by appointment.

By way of further background in 2016 the EPA began the online publication of selected enforcement documents on the Licence Details Page of the EPA website alongside licence application information and AER's which included EPA site visits. At the end of 2016, the Environmental Data Exchange Network (EDEN) was extended to the Dumping at Sea enforcement regime. As a consequence, from the end of 2016 onwards commencement notices and some selected documents such as those submitted by the DAS permit holder as self-monitoring reports (where required in the specific permit) began to be published on the EPA website.

EDEN is an online exchange network that allows data sharing and correspondence between the permit holders and the EPA. EDEN is not itself a data repository. "Formal Enforcement Correspondence" submitted via EDEN is available for public viewing at the EPA offices via its Licence Enforcement Access Portal (LEAP) and selected document types are also published on the EPA website. The EPA considers that the LEAP Portal is fully compliant with the Aarhus Convention. More details in this regard are provided in section 3.5 of this response.

Response to Section 2. Inadequate Public Participation with Regards Time Limits of DAS Permits

Please see Sections 2.1, 2.2 and 2.3 below.

Response to Section 2.1- DAS Permit S0021-01

(a) In its correspondence dated 25th of April 2022 the Communicant states:

"Page 9 of the communication from the Party Concerned of 4 March 2022 confirms that there was communication between the DAS permit holder (Port of Cork) and the EPA to request a change in dates for DAS permit S0021-01, that this change was accommodated without public consultation, and that this communication only became available following an Access to Information on the Environment (AIE) request by Diving Ireland. This exchange undermines public participation in decision making process in the environmental area and highlights deficits in the EPA website with regards access to environmental information."

The communicant refers to the statement made on page 9 of correspondence dated 4th March 2022 and further states that

"the request from Port of Cork was to alter a condition of an existing permit, in this case Condition 3.1 of DAS permit S0021-01. It is the understanding of the Party Concerned that the request from Port of Cork to alter a condition of a DAS permit required an amendment of the permit, whereas the EPA did not amend the permit but instead agreed a "change" to the permit. This nuance in terminology is critical in this case". The communicant also refers to section 5 of the Dumping at Sea Act and in particular section 5(7).

Response

A request for a variation of a condition in an existing DAS Permit by way of a letter of agreement is dealt with by the EPA's Office of Environmental Enforcement (OEE) while a request for an amendment to a DAS Permit or a new permit is dealt with by the EPA's Licensing Programme. It should be noted that a variation of a DAS Permit by way of letter of agreement will only be available in respect of minor changes which can be accommodated and controlled within existing permit conditions and limitations.

In circumstances where the proposed alteration to the DAS Permit requires a material change to a condition or Schedule of the DAS permit, an amendment to an existing DAS Permit may be required [which will be subject to public participation].

Regarding to the statement on page 9 of Ireland's correspondence dated 4th of March 2022, referred by the Communicant, the EPA would like to clarify/ correct that the statement should read that "an amendment to an existing DAS Permit may be required where the proposed alteration requires a change to a condition or Schedule of the DAS permit" instead of "an amendment to an existing DAS Permit will be required..." as per 2019 EPA's Guidance on Requests for Alterations to a DAS Permit. A new DAS permit is likely to be required for more substantial changes involving alterations to the site boundaries or activities or which require appropriate assessment. The circumstances in which a DAS Permit may be varied and/or amended and the practice of the competent authority (the EPA) were also detailed in Ireland's response dated 11th February 2019. The EPA's Guidance on Requests for Alterations to a DAS Permit available at the time was submitted in Appendix B of Ireland's response dated 11th February 2019. This guidance is designed to assist DAS permit holders to consider the environmental significance of the proposed alteration and to understand and select the most appropriate mechanism to deal with their request for alterations to the permit.

As explained in Ireland's previous correspondence dated 4th March 2022, the OEE deemed that the proposed change to DAS Permit S0021-01 was of such a nature that it could be accommodated and controlled under the conditions of the DAS Permit and therefore no alteration of the permit was deemed necessary. The letter of approval was issued under condition 1.7, which expressly states that no change to the loading and dumping activities authorised by this permit shall be carried out or commenced *without the prior written agreement of the Agency* i.e. EPA.

(b) The Communicant in section 2.3 of their correspondence dated 25th of April 2022, refers to the 2019 EPA's Guidance on Requests for Alterations to a Dumping at Sea Permit and *states*:

"this document contains, on page 5, a screening matrix to determine the action required by the Agency on receipt of a request to alter a DAS permit. This completely contradicts the evidence put forward by the Party Concerned in page 5 of the communication of 4 March 2022 which suggests that an extension in the duration of activity can be accommodated by the EPA issuing a letter of agreement."

Response

It is not agreed that there is any contradiction as suggested by the Communicant. It is important to restate that the Guidance "Screening Questions and Option Selection" table indicates an amendment to an existing DAS Permit may be required where the proposed alteration requires a change to a condition or Schedule of the DAS permit and that a letter of agreement under a specific condition may be required when the proposed change can be accommodated and controlled under the existing permit conditions and limitations. A letter of agreement can only be used to accommodate minor changes under the existing conditions of a DAS permit. In the case of DAS permit S0021-01, the OEE deemed that the proposed minor date change could be accommodated and controlled under the conditions of the existing DAS permit.

(c) *The Communicant also in section 2.3 of their correspondence dated 25th of April to the 2019 states that this change to DAS permit S0021-01 was accommodated without public*

consultation, and that this communication only became available following an Access to Information on the Environment (AIE) request by Diving Ireland.

Response

Ireland would highlight that no amendment request or new application was made by the DAS permit holder and, the request to the minor change and associated enforcement correspondence is accessible by visiting the public viewing facility and accessing the LEAP system at an EPA Office, as per any return following the move to the online portal (refer also to response section 3.4.5 regarding the availability of documents available on the EPA website and/or the LEAP system).

- (d) The communicant in section 2.3 of their correspondence dated 25th of April also states that the Dumping at Sea Act:

“is saying that as Port of Cork requested an amendment to the duration of a DAS permit, a fee must be payable, and the fee paid to the EPA before an amendment of the permit could be considered by the Agency. There is no evidence that a fee was applied in this case. It appears that the EPA acted unilaterally in amending this DAS permit without due regard to the obligations imposed up on it by paragraph 5(5) of the Dumping at Sea Act.”

Response

By way of clarification a fee is only payable in circumstances where there is an application for a new DAS Permit or an amendment to an existing DAS permit. In this case no fee was paid because no fee was payable in circumstances where no amendment request or new application was made by the permit holder. Instead, the request from the permit holder was accommodated under the conditions of the DAS permit which did not incur a fee. Therefore, there was no breach of paragraph 5(5) of the Dumping At Sea Act 1996 (as amended).

Response to Section 2.2- DAS Permit S0012-01

The Communicant’s correspondence dated 25th of April 2022 refers to a letter of approval (dated 21st October 2013) submitted by the EPA following a request by the permit holder under DAS permit reg. S0012-01 for a time extension to continue dumping beyond the 30th November 2013. The Communicant also states that DAS permit S0012-01 is not available on the EPA website. The Communicant states that:

“the EPA made its decision in the absence of public consultation and has not made any documentation relating to the request from the permit holder and the response of the EPA available to the public.”

Response

In the first instance these are entirely new comments and complaints by the Communicant which have not previously formed part of the original communication to the Committee. As such Ireland objects to their admissibility and introduction at this late stage in proceedings.

Strictly without prejudice to the foregoing objection as to the admissibility of this matter, Ireland responds as follows. In accordance with Section 29 of the Foreshore and Dumping at Sea (Amendment) Act 2009, all functions relating to dumping at sea, specified under the Dumping at Sea Act 1996 (as amended), transferred to the EPA on 15th February 2010. The DAS Permit referenced by the Communicant was not issued by the EPA, it was issued by the Department of Agriculture, Fisheries and Food (permit reg. 396) and therefore the initial permit was not available on the EPA website.

The EPA issued Technical Amendments to Port of Waterford under this DAS permit on 29th of June 2010 and 13th May 2011 which are available on the EPA website under register number S0012-01. The new register number S0012-01 for this permit was assigned by the EPA during 2011 in line with the EPA's naming convention for all DAS permits.

The Communicant also states that this change was accommodated without public consultation, and that this communication only became available following an Access to Information on the Environment (AIE) request by Diving Ireland. As part of the AIE request the EPA provided certain records and information to the Irish underwater Council/Diving Ireland. However, the AIE process does not lend itself to the public body explaining further details on the records provided. The request to the minor change and associated enforcement correspondence was therefore provided in Ireland's correspondence dated 4th March 2022 following comments raised on the Communicant's correspondence dated 19th October 2021. The letter of agreement between the DAS permit holder and the EPA are not subject to third party submissions. However, the EPA is fully transparent in providing any formal enforcement communication available (refer to sections 3.4 and 3.5 for further information in this regard).

It should be noted that no amendment request or application was made by the permit holder regarding their request to extend temporarily dumping activities beyond 30th November 2013. At the time a new application for a DAS Permit (permit reg. S0012-02 issued by the EPA on 8th May 2014) for a period of eight years was under assessment by the EPA's Environmental Licensing Programme. The EPA deemed that the proposed change could be accommodated and controlled under the conditions of the permit.

As noted in section 1 of this correspondence, any formal enforcement correspondence prior to the end of 2016 will be available in hardcopies and/or emails and can be made available (if any) by appointment at our EPA offices. OEE has made every effort to submit all available information following any queries and or statement raised by the communicant.

Response to Section 2.3- Interpretation of Amendments to DAS Permit

- (a) The comments raised by the Communicant under section 2.3 in its letter dated 25th of April 2022 have been dealt above with under the response to sections 2.1 and 2.2 of this correspondence. A clarification on the wording of the "Screening Questions and Option Selection" of the EPA Guidance on Requests for Alterations to a DAS Permit has also been provided under the response to section 2.1 of this correspondence.
- (b) The Communicant's correspondence dated 25th April 2022 refers to the EPA Guidance on Requests for Alterations to a Dumping at Sea Permit as an "internal" guidance. This is incorrect and the EPA do not deem this guidance as "internal", as it is published on the EPA website (refer to link <https://www.epa.ie/publications/licensing--permitting/waste/epa-guidance-on-requests-for-alterations-to-a-dumping-at-sea-permit.php>) and is available to the general public and DAS permit holders.

Response to Section 2.3- DAS Permit S0024-01

The Communicant in its correspondence dated 25th April 2022 states that the EPA acted in direct contradiction to their own guidance document, and the EPA denied an opportunity for public participation in the environmental decision-making process.

Response

As highlighted in previous correspondence dated 4th March 2022, the DAS Permit S0024-01 imposed no limitations on disposal rates in kg/s (as detailed in correspondence from Dublin City Council). The DAS Permit does specify the monthly and total quantity of dredge material that can be dumped at sea (Schedule A.1) and requires that dumping is effected by the release of the dredged material through the hull of the vessel while the vessel is in motion (condition 3.6). The disposal rate proposed by Dublin Port Company during the permit application was 292,000 tonnes (wet weight) per calendar month and this rate was used in the model assessments submitted and is included in Schedule A.1 of permit reg. S0024-01. Schedule A.1 also specifies the total maximum quantity of dredged material to be dumped at sea to 8,760,000 tonnes (wet weight).

No alterations to the DAS permit No. S0024-01 have been issued by the EPA in this regard. No request for an alteration to Quantity of Dredged Material to be dumped at sea specified in the permit has been submitted by the DAS permit holder. The method for loading dredged material is specified in condition 3.3 as loading by trailer suction hopper dredger (TSHD) or backhoe dredger and in accordance with condition 3.6, dumping shall be effected by the release of the dredged material through the hull of the vessel. No request for an alteration to the loading and dumping method specified in the permit was submitted by the permit holder. The EPA does not agree in this case that a change of the method of proposed loading or dumping specified in the permit and/ or changes to the quantity of dredged material to be dumped at sea specified in Schedule A.1 of the permit had occurred based on the information provided. The EPA therefore does not agree with the comments from the Communicant that the EPA contradicted its own guidance and denied an opportunity for public participation.

It should be noted that Condition 4.9.1 and Schedule B.2.2 of the DAS permit reg. S0024-01 required turbidity and suspended solids monitoring in the vicinity of the dumping activity. In addition, Conditions 4.10 and 4.11 required hydrographic and sediment plume monitoring at the dumping site in order to validate the hydrographic and sediment dispersion modelling submitted as part of the permit application. Reports on the monitoring and model validation exercise were required to be submitted as part of the AER which is available on the EPA website.

Response to Section 3. Access to Information on Environmental Matters with Respect to DAS Permits

(a) The Communicant its correspondence dated 25th April 2022 states that:

"the EPA has an online portal for public access to documents relating to DAS Permits, available at Environmental Protection Agency (epa.ie) and that with respect to any given DAS permit, documents held on this system are stored in five files."

Appendix 3 provided by the Communicant in its correspondence dated the 25th April 2022 shows the permit details page for permit reg. S0011-03.

Response

The Communicant describes the online portal as "an online portal for public access to documents relating to DAS Permits", but appears to misinterpret its design and purpose in relation to the "View Licence Enforcement Documents" access button on the permit details page of the EPA website. The "Access to EPA information on compliance and enforcement" web page (<https://www.epa.ie/our-services/compliance--enforcement/whats-happening/access-to-epa-information-on-compliance-and-enforcement/>) describes the content of the [View Licence Enforcement Documents](#) resource as follows:

- Key compliance and enforcement reports and documents, which are the documents that demonstrate the compliance status of the licence:
 - Operator submissions: annual environmental performance reports (**Annual Environmental Reports** and Pollutant Release & Transfer Register) and self-monitoring reports.
 - EPA site visit (inspection and monitoring) reports.
 - Site closure and decommissioning documents.

The above refers to all Industrial, waste, wastewater and DAS sectors and therefore not all the documents may be relevant to DAS Permits, e.g. site closure documents and the pollutant release and transfer register. In addition, commencement notices submitted with the pdf notice are automatically uploaded onto the EPA permit details page (“View Licence Enforcement Documents”). Thus, the online portal referred to by the Communicant is not and does not purport to be a comprehensive “online portal for public access to documents”. This is made clear on the same web page, which states the following:

“You can visit, by appointment, any EPA office to view all ‘formal enforcement correspondence’ between the EPA and regulated facilities. This includes all communications between the holder of the licence, permit or authorisation and the EPA, for the purpose of their formal regulatory interactions.

All this information is in electronic format and is accessible using our Licence Enforcement Access Portal (LEAP).

Members of the public can access LEAP, by appointment only, at the following locations:

EPA headquarters in Wexford: 053- 9160600

Regional offices:

<i>Dublin</i>	<i>01 2680100</i>
<i>Cork</i>	<i>021 4875540</i>
<i>Castlebar</i>	<i>094 9048400</i>

(b) The Communicant in its correspondence dated 25th April 2022 states that:

“Part of the original communication from the Irish Underwater Council was that, although a document system was in place, key documents were often not available.”

and

“The communication from the Party Concerned of 4 March 2022 includes numerous examples of these omissions and these are reviewed below. These examples raise further questions about document management which are also examined.”

Response

Every effort has been made to make available all relevant enforcement documents for public viewing. The EPA does not agree with the Communicant comments and has responded accordingly to sections 3.1, 3.2 and 3.3 and to these comments throughout this correspondence.

- (c) *The Communicant refers to the findings and recommendations with regards to Communication ACCC/C/2015/131 concerning compliance by the United Kingdom of Great Britain and Northern Ireland, adopted by the Compliance Committee on 26 July 2021, and states that the findings and recommendations are relevant to the current communication with regards access to environmental information and timeliness of the availability of environmental information.*

Response

It is not accepted that the findings and recommendations with regards to Communication ACCC/C/2015/131 are relevant or applicable to the within complaint. The EPA has always and continues to provide information to the public and permit holders in a timely and efficient manner. The EPA also regularly deals with AIE and Freedom of Information (FOI) requests in a timely and professional manner. As previously detailed, electronic enforcement records are readily accessible either through the EPA website or for public viewing at EPA offices through our LEAP system. Access to the EPA's environmental information portal LEAP has been used successfully for several years and it is currently being updated to provide access to enforcement documents via a more user friendly and easily accessible online LEAP system (refer to section 3.5), continuing to ensure that information is accessible in a timely fashion. The EPA considers that the LEAP Portal is fully compliant with the Convention, notwithstanding the findings of the Compliance Committee ACCC/C/2015/131.

Response to Section 3.1 Change of Conditions of DAS permit S0012-01 and S0021-01

In respect of the matters raised by the Communicant its correspondence dated 25th April 2022 please see response at sections 2.1 and 2.2 herein where these matters are addressed.

Response to Section 3.2 Annual Environmental Reports (AERs)

(a) AERs for DAS Permits S0021-01, S0029-01, S0028-01, S0012-01

The Communicant in its correspondence dated 25th April 2022 states that:

"there are numerous cases where AERs have not been submitted after years in which no recorded dumping at sea activity took place."

The Communicant further states that:

"There is no AER for DAS permit S0029-01 (see appendix 4). Annex 2 of the communication by the Party Concerned of 4 March 2022 contains a link to the Enforcement Documents file for this DAS permit, but no AERs are included in this file. This is in spite of the EPA undertaking site visits on 14/5/2018 and 7/12/2018, thus confirming that dredging and dumping was taking place, with a non-compliance raised on the first visit."

Response

A final environmental report was submitted by the permit holder and the report is available on the EPA website (refer to File name: [30398 001EPA FERRev0](#) on the screenshot below taken from the EPA website). The EPA however notes that it appears that the Communicant filtered the search by Annual Environmental reports and could not locate the report despite the fact it was available to the public on the EPA website.

Enforcement Documents

Reg No.: S0028-01 Licensee: Department of Agriculture, Food & Marine

Disclaimer

The EPA provides online access to a range of enforcement documentation that collectively provide substantive information on the Enforcement Status of EPA Licences. These include EPA Site Visit Reports and Licensee Submissions (Annual Environmental Reports, Self-Monitoring Reports etc.).

The EPA accepts no responsibility for either the contents of Licensee Submissions or for any errors, omissions or other issues that may be contained therein. The EPA accepts no responsibility whatsoever for loss or damage occasioned or claimed to have been occasioned, in part or in full, as a consequence of any person acting, or refraining from acting, as a result of a matter contained therein.

Further information may be obtained by appointment at any office of the EPA.

Show: Filter By:

Name	File Type	Originator	Date	Size
SV15707 - Licensee Report	EPA Report	EPA	05/02/2019	689KB
30368 001EPA FERDev0	Self Monitoring Report	Licensee	18/12/2018	6419KB
SV15586 - Licensee Report	EPA Report	EPA	06/08/2018	324KB
SV15562 - Licensee Report	EPA Report	EPA	30/07/2018	709KB
EPA Commencement Notice No 3 - Revised Date	EPA Report	Licensee	18/04/2018	249KB
30368 EPA Commencement Notice No 2 - Revised Date	EPA Report	Licensee	13/04/2018	362KB
30368 EPA Commencement Notice	EPA Report	Licensee	23/03/2018	261KB
30368 Dingle 0181466 Full ReportV11-SECURE	EPA Report	Licensee	28/12/2017	331KB
30368 Dingle Archaeology Data Condition Letter NMS 121217	EPA Report	Licensee	25/12/2017	43KB
30368 Dingle MMRA_NPWS Agreement 211217.pdf		Licensee		152KB

It is important to recall that any stakeholders including members of the public can contact the EPA if they have any queries or require any clarification regarding the AERs. In this regard it was and is open to the Communicant to contact the EPA if it has any queries relating to the AERs or the enforcement of DAS Permits. The AERs are considered a public document by the EPA and they are published on the EPA website but in the rare event that due to technical or administrative issue, a difficulty in accessing an AER is encountered the EPA will endeavour to resolve issue as soon as possible

(b) The Communicant in its correspondence dated 25th April 2022 states that:

"There is no AER for DAS permit S0028-01 to cover activity that took place in August 2018. There is an EPA site visit report for an inspection that took place on 13/8/2018, but no corresponding AER for this period. Technically, for this permit it would be a Final Environmental Report as condition 6.7 of this permit required that "the permit holder shall submit electronically to the Agency a Final Environmental Report within 3 months of completion of the loading and dumping activities". The environmental report that is available in the Enforcement Documents file for this permit covers the period from December 2019 onwards."

Response

Site Visits are completed by OEE to assess compliance with the dumping at sea permits. The EPA notes that the records of the Site Visit referred to by the Communicant is available on the EPA website to all members of the public.

DAS Permit (Reg. No. S0028-01) was issued for the loading and dumping of Class 1 and Class 2 material. The permit restricted unsuitable material to be loaded and dumped at sea under conditions 3.2 and 4.10. During 2018, the permit holder completed works addressing removal of a top layer of sediments determined to be Class 3 and therefore unsuitable for conventional dumping at sea. This Class 3 material was excavated and brought onto land for dewatering and stabilisation before onward transfer to a licensed waste permit facility. A Waste Facility permit was issued by Donegal County Council for the onsite treatment works, which falls outside the remit of the DAS permit. No dumping at sea activities occurred in 2018 and therefore there was no requirement under the DAS permit to submit information on the activities completed during 2018.

There was no requirement in DAS Permit (Reg. No. S0028-01) to submit an AER for 2018 and therefore no AER was submitted by the permit holder. The permit only required the submission of a Final Environmental Report within three months of the completion of the loading and dumping activities.

The Final Environmental report for DAS Permit (Reg. No. S0028-01) required the permit holder to submit information specified in Schedule D of the DAS permit, such as the register of loading and dumping activities relating to each dumping voyage. There was no requirement under the Schedule D of the DAS permit to submit information on the excavated material removed for treatment on land which is outside the scope of a DAS Permit.

The material to be loaded and dumped at sea pursuant to DAS Permit (Reg. No. S0028-01) consisted of Class 1 and Class 2 sediment which is suitable for dumping at sea. Loading and dumping at sea activities commenced in 2019 and the log/register of loading and dumping activities are included in the Final Environmental report for DAS Permit (Reg. No. S0028-01).

(c) The Communicant in its correspondence dated 25th April 2022 states that:

“There is no AER for DAS permit S0012-01(in fact, there are no enforcement documents of any description for this permit). Annex B5 of the communication from the Party Concerned of 4 March 2022 is a copy of a letter from the EPA to the Port of Waterford allowing dumping to continue beyond 30 November 2013. It would therefore be expected that there would be AERs for dumping occurring in 2013 and/or 2014 using this licence. It should be noted that the permit itself is also not available on the EPA website. There is no public record of any dumping activity having taken place using DAS permit S0012-01 other than Annex B5”.

Response

As explained in section 2.2 of this correspondence, the *DAS permit S0012-01* was not issued by the EPA, it was issued by the Department of Agriculture, Fisheries and Food (permit reg. 396) and therefore details pertaining to it are not available on the EPA website.

There was no requirement in the aforesaid DAS permit for an AER and therefore no AER was submitted by the permit holder. The requirement for an AER was introduced by the EPA for DAS permit S0012-02.

(d) The Communicant in its correspondence dated 25th April 2022 states that:

“The 2019 AER for DAS permit S0012-02 is in the Enforcement Documents folder for a different permit, S0012-03. The AER for DAS permit S0021-01 is in the file for DAS permit S0021-02. So, while the Party Concerned is correct to say that these AERs are available, the system for locating the document is flawed and thus essentially useless. An interested party should not need to go through document files for other DAS permits to find details relating to the DAS permit that they actually require.”

Response

It is noted that the Communicant had difficulty in finding the 2019 AER for DAS permit S0012-02 and the AER for permit reg. S0021-01 on the EPA website. However, it is not agreed that the system is flawed or useless as suggested by the Communicant. Once a new DAS permit has been issued, any returns or submissions after that date can only be uploaded to the current permit via the EPA's online system. Thus, in the case of DAS permit reg. S0012-03 which was issued on 14/01/20 any returns or submissions after that date, such as the 2019 AER for DAS permit S0012-02 are uploaded to permit S0012-03. All DAS permit details pages are easily accessible on the EPA website.

Furthermore, any stakeholders including members of the public who encounter difficulties accessing an AER can contact the EPA if they have any queries or require any clarification regarding the AERs. It was and is open to the Communicant to contact the EPA if it has any queries relating to the AERs or the enforcement of a specific DAS Permit.

AERs for DAS Permits S0030-01

(e). The Communicant in its correspondence dated 25th April 2022 states that:

“With regards to DAS permit S0030-01, condition 6.7 of this DAS permit requires:

“The permit holder shall submit electronically to the Agency, by the 31st March of each year, an AER covering the previous calendar year. This report shall include as a minimum the information specified in Schedule D: Annual Environmental Report of this permit and shall be prepared in accordance with any relevant guidelines issued by the Agency or as otherwise prescribed by the Agency”.

The Communicant further states

“The absence of an AER for this permit was raised in the communication from the Irish Underwater Council to the ACCC dated 20 May 2021, 50 days after the required submission date for this document. The AER for 2020 for permit S0030-01 is now available through the EPA website but is dated 13 July 2021 (see appendix 5). This is 104 days after the submission date. The appendices to this AER are dated 27 August 2021 (149 days after the due date, see appendix 6). The AER is incomplete without these appendices as these contain the raw data relating to the dredging campaign and subsequent dumping at sea and are required items as listed in Schedule D of this permit.”

“It is worth re-iterating the findings and recommendations with regards to communication ACCC/C/2015/131, paragraph 103, which states ““Easily accessible” also entails that the information is accessible in a timely fashion. This has at least two aspects. First, the information must be promptly uploaded onto websites once it comes into the public authority’s possession.” The delay in uploading this AER is not in compliance with the easy accessibility of documents that is demanded by the Aarhus Convention.”

Response

The permit holder of DAS permit S0030-01 submitted the AER and Appendix 2b on 13th of July 2021 and the rest of Appendices between July 2021 and August 2021, following requests for information by the EPA. The last document/ Appendix was submitted by the permit holder on 26/08/2021. Therefore these Appendices were made available on the EPA website together on the 27/08/2021. It is incorrect for the Communicant to infer that the EPA delayed the uploading of the AER and did not make the document easily accessible. The initial 2020 AER was submitted on 08/04/2021 due to issues by the permit holder accessing EDEN. This submission was rejected by the EPA and requested the permit holder to resubmit the AER in accordance with the recently revised EPA’s Guidance on Preparation and Submission of the AER for Dumping at Sea Permit Holders. No non-compliance was issued in relation to the submission of the AER.

The Communicant has stated over different correspondence that the AERs are not published on the EPA website however as demonstrated by the previous response and this response, this is simply not the case.

As stated in previous correspondence dated 21st June 2016, the obligations contained within the Convention do not require the formal publication of the range of enforcement documentation that is to be made available to the general public. The EPA does not have an express statutory obligation to provide access to “enforcement correspondence” under national dumping at sea legislation. Nevertheless, since its foundation, the EPA has taken the view that it should conduct all of its business in a fully open and transparent manner. The Convention requires that information is made “effectively accessible” and the EPA has measures in place to make information, including Inspection Reports and AER’s, available to the public on the EPA website. This matter has been addressed under Ireland’s correspondence dated 21st June 2016, 5th May 2017, 4th March 2022 and this correspondence.

Submission of Annual Environmental Report

- (f) The Communicant in its correspondence dated 25th April 2022 queried the requirement of submitting an AER when no loading and dumping activity has occurred during the reporting period and the difficulty of tracking whether the DAS permit has been active. The communicant also states that there are 30 missing nil return AERs across different DAS permits.

Response

In previous correspondence dated 4th of March 2022 it was highlighted that the DAS permit holder is required under the permit to notify the EPA of the commencement of the loading and dumping activities and that all commencement notices from November 2016 onwards are available on the EPA website following the move to electronic submission of notices via the Environmental Data Exchange Network (EDEN) system. Links to these commencement notices have already been provided as part of the response to the Communicant’s AIE request. Since November 2016, commencement notices submitted in pdf format via EDEN by the DAS permit holder are automatically uploaded onto the specific permit details webpage (under “View Licence Enforcement documents”).

As a consequence, information on whether loading and dumping activities have occurred can be obtained from the AER and/ or commencement notices. Prior to that, commencement notices were submitted directly to EPA via email and/or by post, and copies of commencement notices/ correspondence prior to November 2016 were provided as part of the Communicant’s AIE request.

It is important to note that if the permit holder does not notify the EPA of the commencement of the loading and dumping activities, enforcement action will be taken in accordance with the EPA’s Compliance and Enforcement Policy (refer to link https://www.epa.ie/publications/compliance--enforcement/licensees/performance/EPA_ComplianceandEnforcementPolicy.pdf). There is no requirement on the EPA to produce nil submissions when there are no documents/ records required and/or no activities have occurred during the reporting year, and therefore no AER is produced. Any stakeholders including members of the public can contact the OEE if they have any queries or require any clarification regarding the loading and dumping activities for a specific permit.

It should be noted that all DAS permits also require the permit holder to establish, maintain and implement a Public Awareness and Communications Programme to ensure members of the public can obtain information at reasonable times, concerning the environmental performance of the permitted activities.

- (g) The Communicant in its correspondence dated 25th April 2022 states that:

“the poor record keeping by the EPA with regards the Annual Environmental Reports for DAS permits, as highlighted above, are an active hindrance to public participation and constitute

some of the worst failures of the EPA to maintain full and proper documentation relating to dumping at sea.”

Response

Ireland strongly disputes any suggestion of poor record keeping or ‘active hindrance’ to public participation by the EPA. The Communicant has repeatedly asserted that AER’s are not available on the EPA website however it has consistently been demonstrated that it is not the case. This is apparent from the links to where the AERs are located on the EPA website (see above and correspondence dated 4th March 2022). The AERs submitted by DAS permit holders are made available on the EPA website.

Response to Section 3.3 Timeliness of Document Availability

(a) AERs for DAS Permits S0030-01

The Communicant in its correspondence dated 25th April 2022 refers to the AER’s for DAS Permits S0030-01 and by way of response Ireland refers to Section 3.2 above

(b) Commencement Notice DAS Permits S0030-01

The Communicant in its correspondence dated 25th April 2022 states the following regarding DAS permit S0030-01:

“the commencement notice is dated 15 May 2020, notifying the EPA of the intention of the permit holder to start loading and dumping activities on 1 June 2020. This commencement notice, which is a requirement of Condition 2.4 of DAS permit S0030-01, was not uploaded on to the EPA website until 2 June 2021 over one year after dumping activity started. Such late provision of documentation is simply not acceptable and actively hampers public participation in the administration of dumping at sea legislation and control. It is also clearly not in compliance with Article 5 of the Aarhus Convention.”

Response

As previously explained above, commencement notices submitted in pdf format via EDEN by the permit holders are automatically uploaded onto the specific permit details webpage (under “View Licence Enforcement documents”). In this case no pdf document was attached with the return submitted by the DAS permit holder and therefore there was no document to be uploaded and displayed on the EPA website in May 2020. There were no records/ documents that could be uploaded to the website, but the return was available on LEAP in May 2020 for public viewing at EPA offices. Therefore, it is not accepted that this gives rise to non-compliance with the Convention. Details from the return were made available on the EPA website as the LEAP system could not be accessed at our offices due to Covid-19 restrictions (refer to our previous correspondence dated 4th March 2022).

It is noted that the vast majority of notices are and have been submitted with an attached pdf notice and every effort is made to ensure that commencement notices are automatically uploaded onto the EPA website as soon as possible but in the event that technical /administrative issues are encountered the EPA will continue to work in resolving any issue as soon as possible. However, it is also noted that returns/ submissions by the DAS permit holder, including the abovementioned commencement notification, can also be checked by the public at EPA offices via the LEAP system. The EPA LEAP system is undergoing development and will be accessible online (See further in section 3.5. below).

The DAS permit holders are required to notify the EPA prior to of the commencement of the loading and dumping activity as specified in the DAS permit(s). If a permit holder fails to notify the EPA of the commencement of the loading and dumping activities, the EPA may take enforcement action in accordance with its Compliance and Enforcement Policy (refer to link https://www.epa.ie/publications/compliance--enforcement/licensees/performance/EPA_ComplianceandEnforcementPolicy.pdf).

Response to Section 3.3, 3.4.4 and 3.4.5- Incidents and non-compliances

(a) The Communicant in its correspondence dated 25th April 2022 states the following:

"The EPA uses the term "non-compliance" widely to describe occasions where a DAS permit holder does not fully comply with their DAS permit, as in the example in section 3.4.4 with DAS permit S0009-02. The term "non-compliance" is not defined in the Glossary of Terms for DAS permits and does not appear in the conditions of the DAS permits. It is therefore difficult to determine the legal standing of a "non-compliance"."

The Communicant further states that:

"The term "incident" is defined in the Glossary of Terms for DAS permits. Almost all of the issues with DAS permits that are described by the Party Concerned in the communication of March 2022 appear to be "incidents", so it would be useful if the Party Concerned could define what is meant by a "non-compliance" in the context of DAS permits and why "incidents" are being categorised as "non-compliances"."

Response

An incident is defined in the glossary of a DAS Permit and it is specific to each permit. Typically, it is defined as an emergency; any loading or dumping at sea activity which does not comply with the requirements of the permit, any indication that pollution has, or may have, taken place, and activation of the alarmed turbidity sensors (as specified in the DAS permit).

All holders of a DAS Permit have a responsibility to notify the EPA of an incident as soon as practicable after it occurs. All incident notifications must be received from the DAS Permit holder via the EDEN portal and these are available to the public on the LEAP system. Information relating to the notification and managing of incidents is provided on the EPA website and links are provided as follows: <https://www.epa.ie/our-services/compliance--enforcement/industry-and-waste-management/incidents/>

and

<https://www.epa.ie/our-services/compliance--enforcement/whats-happening/incidents-at-epa-regulated-sites/>

The EPA may issue a notification of non-compliance when deemed that a breach of a DAS permit condition has occurred. In accordance with the EPA's Compliance and Enforcement Policy (refer to link [EPA_ComplianceandEnforcementPolicy.pdf](#)), the EPA takes a proportionate and an outcome focused and risk-based approach to this matter. It has a variety of enforcement options available to it. These range from issuing notifications of non-compliance and opening compliance investigations, with corrective actions or instructions to be implemented to address the problem, to taking legal action which may include prosecutions, injunctions and ultimately the suspension or revocation of a licence and/or permit.

Response to section 3.2,3.3 (AERs, commencement notices) and 3.4.4. (DAS permit S0009-02)

- (b) The Communicant in its correspondence dated 25th April 2022 queried in section 3.2, 3.3 and 3.4.4 thereof whether the late submissions of the AERs and commencement notices should be reported as an incident and refers to the DAS permit(s) which states that any loading or dumping at sea activity which does not comply with the requirements of the permit constitute an incident.

Response

The EPA does not consider that the late submission of an AER and/ or commencement notices constitutes an 'incident' as it does not fall under the category of loading and dumping at sea activity as prescribed in the definition of 'incident'. However, OEE reserves the right to issue a non-compliance if a breach of a DAS permit condition has occurred, in accordance with its published policy.

It is important to note that as part of the Site Visit SV12734, the EPA found that the DAS Permit holder was non-compliant with condition 3.13 of the Permit. It acted by issuing a non-compliance notice. The EPA became aware of the non-compliance during the site visit and did not deem necessary to require a separate incident notification to be submitted by the permit holder as the matter was already addressed under the site visit report.

All site visit reports, include information on the non-compliances raised by the EPA during the visit, are made available for public viewing via the EPA's Licence Enforcement Access Portal (LEAP) within one day of the issue date and are published on the 'licence details' Page of the EPA's website, that relates to the DAS permit, 60 calendar days after the issue date. As stated in the site visit reports the permit holders are required to comply with the conditions of the licence/permit at all times and where non-compliance occurs, they must ensure compliance within the shortest possible time. Non-compliances issued during a site visit are therefore made available on the EPA website with the publication of the site visit report. Non -compliances can also be checked via the LEAP system at the EPA offices.

The DAS permit holder is required to complete the actions outlined in this site visit report within the specified timeframes. Where required, the permit holder must also submit a response to the site visit report via the EDEN system. In some situations, no further actions or written response to the non-compliance is required by the EPA. Where a non-compliance requires a formal response to the EPA, the EPA may also open a compliance Investigation to track resolution of the issue. In this case, no compliance Investigation was considered necessary, as compliance would be checked again by the EPA during subsequent site inspections and/ or further correspondence (if required) submitted by the permit holder. Responses (if any) to actions outlined in site visits are available for public viewing via our LEAP system at EPA offices.

The EPA's Guidance Note on the Preparation and Submission of the AER for DAS permit holders was revised in 2021 and the revised guidance states that the AER should include a summary of compliance (including non-compliances (if any) recorded during the reporting year), i.e. when non-compliances were issued in 2021, a summary of these should be included in the AER by the permit holder. The AERs are available on the permit details page of the EPA website. It is the responsibility of the permit holders to ensure that all the information provided in the AERs is accurate and that the AER is prepared in accordance with any relevant guidelines issued by the EPA.

Having regard to the foregoing, it is simply not the case that any non-compliance with a DAS permit “can be ignored by both the permit holder and Agency” as is suggested by the Communicant.

Response to section 3.4.5- DAS permit S0024-01

(c) In its correspondence dated 25th April 2022 the Communicant states:

“the Glossary of Terms includes in the definition of an “incident” that “a complaint of an environmental nature shall constitute as incident for the purposes of this permit”. The Complaints Summary of the 2021 AER includes a list of all the complaints received over the lifetime of this permit. There are 8 complaints listed, all of an environmental nature, but none were raised as incidents.”

Response

All DAS permit holders are required to keep a record of all complaints of an environmental nature related to the loading and dumping at sea activities, as specified in the permit. Each complaint record shall include details of the date and time and nature of the complaint. The record should include the details of the response made, and the corrective action undertaken which should be made available to the EPA on request. A summary of the complaints is to be included within the AER however it is noted that due to GDPR Regulations, no personal data such as personal email addresses, monitoring locations etc. that could identify an individual are included in this, or other reports submitted to the EPA.

All valid complaints received by the EPA are actioned by the EPA as soon as possible through an Instruction or Request for Information. The complainant will be informed of the course of action taken by the EPA. The EPA does not make available details of complaints on the EPA website however the DAS permit holder should include a summary of complaints on the AER as explained above. Members of the public can also check whether complaints have been made to the EPA regarding a relevant permit via the LEAP system at EPA offices, where details of the complaints, such as complaint reference number, type of complaint, status, date and duration, are made available subject to GDPR restrictions.

Regarding the statement by the Communicant relating to DAS permit reg. S0024-01 that “a complaint of an environmental nature shall constitute as incident for the purposes of this permit”, it should be noted this is not specific to all DAS permits. It is also important to differentiate between complaints made to the EPA and those received by the permit holder. Only complaints received by the permit holder falls under a reportable incident to the EPA. Complaints made directly to the EPA are not deemed reportable as an incident, as these are addressed within the scope of the complaint, unless it falls under the definition of the incident (i.e. an emergency; any loading or dumping at sea activity which does not comply with the requirements of this permit; and/or, any indication that environmental pollution has, or may have, taken place). It should be noted that the AER reported three complaints, which were not reported by the DAS permit holder as an incident. This is a regulatory matter for the EPA which will be addressed further in the context of the possible future enforcement actions. However, it is important to note that the details of the complaints were made available via the AER and therefore made available to the public.

Response to Section 3.4- Observed Gaps in Document Availability

- (a) The Communicant in its correspondence dated 25th April 2022 states that there are gaps in the availability of documents through the EPA website and that the EPA withholds documents from public scrutiny.

Response to Section 3.4.1 and 3.4.2 DAS permits S0021-01 and S0012-01

It is not accepted that there are gaps in the availability of documents relating to DAS Permits on the EPA website or that the EPA withholds documents from public scrutiny. As previously highlighted selected enforcement documentation relating to DAS Permits is available on the Licence Details Page of the EPA website. In 2016, DAS permits were incorporated into the EDEN interface to allow for the secure exchange of compliance and enforcement electronic correspondence with regulated operators. Any returns submitted by the DAS permit holder, including formal enforcement correspondence (if any) between the EPA and the permit holder are accessible by visiting the public viewing facility and accessing the LEAP system at an EPA Office (with the exception of a small number of document types which fall under the confidentiality provisions contained in law), as set out on the EPA website at the following link <https://www.epa.ie/our-services/compliance--enforcement/whats-happening/access-to-epa-information-on-compliance-and-enforcement/> . The letter referred by the Communicant with regard to DAS permit S0021-01 is available by accessing the LEAP system and therefore is available for public viewing at EPA offices.

All available records/ paper files relating to DAS Permits prior to 2016 are available to the public at any EPA office subject to appointment in advance. This includes formal enforcement correspondence between the EPA and regulated facilities, i.e. letter provided for DAS permit S0012-01, is available to any member of the public by appointment at any EPA office. It is also possible to make a request to the EPA for access to information under the Freedom of Information Act or the Access to Information in the Environment Regulations.

Contrary to what is stated by the Communicant letter provided for DAS permit S0012-01, was in fact provided by the EPA (see correspondence dated 4th March 2022) following a query raised in correspondence dated 19th October 2021 regarding dredging taking place by Port of Waterford in early 2014.

Both LEAP and paper files continue to be available for public viewing at any EPA office.

Response to Section 3.4.3. Annual Environmental Reports

This matter is addressed in the response to Section 3.2 above.

Response to Section 3.4.4 DAS permit S0009-02

The EPA provides public access to a large amount of environmental information relating to the enforcement of DAS permits, as set out on the EPA website. Much of this material, such as AERs and commencement notices, is readily accessible to the public via the EPA website, without the need for interested persons to attend in person at an EPA office. Occasionally there may be technical difficulties or document miss-classification issues that inhibit the smooth upload of documents from the EPA's electronic communications portal to the EPA website. However, if any relevant documentation is flagged as missing, inaccurate or incomplete, the EPA endeavours to rectify such issues as quickly as possible.

See also "response to Section 3.3, 3.4.4 and 3.4.5- Incidents and non-compliances"

Response to Section 3.5 EDEN and LEAP

- (a) The Communicant in its correspondence dated 25th April 2022 refers to EDEN and LEAP and suggests that:

“EDEN is the likely resting place of the responses that were sent from Dublin Port Company to the OEE due to the numerous complaints made regarding DAS permit S0024-01 and which are listed in the 2021 AER for this permit”. The communicant also states that “EDEN is not an open public access system”

Response

The EPA’s website hosts a huge range of information aimed at both the general interested public, permit holders and other relevant stakeholders. Within the website, access is provided to detailed information on the EPA’s licensing, compliance and enforcement, and monitoring activities. This include DAS Permits and all correspondence records relating to the permit application process. It also includes selected document types relating to compliance and enforcement of EPA regulated operators, including AER’s, site visit and monitoring reports, operator reports and other defined types.

The EPA website does not at this time host a public access portal for providing public access to the entirety of all formal compliance and enforcement correspondence. However, public access to such documentation is available at EPA offices around the country and documentation is accessible by anyone who wishes to access them on appointment. This includes access to the LEAP Portal and, by prior request to archived paper files predating the switch to electronic correspondence. EDEN is an interface to allow electronic document exchange between permit holders/ licensees and the EPA for records relating to the secure exchange of formal enforcement correspondence, reports and data, effectively eliminating paper-based documentation from the regulatory interaction. These records (except records that fall under the confidentiality provisions contained in law) are available on the LEAP portal.

The EPA has, since its commencement in 1993, maintained a policy of providing full access to its files. In terms of EPA’s regulatory functions, available information includes records generated during the application process for the range of authorisations we issue and, following their coming into effect, enforcement of the operators’ compliance with their authorisations.

The EPA has developed and is progressively developing its public access facilities to deliver public access to the regulatory documentation. It intends to continue progressing the range and scope of its public access to information services. It is currently developing a system which will facilitate the online publication of compliance and enforcement correspondence and will replace the office-based LEAP Portal. This is expected to be made available in 2023.

Further information on these services is available at

<https://www.epa.ie/our-services/compliance--enforcement/whats-happening/access-to-epa-information-on-compliance-and-enforcement/>

- (b) The Communicant in its correspondence dated 25th April 2022 refers to the findings by the Compliance Committee communication ACCC/C/2015/131 and states that EDEN is not an open public access system, so uploading these notices to EDEN but not to the EPA portal does not appear to meet the requirements for access to information on environmental matters as already deliberated upon by the ACCC with respect to case ACCC/C/2015/131.

The Communicant also states that:

“Based on the above findings by the ACCC, the EDEN and LEAP systems fall far short of the requirements to access to environmental information as required by the Aarhus Convention. It is particularly concerning the information cannot be downloaded by the EPA from its own LEAP system given that enforcement information is routinely required to be used in judicial proceedings” and that “The EPA is urged to ensure that the use of the EDEN and LEAP systems are compliant with the requirements of the Article 5(3) of the Aarhus Convention in these areas. It is noted that failure of the permit holder to provide the necessary documents in PDF format is a recurring issue which it would seem should be easily rectified”.

Response

It is submitted that the LEAP Portal is fully compliant with the Aarhus Convention, notwithstanding the findings of the ACCC/C/2015/131. It provides full public access, *inter alia*, to licensing, compliance and enforcement and monitoring data arising from the EPA’s regulatory interactions in line with Article 5 of the Convention and accessibility is progressively improving in line with available technology.

Response to Section 4. Concluding Comments

For reasons set out herein there is no basis to the Communicant’s claim that *“a substantial proportion of environmental information relating to the enforcement of DAS permits is purposefully withheld from the public through the use of the EDEN and LEAP Portals”*. On a proper analysis the information relied upon by the Communicant in its letter dated 25th of April 2022 does not support this claim.

The obligations contained within the Convention do not require the formal publication of the range of enforcement documentation that is to be made available to the general public by the EPA in the manner suggested by the Communicant. However, the EPA has taken the view that it should conduct all of its business in a fully open and transparent manner. It provides public access to information on its compliance and enforcement activities in line with our principle of transparency and in line with the Convention as detailed throughout this correspondence and previous Ireland’s correspondence dated 21st June 2016, 5th May 2017 and 4th March 2022. More specifically:

- (a) Electronic enforcement records are readily accessible either through the EPA website and/ or for public viewing at EPA offices via the LEAP portal which has been in successful use for several years. Whilst it is acknowledged that remote access to the LEAP Portal via the internet is not currently possible, it is intended to migrate the LEAP portal online in due course.
- (b) As outlined above in circumstances the EPA may issue a notification of non-compliance in respect of a DAS Permit condition. All non-compliances issued by the EPA and incident notifications received from the DAS permit holder via EDEN are available for public viewing on the LEAP portal. In addition, all site visit reports, which includes information on the non-compliances and observations raised by the EPA during the visit, are made available for public viewing via the EPA’s LEAP Portal within one day of the issue date and are published on the Licence/ Permit Details Page of the EPA’s website 60 calendar days after the issue date.

It is not accepted that there are non-compliances in relation to public participation procedures and active dissemination of environmental information relating to DAS Permits as claimed by the Communicant. In this regard it is noted that enforcement activities do not fall under the remit of public

participation, which is associated with the DAS permitting process. However, as outlined above access to information on EPA's enforcement activities relating to DAS Permits is in fact provided and available to the public in accordance with the Convention. It is acknowledged that for a limited period during the Covid-19 restrictions for public health grounds restrictions on physical access to EPA offices were in place and therefore the LEAP portal was not available for public viewing for this limited period. However, during these restrictions the EPA made every effort to facilitate requests for access to information and provided items of correspondence by email where possible to ensure the relevant information was available to the public.

The Communicant in its letter dated 25th of April 2022 *states that*

“the EPA doesn't appear to have a documented procedure for active publication which clearly identifies the categories of information that it disseminates and its location contrary to Article 5, Paragraph 2(a) of the Convention.” The communicant also appears to allege that the EPA is not transparent about these matters, and that major gaps in compliance have only surfaced during his communication after a very lengthy period of engagement during the committee's procedure.

It is unclear what the Communicant is referring to in this statement. As detailed above and in previous correspondence, substantial information on the categories of compliance and enforcement information is available on the EPA website and for public viewing at the EPA offices. This information is clearly detailed in the EPA website and links have been provided in this correspondence and correspondence dated 4th of March 2022.

In addition, the Online Publication of Keystone Enforcement Documents can also be found on the EPA website (refer to link: <https://www.epa.ie/publications/compliance--enforcement/licensees/performance/online-publication-of-keystone-enforcement-documents.php>). This publication sets out the details of the EPA's Public Access to Information initiative whereby additional selected "Keystone Enforcement Documents" are published on the Licence Details page of the EPA's website.

Ireland is grateful for the opportunity to address the Committee on these matters.