



Department of
**Agriculture, Environment
and Rural Affairs**

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**Department of Agriculture, Environment & Rural Affairs
Marine & Fisheries Division**

LICENCE ISSUED UNDER THE MARINE AND COASTAL ACCESS ACT 2009, PART 4, MARINE LICENSING

MARINE DREDGING LICENCE

Licence to dredge the impounded River Lagan

Licence Number: ML 14_18

Part 1 - Particulars

1. Licensee(s) Name & Address:

Peter Gallagher
C/o Department for Communities
Lagan Weir
1 Donegall Quay
Belfast
BT1 3EA

2. Names, and operators, of the vessels to be employed to undertake or support the deposit, relocation or removal operations:

ABCO Marine

3. Description of works and nature and quantity of all material dredged below Mean High Water Springs:

Dredging within the impounded River Lagan to dredge approximately 55,235 m³ (77,329 tonnes) of material, to include:

- Removal of all material built up above -1.2 m AOD with 2 m wide side slopes (1:5 slope)
- Complete incised channel reinstatement (-2.5 m AOD X 10 m wide) along the length of the impoundment; and
- Removal of material built up in front of the penstocks (-5.9 m AOD X approximately 15 m)

4. Location of works:

Impounded River Lagan, bound from Stranmillis Weir to Lagan Weir:

Stranmillis Weir: Latitude 54.567803 Longitude -5.923515

Lagan Weir: Latitude 54.601234 Longitude -5.920414

5. Valid:

From: 12 June 2019

Until: 10 June 2020

Dredging must only take place from 1st September to 31st March

PART 2: CONDITIONS

The Department Agriculture, Environment & Rural Affairs (referred to as the licensing authority) authorises Department for Communities and ABCO Marine to dredge in the area of sea specified in Part One of this licence, subject to the under mentioned conditions:

Licence Condition(s):

NOTE: FAILURE TO COMPLY WITH THE BELOW LICENCE CONDITIONS MAY RESULT IN ENFORCEMENT ACTION BEING TAKEN

1. All conditions of this licence bind any persons whom, for the time being, owns, occupies or enjoys any use of the works for which this licence has been granted, in relation to those licensed activities authorized under section 66 of the 2009 Act, whether or not the licence has been transferred to that person.
2. The Licensee(s) must receive written authorisation from the licensing authority to assign or transfer the consent. The licensing authority must confirm in writing to both the original Licensee(s) and any proposed new Licensee(s) that the licence has been transferred/assigned before any works may commence under the new Licensee(s).
3. The licensee(s) shall inform the licensing authority of the finishing date of the work within **28 days** of completion.
4. The licensee(s) shall, within **eight weeks** after the completion of the licensed works, make a written report to the licensing authority stating the quantity and description of all dredging works carried out under the authority of this licence. The report should contain a map showing the actual areas dredged.

5. The licensee(s) shall not dredge any other material other than that detailed in the Marine Licence application received by the licensing authority dated 28 January 2019.
 6. The licensee(s) shall contact the licensing authority if it is proposed to vary the methods or materials to be used from those described in the documentation supplied in connection with the Marine Licence application.
 7. The dredging operators must have operational and active AIS vessel tracking during all operations. If AIS or vessel positioning systems are faulty, dredge disposal activities must not continue until all systems are repaired/replaced and fully operational. All dredging equipment and vessels must be fitted with a VHF radio, a horn and be suitably lit in accordance with the rules of the river.
 8. The licensee(s) shall ensure that copies of the licence are available for inspection by any authorised Enforcement Officer at:
 - a. The premises of the licensee(s)
 - b. The premises of the operating facility
 - c. The site of the works (including on board vessels)
 9. The licensee(s) must notify The Source Data Receipt team, UK Hydrographic Office, Taunton. Somerset, TA1 2DN (Email: sdrr@ukho.gov.uk; Tel: 01823 337900) at least 4 weeks before commencement of the works, to allow for any necessary amendments to nautical charts. The UK Hydrographic Office must also be notified upon completion of the works. **This office must be copied into all notifications.**
 10. The Licensee must ensure that HM Coastguard, in this case nmcccontroller@hmcg.gov.uk, The National Maritime Operations Centre is made aware of the works prior to commencement.
 11. A Notice to Mariners must be issued in appropriate and timely manner before works begin and should include details of the works, including any vessels involved and their radio frequencies. This should also be issued to local leisure organisations.
 12. The licensee(s) must provide a final **Dredging and Disposal Plan** to include:
 - A final Dredging and Disposal Methodology
 - A Dredging Monitoring Programme
 - A Disposal Monitoring Programme
- This Plan should be provided for the written approval of the Licensing Authority, at least **28 days**, prior to dredging commencing.
13. The **Dredging Monitoring Programme** must include real-time monitoring stations, located downstream and upstream of the dredging operation. The downstream station, should be located in pre-agreed suitable positions during the dredging operations, to monitor re-suspended sediment and sediment transport, during the dredging activity. It should also be located in the deepest part of the waterway, to have the most inclusive measurements. The upstream buoy should be located in the upper reaches of the area to be dredged, to give background data. This buoy is not to be moved, but is to continually monitor during the dredging.
 14. The monitoring station must be capable of monitoring sediment re-suspension levels and reporting of threshold breaches. The thresholds are;
 - Suspended solids must not exceed 300mg/l for more than six hours and not exceed 600mg/l at any point. If these limits are breached then dredging should cease immediately until levels of suspended solids drop to less than 300mg/l;

- Dissolved oxygen levels must not fall below 4mg/l. If this limit is breached then dredging must stop until dissolved oxygen rises above 5mg/l

15. The dredging programme should include bathymetry surveys of the dredge pocket before and after the dredging takes place. The final survey should be submitted no later than 8 weeks after the dredging has been completed.
16. In granting approval for any further plans or assessments, the licensing authority may consult any such other advisors, stakeholders or organisations as may be required.
17. Any proposal to vary from the **Dredging and Disposal Plan**, must be sent to the licensing authority for written approval, prior to the commencement of any changes.
18. The contractor shall as a minimum be expected to buoy off his working area and create a 15 m wide lane along each bank, for the exclusive use of rowing clubs.
19. The contractor should not carry out dredging activities when a rowing race is planned in the river.
20. At the end of each working day, the contractor must leave all plant securely moored, adequately lit and buoyed to the satisfaction of the River Manager. All river users must be kept informed of where the plant is to be moored and updated if the location changes.
21. NI Water assets cross the river in several locations where dredging will take place, as demonstrated in Map 1 and 2 attached to this licence. Contact should be made with NI Water prior to commencement of dredging operations to ensure there is no impact on the NI Water assets.
22. The licensee(s) shall ensure that measures are in place to prevent pollution of surface or ground water as a result of the activities on site, both during construction and thereafter.
23. There is the legal obligation to report archaeological objects within 14 days under the provisions of the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 and to report historic wreck material to the Receiver of Wreck under the Merchant Shipping Act 1995. In the event of a discovery of an archaeological object and/or remains during works the Department would ask that you: (1) record the position and details of the site; (2) do not disturb the site further and (3) contact DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA for further advice.
24. The licensee(s) shall adhere to the following:
 - Works in, near or over watercourses, PPG5 and
 - Prevent Pollution, & Construction and Demolition sites: PPG6: Prevent Pollution.

Signed on behalf of the Department:



Dated: 12/06/2019



NOTE:

- (1) The licensing authority would advise that this licence does not negate the licensee's responsibility to gain any other environmental or access permissions that may be required to progress the works.
- (2) Under Part 4, Chapter 1, paragraph 72 of the **Marine and Coastal Access Act 2009**, the licensing authority may revoke, vary or suspend this licence if it appears to the authority that the holder is in breach of a condition included in it, or if it appears to the authority that the licence ought to be varied, suspended or revoked because of a change of circumstances relating to the marine environment or human health, including a change in scientific knowledge. A revocation, variation or suspension may also be enforced in the interests of safety of navigation.
- (3) A person who deposits material in contravention of the terms of a licence is guilty of an offence under Section 85 of the Act. It is a defence under paragraph 86 (1) for a person charged with such an offence to prove 'force majeure'. However they are also required to prove that they took steps within a reasonable time to inform the licensing authority of all details pertaining to the incident contained in paragraph 86 (2). The licensing authority shall be obliged to report force majeure cases immediately to the OSPAR Commission.
- (4) Attention is drawn to the necessity of complying where appropriate with the **Radioactive Substances Act 1960**, the **Prevention of Oil Pollution Act 1971** and to the **Merchant Shipping (Dangerous Goods) (Amendment) Rules 1968**.
- (5) If within 28 days of the issue of a licence the person to whom it was issued requests the licensing authority to give him notice in writing of the reasons for the inclusion of any provision in it, the Authority shall comply with his request within 28 days of receiving it.
- (6) Anyone who fails to comply with a condition on a Marine Licence commits an offence under Section 85 of the **Marine and Coastal Access Act 2009**, and may be subject to enforcement action. Possible enforcement actions are compliance notices, remediation notices, fixed monetary penalties and variable monetary penalties. In the worst cases, a person found guilty of an offence on summary conviction may be subject to a fine not exceeding £50,000. In addition, a person found guilty of an offence on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both. Further details can be found at our guidance note <https://www.daera-ni.gov.uk/sites/default/files/publications/dae/marine-licensing-guidance-enforcement-under-part-4-marine-and-coastal-access-act%2C-2009-may-2016.pdf>

Further information from consultation:

1. Northern Ireland Environment Agency – Water Management Unit

You should be aware that is an offence under the **Water (Northern Ireland) Order 1999** to discharge or deposit whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and /or three months imprisonment.

2. DfI Rivers

Within the terms of the Drainage (Northern Ireland) Order 1973, Marine Construction Licence applicants are advised of the following legal requirements for ALL sites as follows:

1. If during the course of developing a site a watercourse is uncovered which was not previously evident, the appropriate DfI Rivers Office should be advised immediately in order that arrangements may be made for the investigation and direction in respect of any possible action necessary to deal with the watercourse. Piped storm drains, culverts, open channels etc. may be considered to be watercourses.
2. Any proposals either temporary or permanent, in connection with the development, which involve interference with any watercourse at the site such as culverting, bridging, diversion, building adjacent or discharge of storm water etc require the written consent (known as "Schedule 6 Consent") from DfI Rivers.
3. Failure to obtain Schedule 6 Consent is an offence under the provisions of the above Order, which may lead to prosecution or other statutory action as provided for.

In this instance the appropriate DfI Rivers office to contact in respect of Schedule 6 applications and any other general enquiries is:

**Greater Belfast Area Office,
Ravarnet House
15 Altona Road
Lisburn
BT27 5QB
Tel: 028 92 606100**

3. DAERA Sea Fisheries/ Inland Fisheries

The applicant should also be made aware that it is an offence under section 47 of the Fisheries (NI) Act 1966 to cause pollution or obstruction which is subsequently shown to have a deleterious effect on fish stocks.

4. Marine Archaeology

The License Holder should be aware of the need to pay due regard to coastal and marine historic assets (and submerged cultural heritage) where they remain as archaeological material and attention is drawn to Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 6: Planning, Archaeology and the Built Heritage (PPS6) and the UK Marine Policy Statement (UK MPS).

5. DAERA Marine Conservation

Marine National Protected Species

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended), under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 to the Order. This includes the common seal (*Phoca vitulina*), grey seal (*Halichoerus grypus*), basking shark (*Cetorhinus maximus*), angel shark (*Squatina squatina*), common skate (*Dipturus batis*) short snouted seahorse (*Hippocampus hippocampus*), spiny seahorse (*Hippocampus guttulatus*), spiny lobster (*Palinurus elaphus*) and fan mussel (*Atrina fragilis*).

Article 11 of the Wildlife (Northern Ireland) Order 1985 (as amended) provides that a person shall not be guilty of an offence under Article 10 (killing or injuring a species listed in Schedule 5 (as amended)) if the act was incidental to a lawful operation (i.e. activity permitted by a Marine Licence or Planning Permission) and could not reasonably be avoided. A separate marine Wildlife Licence is therefore not required for national marine protected species if a Marine Licence/Planning Permission has been granted, since adherence to the conditions of the Marine Licence should reduce the likelihood of harm to marine national protected species.

Under Article 10 it is an offence to intentionally or recklessly disturb; common seals, grey seals or basking sharks. It is also an offence under Article 10 to intentionally or recklessly damage or destroy, or obstruct access to, any structure or place which these animals (Schedule 5¹) use for shelter or protection; damage or destroy anything which conceals or protects any such structure; or disturb any such animal while it is occupying a structure or place which it uses for shelter or protection.

Under Article 13 it is an offence to sell or transport any Schedule 7 animal dead or alive at any time².

Any person who knowingly causes or permits an act which is made unlawful under Article 10 or Article 13 shall also be guilty of an offence.

It is the applicant's responsibility to ensure that an offence is not committed. Further advice can be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast BT7 2JA.

Under the Wildlife (Northern Ireland) Order 1985 (as amended) a licence may be required for any operations which might impact on protected species.

¹ Common skate and angel sharks in respect to Article 10 (1) only and within 6 nautical miles of coastal water only.

² Schedule 7 species includes all Schedule 5 species listed in Appendix A, with the exception of the common skate and angel shark. Sea urchin is protected under Schedule 7 only.

Marine European Protected Species:

The applicant's attention is drawn to regulation 34 of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), which states that it is an offence to deliberately capture, injure or kill a wild animal of a European Protected Species included in Schedule 2 to these Regulations. This includes all species of dolphins, porpoises and whales and the marine turtle species.

(1) It is also an offence to;

- (a) deliberately disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- (b) deliberately disturb such an animal in such a way as to be likely to;
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) impair its ability to hibernate or migrate;
- (c) deliberately take or destroy the eggs of such an animal;
- (d) deliberately obstruct access to a breeding site or resting place of such an animal; or
- (e) damage or destroy a breeding site or resting place of such an animal.

(2) It is an offence for any person;

(a) to have in his possession or control,

(b) to transport,

(c) to sell or exchange, or

(d) to offer for sale or exchange,

any live or dead animal which is taken from the wild and is of a species listed in Annex IV(a) to the Habitats Directive, or any part of, or anything derived from, such an animal.

It is the applicant's responsibility to ensure that an offence is not committed. Further advice can be sought from DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA.

Under this legislation a licence may be required for any operations which might impact on European Protected Species.