THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

In the matter of an application by William Donnelly for judicial review

And in the matter of a decision of the Department of the Environment (Planning Service) made on 27July 2015 to approve Planning Application Reference K/2012/0373/F

REJOINDER AFFIDAVIT

I, **WILLIAM DONNELLY**, proprietor of the Laurels Bed and Breakfast Lodge, of 18b Laurel Road, Omagh, in the County of Tyrone, aged eighteen years and upwards, **HEREBY MAKE OATH** and say as follows:

1) This is my third affidavit in these proceedings and is made in response to the affidavits received from the Respondent and Notice Party. I will address various issues raised in turn. Where I do not comment on matters raised in either the Respondent's or the Notice Party's affidavits I should not be taken as concurring with them. I now refer to a bundle of documentation in support of the following averments, attached hereto and marked **WD3** at the time of swearing hereof.

Unauthorised EIA development at the site

2) In his affidavit at Paragraph 268 Mr Stephen Hamilton states: "Mr Donnelly is not clear in describing what specific unauthorised EIA development he believes has taken place at the site." For the sake of clarity, I now list the more obvious aspects of it:

   a) During the 1990's a large quantity of ore was extracted and removed from the site for offsite processing for the production of Irish Gold jewellery without planning permission. **[WD1, TAB 9].** Mr Stephen Hamilton at Paragraph

306 of his affidavit states “To my knowledge the Department was not aware of the alleged removal of 100 tons of mineralised ore in 1998”.

b) Although the open cast mine was approved in 1995, mining operations did not commence until 2007, at which time a general redesign of the site took place without planning permission.

3) This redesign of the site involved the replacement of the approved single unit tailings dam (which was all that was assessed as part of the original environmental statement) with a substantially larger 8 paste cell tailings facility, large enough not only to accommodate tailings from the approved open cast mine, but also from a future underground mine.

4) At Paragraphs 307 and 308 of his affidavit Mr Hamilton appears to imply that planning permission for the change from a single tailings dam to paste cells was contained within the original approval. He states that, “Condition 10 of K/1992/0713 states “The tailings dam shall be constructed generally in accordance with details shown in cross sections depicted in Figure B8 of the environmental statement”. He goes on to say “On 4 March 2005 the operator wrote to the Department to seek approval of a tailings system for use on site”. He fails to explain how, or if in his professional judgement, the significantly different design and much larger scale is considered to be “generally in accordance” with what was depicted in the environmental statement. Nor does he make clear to the Courts that the new and significantly larger scale of the paste cells has been designed to service a future underground mine as well as the opencast operations, the former, at that time, never having been applied for, nor assessed as part of the Environmental Impact Assessment, nor granted as part of the original planning permission.

5) In his letter of 12 March 2014 to me, Mr Hamilton confirmed the approval of “an amended concept” by the Department and receipt of drawings and went on to confirm that “These are the drawings subject to which the development should be constructed.” However he failed to provide me with a copy of the planning permission and stamped approved drawings for the substantially larger multi-cell system which I had requested. I attach a copy of his letter **[WD3 TAB 1].** It is

now clear that the manner in which the Department sought to handle this matter was not only prejudicial to the public, who were not consulted on these changes but was also a successful attempt to circumvent the lawful EIA process.

6) Furthermore, at Paragraph 261 Mr Hamilton informs us that: "Discussions with Gavin Harris (General Manager OML) on Wednesday 18th May 2016 alluded to OML being unaware or unsure if the drawings submitted in October 2005 constituting the final design were approved as they had not received a stamped approved version". This statement is further evidence that the Department presided over these changes to the tailings dam without the granting of planning permission or assessment of likely environmental effects, and would indicate that the Notice Party proceeded with the project without ever having approved drawings and planning permission. Complaints from a local resident Allan Shankly regarding the changes go back as far as March 2011. **[WD3 TAB2].** This failure to take enforcement action where unauthorised EIA development is concerned is in itself I believe a breach of the EIA regulations, where such inaction would allow immunity to transpire as in the case of Ardagh Glass, (*Ardagh Glass v Chester City Council and Quinn Glass [2009] EWHC 745) Admin),* "the Court and the Defendant Councils are required to take enforcement action to nullify that breach of law" paragraph (38), see also *(Case C-6, 9/90 Francovich v Italy [1991] ECR -- I -- 5357*, at [36*].) "*Member States are required to take all appropriate measures, whether general or particular, to ensure fulfilment of their obligations under Community law. Among these is the obligation to nullify the unlawful consequences of a breach of Community law"

7) Approved drawing PA-UG-02 which bears the Department's stamp "Granted 27 July 2015", claims to illustrate "existing contours and conditions" in 2012. **[WD2, tab 01].** In actual fact it is an ordinance survey aerial photograph taken in 2009, which did not adequately illustrate existing conditions when first submitted in 2012, it hides at least one element of the unauthorised development which continued into 2011/2012, namely the construction of tailings paste cell 7, about the size of two football fields. I have already included an aerial photo taken in 2012, which clearly shows that this paste cell had already been constructed

[WD2, Tab 6]. The Environmental Statement (page 103), however informs us that this enormous tailings Paste Cell 7 is still to be built.

8) At Paragraph 310 Mr Hamilton states, “Mr Donnelly has not been specific as to why a further application would have been required to change the site design and phasing”. I remind Mr Hamilton that the original 1995 planning approval (Informatives 02) states that: “The applicant should note that the planning permission hereby granted cannot be altered except by way of a further planning application”. No planning permission for the substantially redesigned site layout and phasing was ever applied for or granted, nor had the redesigned site been assessed under the EIA regulations, nor indeed the Habitats regulations which by 2005 were applicable in Northern Ireland.

9) Paragraph 44 of the Ombudsman’s report confirms that the Department had suggested an application be submitted to regularise the removal of rock. **[WD1, Tab 12].** Clearly at that time the Department considered that the unauthorised works already undertaken at the mine did not benefit from planning permission. Another planning application was submitted to regularise an unlawfully built maintenance shed **[WD3 Tab 3],** which was then approved, and yet another to regularise bore holes (see below). So why would an application not have been required to change the layout of a 60ha mine site, and the extraction phasing of two very substantial pits, one of them about half a mile long, given the Department’s clear advice in Informative 02 of the original decision notice and its subsequent views expressed to the Ombudsman that there existed unauthorised development that did not benefit from planning permission in 2012.

10) Furthermore the public should have been informed of the proposed changes to the site and afforded the opportunity to participate in the decision making process as enshrined in Directive 85/337/EEC as amended by 2003/35/EC. Here the Directive sought to align the provisions on public participation with the Aarhus Convention on public participation in decision making and access to justice in environmental matters. In particular it sought to ensure effective public

participation (preamble 3) and guarantee the public its right to participation in environmental decision making (preamble 6) amongst others, hence the need for a new planning application as advised in Informative 2. The same principles guaranteeing effective public participation have been carried over to the current consolidated Directive 2011/92/EU (see preambles 16, 18 and 19), yet in the impugned permission my rights have been violated when the Department withheld from the public the Atkins 2 report. This is discussed in more detail at Paragraph 30 below.

11) At paragraph 25 of the Ombudsman's report he confirmed that: "It is clear from the evidence in this case, and the detail given in the CE's response, that the layout of the site differs considerably from that of the approved drawings. The operator of the mine changed the layout of the site without the prior approval of PS". **[WD1 Tab 12].** Importantly the Department was given the opportunity to challenge any aspect of the Ombudsman's report which it felt was inaccurate in advance of its publication, which means they accept his published findings.

12) Regularisation of unlawful EIA development at Cavanacaw has already commenced and in its various forms is well underway:

- **K/2008/0995/F,** The planning Service Chief Executive told the Ombudsman that the operators submitted planning application (K/2008/0995/F) to vary condition 39 of the original approval in an attempt to remedy the rock removal breach. (Ombudsman's report paragraph 40) *Status: approved, then quashed in the High Court Belfast in 2012 by consent due to inadequate EIA screening, and then withdrawn by the department.*

- **K/2011/0476/F,** "upgrade of and improvements to existing passing bays and provision of new passing bays on public roads." This application which regularised thirty or so unlawfully built passing bays, was also quashed by consent in the high court in 2012 due to inadequate EIA

screening. It was subsequently reactivated, “re assessed” and re approved with the thirty or so passing bays which had been constructed in 2008 being regularised for a second time in spite of the court ruling. The passing bays now form an integral part of the underground mine approval to facilitate trucks, without which lawful rock removal from the mine would not be possible. ***Status: approved****.*

- **K/2010/0098/F**, “Revision of position of internal access road”, ***Status: approved****.*

- **K/2012/0102/F,** “Retention is sought for the erection of a 13 x 12.5 galvanised roofed maintenance facility (containers) to facilitate the maintenance for site equipment and the storage of parts”, In his case officers report, Niall Marshall stated that: “*This application aims to regularise development at the site and thereby improve compliance*” (my emphasis) ***Status: approved. 1 Mar 2013*** **[WD3 Tab 03]**

- **K/2011/0674/F,** “Exploration Boreholes / Monitoring Boreholes; Water Treatment / Settlement / Recirculation Pits; Existing Boreholes, to be regularised”,
  Status: ***Approved 14 July 2016****.*

- **K/2011/0676/F,** “Exploration boreholes/monitoring boreholes; water treatment/settlement/recirculation pits; Existing boreholes to be regularised”,
  Status: Withdrawn.

- **K/2012/0197/F** “Exploration boreholes/monitoring boreholes; Water treatment/settlement/recirculation pits; Existing boreholes to be regularised”, Status: ***Approved 14 July 2016***

13) Another aspect of the site redesign was the relocation of the rock and overburden stock piles from their approved northerly locations to elsewhere on the site,

planning condition 22 of the impugned approval confirms that the rock stockpile is now located east of the processing area where it is to be retained.

14) The redesign also involved the construction of two substantial settlement lagoons which were never assessed or approved but were constructed around 2007, have been retained and will form an integral part of the underground mine project.

15) The new site design made possible the mining of the Kerr and Kearney veins in reverse order. There is no mention of the Kerr vein on the approved drawings or in the decision notice from the original 1995 approval but is clear from the ES and other documents however that the excavation of the Kerr vein in year one of the project was a key part of the plan, and from an environmental perspective would play an essential role in how the site was to be worked and developed as per the planning permission. In a letter to residents, senior planner Billy McCabe explained how the Kerr Vein was to be worked, he said: *"the information relating to the Kerr excavation can be found in the Environmental Statement under section B2 and figure B5, Site Layout, - Year 1 and on page 2 of the Environmental Statement Non Technical Summary. The excavation of the 'Kerr Structure' is also referred to in section 4.3 in the Report to the PAC of the public inquiry".* Explanatory excerpts are enclosed at **[WD1, tab 13].**

16) Up to half a million tonnes of waste rock was removed from site between 2008 and 2009 for use as road building aggregate. With regard to the unlawful removal of waste rock the Ombudsman wrote at paragraph 44 of his report: "I noted the letter from the PS Special Studies Section to the Managing Director, OML, dated 9 July 2008, which stated "whilst it may have always been the intention of the company to integrate the surplus rock into the local aggregate environment, it is evident that this intention was insufficiently highlighted or included in the Environmental Statement, PAC Report or indeed the planning approval under K/1992/0713/F". The letter also advised that OML should "contact the Department to discuss the submission of a retrospective planning application should the company wish to **regularise this breach of planning control**" (my emphasis). At paragraph 58 the Ombudsman wrote: "Having carefully reviewed the Environmental Statement and the Public Enquiry Documentation, I agree

with the interpretation of PS in this respect. It is clear that it was never the intention, during the consideration of the initial planning application, that rock would be removed from the mine." The Ombudsman has essentially provided an independent assessment and confirmation of the Department's position (contrary to Mr Hamilton's contention) that there existed significant unauthorised development in 2012 which did not have the benefit of planning permission. At page 66 he reiterates: "Why PS allowed the mine operator to continue to remove up to 145 trucks of rock per day from the site, for a period of approximately eight months, given PS's clear understanding of the restrictions of the original planning approval, is quite astonishing and demonstrates a complete failure to protect the public interest." **[WD1, Tab 12].**

17) Evidently, this unauthorised removal of rock was never assessed as part of the original planning approval or Environmental Statement. Its environmental effects, in combination with the other aspects of the development remain unassessed and unknown, calling into question the robustness and lawfulness of any assessment conducted under the EIA regulations.

18) A company announcement from 29 April 2009 shows that the unauthorised removal of waste rock from the mine was also undertaken not because of any "exceptional circumstances" afforded under case C-215/06 Commission v Ireland, but more taking advantage of lax planning control and for commercial gain. It reads: "The pit continued to be the main focus of management attention. During this period an arrangement was entered into with a local contractor for the removal of surplus rock, at no cost, with a view to assisting with pit development and reducing mining costs. The removal of this rock resulted in the mining focus being on the removal of till to allow the expansion of the open pit and expose more ore" **[WD3 Tab 4].** See also: National case law *Case R (Padden) v. Maidstone Borough Council* [2014] EWCH 51 (Admin), which permits regularisation only in exceptional circumstances, and where no unfair advantage has been gained by the operator from failing to comply with the relevant Directives and national regulation.

19) Further unauthorised EIA development included the relocation of the phase two internal haul road which was never built in its approved location, the construction of a maintenance shed which was granted retrospective approval, and the dimensions of the Kearney excavation, which differed from what was approved.

20) It is not the case at Cavanacaw that a few unauthorised modifications to the original approval have taken place; having studied this application extensively, I have struggled to identify any substantial development carried out in accordance with the original planning permission. These multiple modifications which took place should have been considered cumulatively with the proposed development, see case *C-2/07 Paul Abraham v Others paragraph 42 / 44:,* as well as, R (Baker) v Bath and North East Somerset Council [2009] Env LR 27 *paragraph 45, Case C-392/96 Commission v Ireland [1999] ECR I-5901, paragraph 76,* and *Abraham and Others, paragraph 27.* The many unknown environmental impacts of these unregulated activities, some of them dating back almost 20 years, as already stated, have never been assessed cumulatively with what has now been approved, which clearly the same Department consider to be a legal requirement. Former Environment Minister Mark Durkan, MLA, advised by Mr Hamilton's department regarding the Cleggan quarry at Belcoo, issued a Ministerial statement citing: *"I believe there is insufficient information to establish what environmental impacts may have already arisen as a result of these unauthorised activities. Therefore, it is not possible to assess the environmental impact of the drilling cumulatively with other unknown environmental impacts of unregulated activity".* **[WD3, Tab 5].** Here the Minister and Mr Hamilton's Department are adopting the position that for the purpose of EIA, there is a lawful requirement to consider, cumulatively, past environmental effects from associated unauthorised development, along with those likely effects from any proposed development. However, in relation to the impugned planning permission, this has simply not taken place.

Waste Management

21) At Paragraph 20 in his affidavit Mr Gavin Harris refers to a discharge consent relating to the removal of sulphides from the site. The discharge consent referred

to states that: “The area used for the temporary storage of leach residue in sealed drums on the site shall be in a bunded area.” As a layman I was until now unaware of the proposed function of this so called “bunded area.” I now suspect what he is actually referring to is a “Sulphide Waste Storage Facility”, which was not mentioned in those terms in the environmental statement, or the environmental statement addendum or NTS. Sulphide Waste is classified as hazardous and a Category A Waste Management Plan would have been mandatory, as is required by the EU Mining Waste Directive regulations. Under disclosure I intend asking the departmental solicitor for more detail on this.

Size of the site

22) At Paragraph 6 of his affidavit Mr Stephen Hamilton confirms that a 60ha site was applied for in July 2012 and validated by the department. At Paragraph 7 he mentions that the case officer, Niall Marshall contacted the agent, Strategic Planning to query some aspects of the application, but notably this did not include the evident anomaly over the different sizes of the site, despite the fact that the 60 ha on the P1 form contradicted the red line area of 81ha on the site plan. The Respondent has a duty to ensure that the site and dimensions of the proposed development are adequately identified for the benefit of the general public, but they failed to do so. *Article 7(1)(b) Planning (General Development) order (Northern Ireland)1993.*

23) The original P1 form was uploaded to the planning portal on 27 July 2012 requesting permission for a 60 ha site, it also confirmed on the checklist that seven copies of the site plans were enclosed (PA-UG-02 existing conditions in 2012), but these drawings which depicted the enlarged 81 hectare site, according to the planning portal, weren’t received by the department until four months later on 2 Nov 2012. They were subsequently uploaded to the planning portal on 15 Nov 2012, by which time most of the intense public scrutiny of the application had waned. This critical information had not been provided to the public when it mattered most **[WD3, Tab 6].**

24) An amended version of the P1 form was uploaded to the portal on 30 July still claiming a 60ha site. The final amended version of the P1 form was uploaded on 2 Nov 2012 still citing the 60ha site. Even when an amended version of the environmental statement was submitted in November 2015 there was no mention of it being an 81ha site.

25) In the environmental statement, chapter 2, 2.1 it states, "The development site is located in the countryside 5km south-west of Omagh town. The site is c. 60ha in size". The Director of Strategic Planning Division, Simon Kirk's memo to Mary Bunting and the Minister on 27 March 2015 (**SH1 Tab 28 page 1640**) confirms a 60ha site and the case officer, Niall Marshall's final development management report, compiled on 10th June 2015 shortly before the granting of planning permission was still confirming at 1.1: "the proposed mine will be within the existing mine site area" (i.e. the 1995 approved 60 hectare open cast mine site) and at 2.0 he once again confirms: "the site covers an area of approximately 60 hectares" **SH1 Tab 30 Page 1647**.

26) At Paragraph 290 of his affidavit Mr Hamilton confirms that the disputed 21ha had not been assessed by the applicant for the purposes of the ecology assessment. The flora and fauna survey clearly shows that only the 60ha site was assessed. [**WD2, Tab 2].**

27) Mr Hamilton will also be aware that no scientific analysis of the potential acidity of the rock in this area has been undertaken either as all of the samples tested by Pentland McDonald / SGS in 2012, and also Knight Pieshold in the 1990's, came from the 60ha area of the original open cast mine site.

28) The Notice Party claims however that two veins, Kestrel, and Joshua North, which lie beneath the extra 21 hectares, are within their **"area permitted for mining"** (my emphasis), **[WD3 TAB 7].** This view is exacerbated at page 5 Paragraph 4 of the environmental statement which states that: "For clarity, the planning application does not limit the underground depth of extraction below Omagh Minerals Ltd freeholds, **or limit the underground location of mining beneath that freehold land**, (my emphasis). This is because additional

resources are expected to be available at depth and additional veins are expected to be discovered during the excavation of the linkage drive Kearney – Joshua".

29) In the final Paragraph 327 of his affidavit Mr Hamilton concludes "the application allows for exploitation of reserves within the entire red line area and to a depth of 350 metres within the subject to the 15 year duration of this permission". I note his use of the word "application" not "approval".

30) Planning consultant Mr Chris Bryson in his affidavit on behalf of the Notice Party also makes reference to the size of the site. If, as he states at Paragraph 19 "The application site encompassed an additional area of a further 21 hectares", then this should have been stated on the P1 form which he completed. He goes on to say that this "reflected the landownership of the planning applicant at that time". This is incorrect as the landownership of the planning applicant at that time is clearly shown by the blue line on diagram PA-UG-02. **[WD2, tab 01].**

Withholding of information

31) The affidavits of Silke Hartman and Neil McAllister of NIEA both make reference to the existence of an amended technical note by independent environmental experts Atkins (Atkins 2), **[SiH1, Tab 3a]**and to the fact that this report was forwarded to Niall Marshall on 6 June 2013. Mr Stephen Hamilton's affidavit however makes no mention of Atkins 2 and this document has never been uploaded to the planning portal. This is in sharp contrast to the handling of Atkins 1, when at a meeting between Anthony McKay, Niall Marshall and Wendy McKinley, WMU Mr Hamilton's affidavit at paragraph 73 states "it was agreed that there was a need for the shortcomings highlighted by the report to be published online (Planning Portal)". Atkins 2 states "The applicant has stated in their response that metal sulphides will be left in situ that have the potential to generate acid rock drainage.....The result of such flowpaths is the potential for long term acid rock drainage at surface, as seen in abandoned mines the world over" **[SiH1 TAB 3 page 147, 148].** Mr Keith Finegan in his affidavit at

Paragraph 1, states “Therefore impacts to surface water quality have the potential to affect the SAC”.

32) The Court of Justice of the European Union has made it abundantly clear that when granting development consent, “*there can be no lacunae*”, (2013 Sweetman-v-An Bord Pleanala ruling), and that “*any assessment prior to approval must contain complete precise and definitive findings and conclusions, capable of removing all scientific doubt as to the effects of the works proposed on the protected site concerned*”. The European Court of Justice case C-127/02, (the Waddenzee case), ruled that a plan or project may be authorised only if a competent authority has made certain that the plan or project will not adversely affect the integrity of the site. The judgement also said that competent national authorities must be “convinced” that there will not be an adverse effect and where doubt remains as to the absence of adverse effects, the plan or project must not be authorised.

33) Results of scientific tests for potential acidity of the waste rock led to the rock and indeed the site being categorised as inert, and the approval by the Department, of an Annex J Mine Waste Management Plan for inert waste at the site. These tests were carried out by companies commissioned by the applicant Omagh Minerals. As a result, the site’s inert status meant The Mine Waste Management Plan was absolutely minimal which greatly curtailed the applicant’s obligations under EC Directive 2006/21/EC (the Mining Waste Directive), for example the need to provide a financial guarantee against long term environmental damage was waived. There was however no assessment of the test results by the Competent Authority or indeed independent experts acting on their behalf, I believe there is a legal requirement for them to do so, case C-50/09 Commission v Ireland, Paragraph 40. “Indeed that assessment, which must be carried out before the decision-making process, (Case C-508/03 *Commission* v *United Kingdom* [2006] ECR I-3969, paragraph 103), involves an examination of the substance of the information gathered as well as a consideration of the expediency of supplementing it, if appropriate, with additional data. That competent environmental authority must thus undertake both an investigation and an analysis to reach as complete an assessment as possible of the direct and

indirect effects of the project concerned on the factors set out in the first three indents of Article 3 and the interaction between those factors."

34) The "Atkins 2" document had been in the possession of Case Officer Niall Marshall since 2013 but was never uploaded to the planning portal or advertised publicly, nor was it provided to me in advance of the leave hearings, when "Atkins 1" was. Indeed if I recall correctly, at the first leave hearing on 1st February 2016, Mr Justice Deeney specifically queried whether Atkins had been reconsulted after the submission of further environmental information. The Respondent made no mention of the existence of a second Atkins report on that occasion either. Once again a key document was withheld from the planning portal and was not provided to me, or the general public, and I believe in this case the court also, when it should have been, in order to comply with the intent of Directive 2011/92/EU and the principles of effective and guaranteed public participation, as set out in the preamble, including 16, 18 and 19, and also including Articles 2, 3 and 6.

Post approval conditioning

35) During processing of the application, the Respondent failed to give any indication that further acidic rock analysis would be undertaken during the operational phase, or form part of the Cavanacaw Monitoring Plan for Controlled Waters which was posted on the planning portal on 19 Nov 2013. An amended version of the Monitoring Plan which appeared on the planning portal post consent on 7 December 2015, five months after the granting of approval, had an additional paragraph inserted on page 8 requiring acidic testing of the rock every 25 vertical meters, this paragraph had not been included in the original version. **[WD3 Tab 8].** Once again the Department had failed to inform the public. The need for acidic testing during the operational phase lends further weight to my challenge that the Department has failed in its statutory duty to assess the applicant's findings with regard to the potential acidity of the underground mine waste rock in advance of approving an Annex J Waste Management Plan for Inert waste. It is also a subversion of the planning process, the post consent conditioning of further acidic testing at various depths should have been included as part of the

original application and Environmental Statement. Only then could the competent authority have conducted appropriate assessment, if the strictly precautionary requirements of Article 6(3) of the Habitats Directive are to be complied with, and also after having considered the Sweetman no lacunae ruling. It should also be noted that the original approval for the open cast mine contained mitigation for the containment of acid rock drainage from the site should it occur, (condition 39G). During processing of the impugned approval it was assumed by the applicant from the outset that acid rock drainage from the site at surface would not be an issue and therefore no containment mitigation was required or provided.

36) It is clear from the many scientific reports being written worldwide that predicting the onset of long term acid rock drainage is far from an exact science. The inadequacy of the actual test results from samples taken from the open cast mine in 2012 should I feel also be a consideration, as SGS issued a disclaimer which reads, “the information in the SGS Reports reflects the company’s findings at the time of its intervention only and within the limits of the client’s instructions” which possibly explains why both the consultants and NIEA have failed to confirm the suitability of the Cavanacaw waste rock for reuse as road building aggregate, avoiding accountability by refusing to do so pre-approval. [**WD1 Tab 15 page 2]**

THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

In the matter of an application by William Donnelly for judicial review

And in the matter of a decision of the Department of the Environment (Planning Service) made on 27July 2015 to approve Planning Application Reference K/2012/0373/F

REJOINDER AFFIDAVIT

INDEX OF EXHIBITS

WD3

01	Stephen Hamilton – Tailings Dam Confirmation Letter 20 February 2014
02	Allan Shankly email
03	Maintenance Facility Document
04	Galantas Company Announcements/Commercial gain
05	Mark Durkan statement
06	Planning Portal Screenshot
07	Galantas Company Announcements/Kestrel and Joshua Veins
08	Post approval acid rock testing