Appeal No. VA00/3/016 &
VA00/3/017

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Bantry Terminals Ltd. **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: VA00/3/016 - Land under water at Map Reference: Land Under Water, Sundry Townlands E.D.: Whiddy, R.D.: Bantry and VA00/3/017 - Oil/Fuel Depot Mooring, at Map Reference 1ABC2.4CD (See Sundry Townlands), Townland: Reenaknock, E.D.: Whiddy, R.D.: Bantry, County Cork

B E F O R E

Henry Abbott - Senior Counsel	**Chairman**
Fred Devlin - FRICS.FSCS	**Deputy Chairman**
Tim Cotter - Valuer	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 18TH DAY OF OCTOBER, 2001

By Notice of Appeal dated 4th October, 2000 the appellant appealed against the determination of the Commissioner of Valuation in fixing rateable valuations as follows on the above described hereditaments :

VA00/3/016 - £0 ; VA00/3/017 - £180 Buildings £8693 (other).

The grounds of appeal as set out in the Notices of Appeal are :

VA00/3/016 - The entry in the valuation list is bad in law.

VA00/3/017 (1) The Valuation is excessive and inequitable.

(2) The Valuation is bad in law.

The Property

The subject of the two appeals is a Single Point Mooring (SPM) located 1,500 metres off Whiddy Island in Bantry Bay, Co. Cork.

The mooring buoy is held in place by a six-anchor catenary system of chain legs. The SPM facilitates the loading and discharging of fuel tankers ranging from 35,000 tons to 320,000 tons. The base of the SPM is connected to a pipeline end manifold (PLEM) by means of two underbuoy hoses each 24 inches in diameter. The PLEM is in turn connected to the main storage facility by two steel pipelines that cross the seabed and connect to the onshore pipeline system on the island. Ships 'tie-up' using special mooring hawsers and are connected to the SPM by two floating hoses of 24" internal diameter. Cargo is then routed through these two hoses, through the mooring buoy to the two underbuoy hoses beneath the SPM.

All SPM operations are controlled and monitored from a central control room on Whiddy Island. Total installation cost of this facility was £18m.

Valuation History

1969: The Oil Terminal was first valued. The rateable valuation was agreed at £20,000 apportioned over the three townlands:

Close	£3,600
Kilmore	£2,400
Reenaknock	£14,000

The Deep-water jetty, being outside the townland boundaries was not valued.

1978: Following representations by Lisney & Son, agents for Gulf Oil, the rateable valuation was reduced by agreement to £15,000. The 25% reduction took account of changing economic circumstances and a substantial decline in throughput. The new valuations were:

Close	£2,700
Kilmore	£1,800
Reenaknock	£10,500

1979: Following the disaster the valuation was reduced by agreement to £5,500

Close	£900
Kilmore	£600
Reenaknock	£3,500

1982: The valuation in the townland of Reenaknock was reduced from £3,500 to £2,500 leaving a total rateable valuation of £4,000.

Close	£900
Kilmore	£600
Reenaknock	£2,500

1986: The valuation was further reduced by agreement to £3,500

Close	£600
Kilmore	£600
Reenaknock	£800
	£1,500

In the case of the first three valuations, the occupier column in the Valuation List was amended to 'Vacant'. The Irish National Petroleum Corporation was entered as the occupier in the case of the £1,500 valuation in the townland of Reenaknock.

1987: The agreed valuation following on the 1987 First Appeal was £3,500.

Close	£600
Kilmore	£600
Reenaknock	£1,500
	£800

In the case of the first three valuations the occupier column in the Valuation Lists was entered as Vacant and the valuation were entered in the half-rents column in the Valuation Lists. The £800 valuation was entered as £250 buildings and £550 half-rents with Irish National Petroleum Corporation as the occupier. All tanks were empty at this stage with the exception of the diesel oil tanks that contained c.1,400 tons of oil.

Appeals by Cork County Council to the Valuation Tribunal on the grounds "Failure to revise, increase and update to current levels the valuation of the holding to take account of the 1986 Act" were later withdrawn.

1990: Three tanks were in use for the storage of crude oil with one tank in use for storage of diesel.

Tank NO	Quantity/Gals	Max. Capacity/Gals.
204	18,356,443	21,738,400
211	17,457,063	21,738,400
402	18,746,188	20,180,000
407	441,214	1,692,500

No change was made to the total rateable valuation of £3,500. The valuation was apportioned:

Close £1,085

Kilmore £1,085

Reenaknock £1,330

At first appeal no change was made to the total rateable valuation of £3,500. However, the valuation in Reenaknock was adjusted as follows:

	Buildings	Half-Rents	Total
At Revision	£550	£780	£1,330
At First Appeal	£180	£ 1,150	£1,330

The decision was appealed to the Valuation Tribunal who affirmed the valuations.

1999. Following a request from Cork County Council in October 1999 (to revise as necessary to value upgraded Whiddy Oil Terminal Facility for BTL "Value all new developments to include additions improvements and refurbishments. Value single point mooring Location Map Attached") the valuation was increased on the three relevant lots. The valuation was apportioned between the three townlands in ED Whiddy as follows:

Close £3,375 (absolute)

Kilmore £1,125 (absolute)

Reenaknock £10,750 (absolute) Buildings £180 (portion attributable to SPM £3,297).
Total : (Abs.) £15,070 (Bldgs) £180

An appeal was lodged against the assessment and at first appeal the Commissioner made the following changes:

Close Reduced to £2,925 (absolute)
Kilmore Reduced to £975 (absolute)
Reenaknock Reduced to £8,683 (absolute) No change Buildings £180
(portion attributable to SPM reduced to (£2,430).
Total : (Abs.) £12,593 (Bldgs) £180
Note A new entry was made as SPM not located in Townland Reenaknock
Townland : Sundry Townlands
Electoral Division: Whiddy
Lot: Land under water
Valuation: Mooring valued in townland of Reenaknock

This new entry valued the SPM in Sundry Townlands but it was cross- referenced to townland of Reenaknock where the valuation was stated.

The appeal proceeded by way of an oral hearing, which took place on the 30th day of March 2001 in the Tribunal Offices, First Floor, Ormond House, Ormond Quay Upper, Dublin 7. The Appellant was represented by Mr. Hugh O'Neill SC instructed by Arthur Cox Solicitors. The respondent was represented by Ms Catherine Griffen BL instructed by the Chief State Solicitor.

Mr Des Killen FRICS, FSCS, IRRV of GVA Donal O'Buachalla gave evidence of behalf of the appellant. Mr James O'Connor Terminal Manager also gave evidence on behalf of the appellant. Mr. Peter Conroy M.I.A.V.I., Valuer Grade 1, Dip Environmental Economics, gave evidence on behalf of the respondent.

Submissions were made and evidence given in accordance with the written submissions given to the Tribunal in advance of the hearing.
Prior to the hearing the parties agreed the quantum element of the valuation and the only matters in dispute are therefore of a legal nature.
It is clear from evidence and submissions that two questions need to be addressed by this Tribunal.
Firstly; was the Commissioner of Valuation correct in valuing the SPM facility in the townland of Reenaknock.
Secondly; if the Tribunal decides he was incorrect but determines that the SPM may be valued in Sundry Townlands, then is the Tribunal precluded from so doing by virtue of the fact that section 3 notices were not served on the Appellant by Cork County Council nor was the required fee of £100 paid by the County Council to the Commissioner of Valuation in respect of the Townland entry of Sundry Townlands.
Having regard to the evidence submitted and the arguments adduced by the Parties, the Tribunal makes the following findings and determination in relation to the findings herein listed:

Findings and Determination

1. The Bantry Bay facility is a single operating entity i.e. a large storage depot with a storage capacity in excess of over 1 million tonnes of crude oil which is offloaded from tankers by means of a single point mooring (SPM), which is situated approximately 1,500 metres off Whiddy Island.

2. The SPM together with the associated pipe work and sub-sea crude oil lines are located in that part of Bantry Bay that was added to the functional area of Cork County Council by "Extension Of Boundary Local Government Reorganisation (Supplementary Provisions) (Cork) Order 1985 dated the 17th June 1985. This order was made in accordance with the provisions of Section 28 of the Local Government (Reorganisation) Act 1985.

3. The SPM installation and its operation are governed by the terms and conditions contained in the lease between the Department of the Marine and Bantry Terminals Ltd. dated 7 February 2000, from the 25th day of July 1996 for a term of 35 years.

4. The storage tanks and the associated pipe works are widely dispersed throughout Whiddy Island and are located at three separate townlands i.e. Close, Kilmore and Reenaknock. The sub-sea pipelines from the SPM come onshore at Reenaknock and from there the crude oil is distributed to the various storage tanks.

5. On the 1st October 1999 Cork County Council made an application to the Commissioner of Valuation to carry out a revision of valuation of the Whiddy Oil facility and listed the three entries in the current valuation list i.e.
   Lot no. 2 Close Townland,
   Lot No. 1B, 2B and 3E Kilmore Townland,
   Lot No. 1ABC, 2, 4CD Reenaknock Townland.

6. The nature of the revision requested in each instance was couched in identical terms.

   "Revise as necessary to value upgraded Whiddy Oil terminal facility for BTL. Value all new developments to include additions, alterations, improvements and refurbishments. Value Single Point Mooring ".

7. On the 6th of October, Cork County Council in accordance with section 3 (4)(a) of the Valuation Act 1988 advised Bantry Terminals Ltd. of the three applications made to the Commissioner of Valuation and in the notices set out the reasons for the revision.

8. In due course the Commissioner of Valuation issued three determinations one in respect of each entry in the valuation list. The total rateable valuation of the facility amounted to £15,070 of which £3,297 was attributed to the SPM which was valued as being in the townland of Reenaknock.

9. At first appeal stage the total rateable Valuation was reduced to the agreed sum of £12,593 of which £2,430 was attributed to the SPM and once again the SPM was valued as being in Reenaknock Townland.

10. It is clear that the entire facility has been valued as a single entity and the resultant valuation apportioned between the three existing entries in the valuation list presumably in proportion to the storage capacity of the tanks located in each townland and the value attributed to the SPM i.e. £2,430 included in the valuation for Reenaknock. These valuations were agreed with the appellant but without prejudice to the appellant's contention that the SPM "can only be properly valued when the property within which it is located is properly listed for revision of valuation in accordance with section 3 Valuation Act 1988 and the payment of the correct statutory fee."

11. Why the Commissioner of Valuation decided to include the valuation of the SPM in Reenaknock is difficult to understand in the light of the fact that the SPM is located in that part of Bantry Bay that is within the functional area of Cork County Council and moreover is occupied under a lease from the Department of the Marine. The unit of assessment in accordance with section 11 of the Valuation (Ireland) Act 1852 is the tenement or rateable hereditament and for each a separate assessment is required. In the case of Switzer & Company v The Commissioner of Valuation (1902) 2 IR. 275, it was held (and later found by the Court of Appeal) "that premises had to be assessed as to net annual value having regard to any leases on which the premises were held and that each lease required a separate net annual value." In the circumstances of this appeal it is common case that the SPM is occupied and operated in accordance with the agreement between the Department of the Marine and BTL and hence, in accordance with the Switzer case, should have a separate assessment. It is also clear as a matter of fact that the SPM is not located in the townland of Reenaknock and hence the rateable valuation attributed to the SPM should not, both as a matter of law and fact be included in that townland.

12. On many occasions this Tribunal has dealt with the matter of section 3 notices and in the Tribunal appeal Pettitt v Commissioner of Valuation (VA95/5/015) the jurisdiction of the Commissioner of Valuation to carry out a revision was critically examined in the light of the legislation and case law. In regard to the circumstances of this appeal paragraphs 20 and 22 of the Pettitt Judgment as set out below are considered to be particularly relevant:

> "20. *What is abundantly clear from the foregoing is that the learned Judge (Barron J. in the case of R & H Hall v Commissioner of Valuation) accepted that the Commissioner had been requested to revise the hereditament in question. It is also quite clear that in his view no particular method of request is necessary and that there is no obligation to describe the property, the valuation of which is to be revised, by reference to lot numbers. Once it can be ascertained from the list sent to the Commissioner that the hereditament in question is included within a request for revision then that is sufficient. In our respectful view this is correct and is further supported by the analysis hereinafter mentioned of section 17 of the 1852 Act and the appropriate forms referred to therein and there following……..."*
>
> *22. "This in our view is indeed support for the general proposition above mentioned. In the first instance it is clear that the Section 4 request does not have to accurately specify as 'units of valuation', the hereditaments the valuations of which are sought to be revised. And secondly, it seems that once the request contains an adequate description of the tenements then that is a sufficient compliance with section 4 and sufficient to invoke the Commissioner's jurisdiction. Thereafter it becomes a matter for the Commissioner to revise in accordance with the law".*

(The section 4 referred to is Section 4 of the Valuation (Ireland) Amendment Act, 1854). It should also be noted that the findings in the R+H judgement were upheld in a subsequent appeal to the High Court.

13. The Tribunal was asked on behalf of the appellant to distinguish the cases of John Pettitt VA95/5/015 and McDonnell Commercials VA99/2/035 insofar as the proposed rateable

hereditament was not described in this case by reference to a map as it never had a rateable existence before. In addition it was submitted on behalf of the appellant that the provisions of article 37(e) of the Adaptation Of Irish Enactments Order 1899, that prescribed the form to be used by the local authority for listing properties for revision, required that properties would be described by reference to a separate map and description. The Tribunal is of the opinion that while the facts in the cases sought by the appellant to be distinguished, do differ in some details from this case, the case of Alma v Dublin Corporation (1876-77) 10 IR CL 476 approved by Blaney J. in Coal Distributors Ltd. v the Commissioner of Valuation [1990] ILRM page 172, does not allow the Tribunal to distinguish these cases as invited. The Tribunal is strongly influenced in this view and bound by the passage quoted by Blaney J. with approval from Alma v Dublin Corporation on page 177 of the report in Coal Distributors Ltd. v the Commissioner of Valuation.

> *"The words next relied upon by Mr. Walker are tenements …the valuation of which….shall require revision.'*
>
> *Now what is the meaning of these words as used in the fourth and fifth sections of the 17Vict. c.8? In my opinion they mean tenements of such a class as to render necessary revision of the existing valuation of the county, barony or poor law union. The legislature deals with the existing valuation as a whole, and as containing all the tenements or rateable hereditaments comprised within the county, barony or union. It provides (by the 15 and 16 Vict. c 63, s.25) for annual revision, in order that this valuation may – notwithstanding the frequent alteration of tenements and hereditaments within the county, barony or union – continue to contain all the tenements and rateable hereditaments from time to time within such district. It provides (by the 17 Vict. c. 8, s.5) for the preparation after revision not alone of a list of the tenements of which the valuation shall have been revised, but a revised list of the valuation of the (which in this context means all the) rateable hereditaments and tenements within the county, barony or union. In my opinion, that which required revision and was to be revised was the valuation of the county, barony or union; and although such revision is limited to the extent necessary to include in the valuation all the hereditaments existing at*

the time of the revision, the mode of accomplishing the revision is not confined to the alteration of the valuation of hereditaments comprised in the original valuation, but extends to the introduction of newly created hereditaments. This construction gives to the section an operation wide enough to carry out the intention expressed in the preamble. The more limited construction contended for by the defendants would not only fail to satisfy this intention, but would be contrary to the essential principle of rating in the Valuation Acts – viz, *that the assessment should be from time upon all the then existing rateable hereditaments. As to the last argument it appears to me that the 31st section of the Act of 1852 must be read with the fourth and fifth sections of the subsequent Act and that a tenement introduced for the first time into the valuation at an annual revision is a tenement the valuation of which has been altered within the meaning of that section because the general valuation has been altered in respect of it. I am, therefore, of the opinion that the waterworks of the appellants were properly introduced into the valuation lists.*

14. However, in fairness to the appellant it is accepted by the Tribunal that none of the authoritative cases relied upon by the Tribunal in making its decision specifically dealt with the form of application for revision provided for in the Local Government (Adaptation Of Irish Enactments) Order 1899. Of these decisions the Switzer case related to a revision that apparently occurred before the operation of the 1899 Order. R & H Hall Plc v the Commissioner of Valuation (unreported judgement of Mr. Justice Baron delivered on the 16th December 1994) mentions the form of notification of the 1899 Order. While the Coal Distributors Ltd. case does refer to the 1899 Order, there is no specific discussion or consideration of the form prescribed thereby and its possible influence on the decision of the court. In view of this absence of discussion of the influence of this form of application the Tribunal considers that it should examine same to see if anything arises therefrom that would alter its views having considered the available authorities.

15. The Tribunal notes that the entity, that is required by the form of the 1899 Order to be revised, is referred to as a 'holding' as distinct from a 'rateable hereditament' or a 'tenement'. The use of the word holding seems to be a looser and less defined term compared with tenement or hereditament and would seem to refer to adjacent property in the one ownership. This interpretation would be quite consistent with the requirement of section 4 of the 1854 Act, as adapted in accordance with the 1899 Order. The section is set out in full on pages175 and 176 of the report of the Coal Distributors case. The relevant part of this lengthy section provides:

> *"and for the purpose of providing for the necessary revision of the valuation of the rateable tenements and hereditaments the limits whereof shall become altered……."*

16. The Tribunal's view is that the form provided for in the 1899 Order referring to "holding" provides sufficient latitude for the local authority to list for revision a tenement which may have been expanded by an extension of its limits so as to become an extended "holding" which ultimately on the examination by the Commissioner may necessarily, by the operation of the Switzer case, become two rateable hereditaments. This is what the Tribunal understands happened in the subject case and the Tribunal consider that the process may not be impugned. The Tribunal is reinforced in this view on a consideration of the judgement of Pallas CB, in the Switzer case, where he accepts that initially it might not be possible for a local authority to ascertain the identity of the lessor's interest from the outset in the revision process but admonishes them that at least the existence of lessor's in respect of each hereditament should be noted. The necessary implication arising from this view is that this aspect would be defined further by the Commissioner in the more specialist process of revising the valuation.

17. The request forwarded to the Commissioner by Cork County Council on the 1st October 1999 was very specific regarding the purpose of the revision and so also were the contents of the Section 3 notices served on the occupier. In the circumstances the Tribunal holds that the Commissioner of Valuation had full authority to value the SPM

although as previously held, the valuation should not be included in Townland Reenaknock.

THE SECOND GROUND OF APPEAL

18. The second ground of appeal is that the SPM was not properly listed for revision of valuation, in so far as the payment of the correct statutory fee in respect of the listing of a separate hereditament was not made. In light of the findings above, it is not necessary for the Tribunal to make a determination in relation to this ground of appeal. However as the issue has been raised, the Tribunal proposes to deal with it.

19. Section 7 (1) of the Valuation Act 1988 provides as follows:

1) *"The Minister for Finance may by regulation prescribe the fee to be charged in respect of an appeal to the Commissioner of Valuation under Sections 19 and 31 of the Act of 1852 or to the Tribunal or any application to the Commissioner of Valuation, or any class of such appeal or application under this Act*"

Article 2 of the Valuation (Revisions and New Valuations) (Fees) Regulations, 1996, Statutory Instrument No. 418 of 1996 provides as follows:

2) *"The fee to be charged in respect of an application by an owner or occupier of any property or by a rating authority under Section 3(1) of the Valuation Act 1988, shall be £100."*

20. It is common case that no separate fee of £100 was paid in respect of the SPM as a separate hereditament. The payment of a sum of money or the entering into a recognisance as a pre-condition to the exercise of jurisdiction in the valuation code is not new, and, in comparatively recent times, was the subject of analysis in ***The State (Commissioner Of Valuation) -v- His Honour Judge O'Malley***, unreported judgment by Mr. Justice McWilliam on the 27th day of January 1984 in which a recognisance required by Section 22 of the Valuation (Ireland) Act 1852 to be lodged within three days after

being entered into, on the institution of an appeal to the Circuit Court against a revised valuation of property, was held to be an essential and mandatory pre-condition for the pursuit of the appeal.

21. The question to be decided by the Tribunal is whether, in similar fashion, the provisions of Section 7 (1) and of the Valuations (Revisions and New Valuations) Fees Regulations 1996 require the payment of £100 fee as a mandatory pre-condition to the exercise of the revising powers of the Commissioner under the Valuation Acts.

22. It appears to the Tribunal that the wording of Section 7(1) and the Regulations do not provide for the consequences of the non-payment of fees or for any sanction following the non-payment of fees. All that can be said from a reading of the plain meaning of the words is that there is a duty on the local authority to pay the fee of £100 in conjunction with the listing and little further guidance can be obtained. However as a matter of established custom and practices it would appear that the Commissioner of Valuation has authority to create a number of new entries in the valuation list on foot of a single request, such as to value a new shopping centre or indeed a new industrial development or a multi-storey office building in multiple occupation. Indeed it is only when the Commissioner of Valuation has carried out an inspection on the ground that it can be conclusively determined in what and how many lots the property listed for revision can properly be valued. Nonetheless the Tribunal is of the view that it may be appropriate in the circumstances to have regard to the style of parliamentary draughtsmanship used in connection with the payment of fees under the provisions relating to appeals to An Bord Pleanála. The relevant provision is Section 10(4) of the Local Government (Planning and Development) Act 1982.

"(4*) Where under regulations under this Section, a fee is payable to the Board by a person making a reference to, or a request for determination by, the Board, the relevant question or matter shall not be decided or determined by the Board, unless the fee is received by the Board."*

23. In relation to this subsection, the Tribunal has regard to the Judgment of Henchy J. in relation to the previous provision of Section 17 of the Local Government (Planning and Development) Act 1976 in State (Alan Developments Ltd) -v- An Bord Pleanála [1981] ILRM 108, that -

"The lodgement of a deposit of £10 with the appeal (perhaps not necessarily physically or contemporaneously with the appeal) would also seem to be an essential part of the statutory scheme, so as to discourage frivolous, delaying or otherwise worthless appeals",

24. Furthermore on the plain meaning of the words of Section 10(4), the payment of the fee for the appeal is undoubtedly a necessary pre-condition for the exercise of the appellate jurisdiction of An Bord Pleanála. The Tribunal is of the opinion that if the legislature wished to qualify the right of appeal or revision provided for in the Valuation Act of 1988, a form of drafting such as was used in Section 10(4) of the Act of 1982 would have been invoked. The Tribunal is supported in this opinion by the approach taken by Henchy J. in the State (Elmcourt Developments) case in which he deals with other aspects of the notice of appeal in respect of which the appeal fee was to be paid, arising from an absence of grounds of appeal -

"I am satisfied that the grounds of appeal required are essentially informative. To hold that they must be given as part of, or contemporaneously with, the notice of appeal, would be to attribute a conclusiveness to them which the Statute clearly shows they cannot have. I consider that the Board's practice of informing an appellant in a case such as this, who has not stated grounds of appeal, is a correct evaluation of the place that grounds of appeal take in the statutory scheme. It would be unduly legalistic, and unfair, if laymen, who may have no skill in such matters, but who may be vitally affected by the permission which they wish to appeal against, were to be shut out from appealing, merely because their notice of appeal did not state their grounds of appeal,

particularly when those grounds of appeal can never be anything more than an opening salvo in the appellate battle. In such circumstances, the requirement of stating the grounds of appeal is essentially informative and directory, and therefore not mandatory. When the appellant in this case furnished grounds of appeal within a few weeks of his appeal, to the satisfaction of the Board, it did not lie in the mouth of the developer to say that he had been in any way, wrong-footed or damnified, or that the spirit or purpose of the Acts or Regulations had been breached. In seeking an order of prohibition against the Board, he is endeavouring to benefit from what is no more than a technical breach of a regulation, which breach has been put right and has been therefore rightly overlooked by the Board in the interests of justice."

25. Also the Tribunal notes, without purporting to interpret conclusively, the more clear-cut words of the Valuation Act 2001, in relation to the payment of fees as significant and further support for its view of the lack of any connection between the non-payment of revision fees and lack of jurisdiction under the present Act.

26. Similarly, the Tribunal is concerned that laymen should not be prejudiced by an interpretation that the payment of such fees was a mandatory pre-requisite to having their appeals made in time, or their applications for revisions struck down because of inadvertent non-payment of fees. Perhaps the local authority in this case might not seek the same latitude or excuses given to laymen, but nevertheless the local authority is entitled to benefit from this approach when dealing with the same set of provisions regarding fees.

27. The Tribunal is aware that it is a practice of the Tribunal to insist on the payment of appeal fees where such fees have not been paid in time with the appeal. However, this is a control in place to ensure that the Tribunal does not hear any case where the appropriate fees have not been paid. The Tribunal is of the opinion that a like approach should be

taken by the Commissioner in relation to the payment of fees and where it is known that the appropriate fee has not been paid, it would be appropriate that the revision or appeal procedure would not continue until such fee was paid. It may be difficult for local authorities listing properties for revision, to know in every case whether an application for revision will result in a revision producing additional rateable units. The collection of fees in such cases is a matter for control, rather than jurisdiction for the Commissioner and no part of the revision or appellate system should allow proceedings to continue where there is a refusal or failure to pay fees which are clearly due.

Determination

28. Having regard to all the foregoing the Tribunal determines firstly, that the SPM should be valued separately at the agreed figure of £2,430 and that the valuation list be amended as set out below;-

(a) Townland Reenaknock,

i. Lot no. 1ABC 2.4CD,
ii. Occupier Bantry Terminals Ltd.
iii. Rateable Valuation £6443
iv. Description Oil/Fuel Depot.

(b) Townland Sundry Townlands,

i. Occupier Bantry Terminals Ltd.
ii. Lessor Department of the Marine,
iii. Map reference land under water,
iv. Description single point mooring
v. RateableValuation £2,430.

29. Secondly the Tribunal does not consider the request for revision submitted to the Commissioner of Valuation by the County Council to be flawed due to the non-payment of the statutory fee in respect of the townland within which the SPM is located.