

Statement of case for the two applications (TrC 080/20_1 – DAERA and TrC 081/20_1 – DAERA) for consent to discharge

Water quality in the Owenkillew & Owenreagh rivers should be enforced to the highest standards. Discharges should be required to meet EQS at the points of discharge in the Curraghinalt & Pollanroe burns, rather than downstream as proposed by the Applicant. Any waterway linked hydraulically to a SAC or ASSI should have the same standards applied to it as the actual SAC itself. I look at Lough Neagh and the pollution problems now evident there due to industrial scale farming and lack of regulation. We should be trying to protect and enhance the quality of water in our rivers & streams for the benefit of nature, people and wildlife. I wonder will my children be able to play in local catchment rivers/ streams as I did in my youth or will they become places to be avoided due to the fear of contaminants/ pollutants.

The waters of our specially designated Rivers (Owenkillew SAC & ASSI & Owenreagh ASSI) and their hydrologically linked Burns (Curraghinalt, Pollanroe & unnamed burn) should all be protected because of the presence of Freshwater Pearl Mussels, Ireland's only globally endangered species, as well as all the other aquatic and wild life who live here, (e.g. Salmon, brown trout, otters, badgers, red squirrels, cranes, various birds, foxes, deer, bats, etc). They would be polluted & killed from the mine waste entering the water, including heavy metals discharged from the mine, the runoff from the mine site & the 'Dry Stack Facility,' as well as the sewage and 'water' pumped from the mine itself.

There is no effective, independent or objective regulation of mineral exploration or extraction. There is no specific Departmental Mining body in NI, or specific legislative or regulatory frameworks, as for agriculture, for example. This is required. NIEA has four functions: consultative, advisory, regulatory and enforcement but DAERA/NIEA have no expertise in mining as it is not a traditional industry in NI; Dalradian befriended them & became their advisors, leading to policy capture. Despite many pollution incidents and exceedances of parameters for Discharge Consents by Dalradian, NIEA has not prosecuted them over the years. The enforcement process is not fit for purpose

A Belfast High Court decision of November 2019 quashed a Discharge Consent issued to Dalradian by NIEA / DAERA in Sept 2017. The judgement arose from a Judicial Review taken by ██████████ against the Department's decision to significantly relax the parameters restricting the company's permission to discharge highly toxic heavy metals into the Owenkillew River. ██████████, an international expert witness on mining who had worked in 46 different countries advised that in all his years of experience he had never come across such incompetence as with NIEA. He pointed out to the court that in addition to other failures, the regulatory body did not even have the equipment required to test the consented discharge at the levels of the specified parameters. The environmental effects of Dalradian's Curraghinalt works to date have not been assessed including the effects beyond the date the development was supposed to be removed. Questions remain why no EIA/ screening for such an environmentally sensitive site?

The December 2021 NI Water Framework Directive Statistics Report published by DAERA included results of tests for uPBT toxins for the first time. The Report found uPBT toxins in the

Owenkillew River. The seriousness of these findings on uPBT (ubiquitous, persistent, bioaccumulative, toxic) pollution in the Owenkillew River cannot be overstated. This Report's findings including the fact that the water in the Owenkillew failed to achieve 'good status' are a serious matter in regards to the pearl mussels and other aquatic species. Where does the legal requirement to improve the water quality rest? How could this be possible should these planning applications be approved?

Dalradian has admitted the presence of acid mine drainage on site since 2013. This is a problem in perpetuity. Water quality and water resources are all likely to be affected. The extent and implications of the present-day situation needs to be fully understood, independently verified and publicly shared.

There are fundamental issues outstanding on transparency and accountability of decision making in relation to reduction in standards given to for Dalradian in K/2014/0246/F application from the parent mine exploration approval (K/2013/0072/F) around the removal of conditions 25 & 26. These conditions were deemed essential and specifically protected the endangered fresh water pearl mussels.

Documentation subsequently released by NIEA under FOI request has unearthed evidence that was withheld from the public and from Omagh Council at the time the application was going through the Planning Application process. An email on 25/03/15 showed that on 24/03/15 ODC Planning Committee was given misleading information erroneously stating that the 'Water Order Discharge Consent (of Feb 2014) ... provides stricter controls than those in the Planning permission.....'. The email Memo of [REDACTED] (NIEA) to [REDACTED] and others 15/02/15 sets out clearly that the conditions 25 & 26 in the Planning Approval K/2013/0072/F are based on the Owenkillew Sub-Basin Management Strategy (2012) standards for the protected pearl mussels to achieve favourable status in the Owenkillew SAC. In stark contrast to the Discharge Consent, the Planning Permission conditions 25 and 26 had clear & specific sanctions attached. Can this be explained?

The precautionary principle is predicated on acting to prevent harm before it occurs. Significant harm has already been allowed to take place here due to a lack of enforcement. I urge you to recommend these discharge applications are refused.

I fully support and endorse the statement of case submission on discharge consent made by Save Our Sperrins for this conjoined public inquiry.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I am further dismayed by the Department of Infrastructure's 15/10/24 letter. This correspondence exposes a lack of understanding of its own legislative obligations, and creates further confusion just 3 days before statements of case submission deadline. Public trust in the inquiry process has been again undermined.

It appears evident from its letter that DFI has no option other than to seek this further environmental information (FEI). In turn, all parties will need to be afforded an opportunity to consider same and comment once received.

It is those with the least resources and limited access to expert help that will be the most impacted by the Department's unacceptable conduct.

I submit this statement of case under protest and in the knowledge that it may now be incomplete until afforded an opportunity to consider any FEI.

In light of the latest correspondence from DFI, it does not seem feasible that the Appeals Commission can proceed with the public inquiry as planned and I call on the PAC to provide much needed clarity on the next steps as a matter of urgency.