

16<sup>th</sup> October, 2024

Dear Sir/ Madam, Please find below my statement of case for the conjoined planning appeals commission inquiry comprising of the following applications-

- 1. 2021/C005 - a Public Local Inquiry under Section 26(10) of the Planning Act (Northern Ireland) 2011 for planning application LA10/2017/1249/F on behalf of Dalradian Gold Ltd for 'Underground valuable minerals mining and exploration, surface level development including processing plant and other associated development and ancillary works', Greencastle, County Tyrone at lands 165m West of No. 45 Camcosy Road to the junction of Camcosy Road and Crockanboy Road to Lands 47m to the South East of No. 73 Crockanboy Road.
- 2. 2021/C006 – a Public Local Inquiry under Section 29(6) of the Planning Act (Northern Ireland) 2011 for planning application LA10/2019/1386/F on behalf of NIE Networks for a '33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration - planning application LA10/2017/1249/F). 33kV connection is c37.9 km in length, comprising of c26.9 km of overhead line supported by single and double wooden pole sets and c11 km of underground cabling c 15.1 km of the powerline is within the Fermanagh & Omagh District Council area comprising of c 8.2 km of overhead line supported by single and double wooden pole sets and c 6.9 km of underground cabling' at lands 737m NW of 56 Mullydoo Road Greencastle through townlands of Crockanboy Teebane West Casorna Rousky Drumlea Garvagh Meenadoo Trinamadan and Culvacullion ending at 785m NW of 24 Meenadoo Road, Culvacullion, Gortin'.
- 3. 2021/C007 – a Public Local Inquiry under Section 29(6) of the Planning Act (Northern Ireland) 2011 for planning application LA11/2019/1000/F on behalf of NIE Networks for 'a 33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F). 33kV connection Planning Appeals Commission 4 th Floor 92 Ann Street Belfast BT1 3HH T: 028 9024 4710 E: info@pacni.gov.uk By Email Date: 11th September 2024 is c37.9 km in length, comprising of c26.9 km of overhead line supported by single and double wooden pole sets and c11 km of underground cabling. c 22.8 km of the powerline is within the Derry City & Strabane District Council area comprising of c 18.7km of overhead line supported by single and double wooden pole sets and c 4.1 km of underground cabling' at lands Adjoining 89 Woodend Road Ballymagorry through townlands of Ballymagorry, Woodend, Milltown, Ballee, Holly-hill, Kennaghan, Owenreagh, Knockanbrack, Lagvittal, KnockInarvoer, Craginagapple, Lagavadder, Ballykeery, Craigatuke, Meendamph, Balix Upper, Letterbrat Glencoppogagh (Main Portion) Aghalane and Lisnacreaght ending at 681m NW of 24 Meenadoo Road, Culvacullion, Gortin.
- 4. 2021/WHR01 – a Public Local Inquiry under Schedule 1, paragraph (3) of the Water (Northern Ireland) Order 1999 for a consent to discharge application TrC 080/20\_1 – DAERA, on behalf of Dalradian Gold Ltd.
- 5. 2021/WHR02 - a Public Local Inquiry under Schedule 1, paragraph (3) of the Water (Northern Ireland) Order 1999 for a consent to discharge application Ltd TrC 081/20\_1 – DAERA, on behalf of Dalradian Gold Ltd.
- 6. 2024/WHR01 – a Public Local Inquiry under Regulation 17 of the Water Abstraction and Impoundment (Licencing) Regulations (Northern Ireland) 2006 for application AIL 2024 0008 – NIEA, to abstract and impound water on behalf of Dalradian Gold Ltd.

-7. 2024/WHR02 - a Public Local Inquiry under Regulation 17 of the Water Abstraction and Impoundment (Licencing) Regulations (Northern Ireland) 2006 for application AIL 2024 0009 – NIEA, to abstract and impound water on behalf of Dalradian Gold Ltd.

-8. 2021/DR001 – a Public Local Inquiry for a proposed road abandonment order for part of the Crockanboy Road for application (IN1-21-5706) under paragraph 4 of Schedule 8 of the Roads Order (Northern Ireland) 1993 on behalf of Dalradian Gold Ltd.

- **Statement of case for the Curraghinalt Mine Project (LA10/2017/1249/F).**

1. Failure by the relevant competent authority to produce a full Habitats Regulation Assessment for this application puts me at a disadvantage in completing my statement of case. I am unable to complete a fully informed statement of case because of the lack of information available.

I am aware of the existence of a Shadow Habitats Regulation Assessment document, but I will not be using this document to inform my statement as it is biased, and it is crucial that unprejudiced information is available for all concerned.

The fact that the applicant produced a Shadow HRA whilst the competent authority failed to fulfil their statutory responsibility at this stage of the planning process casts serious doubts over the competence of this authority and calls into question the ability of the Planning Appeals Commission to make a fully informed decision on this planning application. My serious concerns are further intensified by the knowledge that this authority will ultimately be overseeing the correct operation of the mine in accordance with statutory regulations if these proposals were to be approved. Given the record of the applicant to date in breaching of consent conditions and environmental legislation even at the exploration stage of mining I have grave concerns about the ability of the competent authority to enforce compliance to environmental legislation and statutory regulations. This planning application requires the utmost scrutiny, and I would urge strong adherence to the Precautionary Principle in every aspect of the process of this inquiry. In this instance where there is an absence of the necessary scientific data, a complete evaluation of the risk is impossible and as such, the precautionary principle of preventative decision making should be applied.

Please see below an extract from the guidance documents provided by DAERA defining the responsibilities of the relevant competent authority in relation to the completion of a HRA. I would like to draw your attention to the fact that the HRA should be undertaken, “prior to carrying out or issuing any form of or permission or authorisation”.

[https://www.daera-ni.gov.uk/articles/assi-guidance-public-bodiescompetent-authorities#:~:text=To%20this%20end%20a%20Habitats,\(Natural%20Habitats%2C%20etc.\)](https://www.daera-ni.gov.uk/articles/assi-guidance-public-bodiescompetent-authorities#:~:text=To%20this%20end%20a%20Habitats,(Natural%20Habitats%2C%20etc.))

**(Ref. 1) “Duties of Public Bodies/Competent Authorities concerning SACs, SPAs and Ramsar Sites**

*Under The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) certain sites have been designated as either Special Areas of Conservation (SACs) or Special Protection Areas (SPAs). Together these sites form part of the UK national site network. Ramsar sites have been designated under the Ramsar Convention on Wetlands.*

*Under this legislation Public Bodies are referred to as ‘Competent Authorities’. Where a competent authority proposes to carry out or issue any form of authorisation “[f]or works or activities where the site in question is designated as being part of the UK national site network, the works are subject to the requirements of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).*

**To this end a Habitats Regulations Assessment (HRA) is required to be undertaken prior to carrying out or issuing any form or permission or authorisation.**

**While it is not possible to outline the entire legalities of The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the assessment succinctly, in broad terms the HRA should seek to inform the design of the proposal and is legally required to ensure the protection of UK national site network against adverse impacts on their integrity.”**

2. The proposals have been formulated within the scope of 2015 environmental regulations and do not consider the more recent Climate Change Act, (2022), which includes target setting for emissions for the decades in which the proposed mine will be operational and provides for a system of carbon budgeting which the mining operations will be subject to if approved.

Since the applicant modified the original plans, removing the application for an onsite processing plant in 2019, opting instead to transport the partially refined ore overseas to complete the refining process, then

transporting the waste rock back to the mine in Greencastle, (an operation that flies in the face of current concerns over excess greenhouse gas emissions and carbon footprint awareness), it surely would be prudent for the applicant to incorporate Climate Change Act provisions into their revised plans.

- **Statement of case for the Curraghinalt 33Kv Project (including both LA10/2019/1386/F and LA11/2019/1000/F).**

1. The relevant competent authority has not produced a full Habitats Regulation Assessment for either of these applications. Rather, two draft documents have been produced and these are subject to change, requiring additional information on the prevention of sediment release from haul roads and the monitoring of silt fencing and settlement. The lack of a fully completed HRA leaves me in a position whereby I cannot complete a fully informed statement on this plan.

Please refer to Reference 1 in relation to the duties of public bodies/competent authorities concerning SACs, SPAs and Ramsar Sites and see below the Draft HRA documentation undertaken by Shared Environmental Service.

[DFI/2024-0178 - Copies of DfI's Habitats Regulations Assessments for the Dalradian Gold Ltd.'s Curraghinalt gold mine Planning Application \(LA10/2017/1249/F\) & other associated Planning Applications.](#)

[PDF \(110 KB\)](#)

[DFI/2024-0178 - Copies of DfI's Habitats Regulations Assessments for the Dalradian Gold Ltd.'s Curraghinalt gold mine Planning Application \(LA10/2017/1249/F\) & other associated Planning Applications - Attachment 1.](#)

[PDF \(1.5 MB\)](#)

[DFI/2024-0178 - Copies of DfI's Habitats Regulations Assessments for the Dalradian Gold Ltd.'s Curraghinalt gold mine Planning Application \(LA10/2017/1249/F\) & other associated Planning Applications - Attachment 2.](#)

[PDF \(1.5 MB\)](#)

- **Statement of case for the two applications (TrC 080/20 1 – DAERA and TrC 081/20 1 – DAERA) for consent to discharge.**

1. In relation to these discharge consent applications I refer to the document produced by Landmark Chambers, (<https://www.pacni.gov.uk/publications/advice-landmark-chambers-niea-31-july-2023-attached-email-7-sept-2023>). This document highlights serious concerns about the impact of the proposed discharge consent levels on water quality and the resulting detrimental effect on protected species and other habitats. It advises the imposition of more stringent restrictions on discharge levels to prevent further deterioration to key water quality attributes since the proposed levels would contravene the current statutory scheme and other relevant statutory schemes. The applicant was given the opportunity to respond to the analysis within this document but, to date there has been no documentation produced on the NI Planning Portal or on the PAC Portal where DGL have demonstrated that the analysis is wrong or that they have addressed the questions that have arisen in this document as to the correct understanding of the relevant statutory scheme. Once again, I urge strong adherence to the precautionary principle by addressing these issues and answering the queries outlined in the advisory document written by Landmark Chambers.
2. In a letter to DFI dated 19<sup>th</sup> December 2019, [REDACTED] Director of Conservation and Protection for the Loughs Agency requested further information and clarification on the following: -
  - a detailed silt management plan for the development phase of the site
  - information on emergency response measures in the event of structural failure of the on-site tailings ponds
  - a clear explanation of the control of uranium alleged to be contained within the mined rocks.

- a reassessment of the HRA based on evidence that Atlantic Salmon are present in the Owenreagh River and, given its hydrological connection with the Owenkillew River SAC, it should be considered an SAC and its associated conservation objectives should be assessed accordingly.
- direction that the HRA should consider the Owenreagh river as part of the SAC as Atlantic salmon are present in this river.
- a more specific and less generic emergency response plan with providing an area and receptor site specific plan that includes the provision of scenario testing with the appropriate authorities.

He also expressed concerns about the following: -

- “the structural stability of a waste rock stockpile and its resilience in relation to extreme weather events”,
- the clarity of the “monitoring and control measures associated with the 4 settlement ponds around the proposed was stockpile”.
- “the proposals for backfill and the extraction methods will allow a higher exposure to mineral sulphides and metals and may exacerbate the natural rock weathering process leading to ground water recharge of acidic metals laden groundwater”, and that “some of the components of this acidic groundwater will includes levels of Zinc and Copper in an area that has been previously highlighted in Water Framework Directive monitoring as being high in background total Zinc and dissolved Copper, (along with other metals such as cadmium, iron, mercury, manganese and selenium)”
- “there may be a delay in the detection of groundwater recharge form acidic drainage even as long term as 2-5 years after mining begins or even longer”
- “the development of the site and the removal of natural vegetation cover and peat areas has the potential to change the hydrology of the downstream rivers .....this may increase the velocity of flood water and affect resident fish species – no consideration seems to have been given to infiltration type drainage to mitigate this potential issue”
- the need for the applicant to “demonstrate best environmental practices when working close to a watercourse.

(See Appendix 1 for full document)

To date these questions and concerns have not been addressed by the applicant. This is a matter of serious concern.

3. The lack of a full HRA for these applications as well as the confusion as to what further environmental survey works were carried out by the applicant, (as discussed in the Preliminary inquiry meeting in March where the Barrister representing the applicant disclosed that further survey work had been undertaken by the applicant but had no further information at that time), and the failure of the applicant to clarify this matter at any time since this meeting does not form a good basis upon which to complete a well-informed statement of case. Once again, I would urge the decision makers to adhere to the precautionary principle on the basis of the lack of full disclosure of all scientific data in order to make a fully informed decision.

## **Conclusion**

In conclusion to my statement of case, I wish to make comment on my experience as a concerned citizen who has researched the proposals, voiced my opposition to the plans and contributed to consultation on this planning application up to the current stage of the Planning Appeals Commission Inquiry.

During this time, I have witnessed the detrimental effect that opposition by the people of Greencastle has had on their well-being due to the extensive amount of voluntary time and energy that they have dedicated to opposing these plans. Whilst the applicant has access to a broad range of resources, time, and expertise to formulate information and gather support to strengthen their case, with many employees dedicating their working day to the promotion of these plans, the ordinary people who are opposing these plans have none of these privileges. They have relied on their unwavering assertion that these plans, if approved will lead ultimately

to the demise of their local community and its environment and they have sacrificed family and free time to investigate the plans in detail, to formulate valid arguments against the plans, to seek support from local communities, getting objection letters signed through street information campaigns, community events and information evenings in many community halls across the Sperrin Mountain Region, attending protests, campaign meetings and many more time consuming, unpaid tasks. All these efforts have been undertaken only out of concern for the environment and the local community whilst those who are promoting this mine as a positive thing for the local community by stating that it will create jobs, do so as employees of the applicant or as people who stand to gain financially if these plans are approved. The argument that this plan, if approved will create jobs and bring economic prosperity to the area is not enough to justify the potential danger to public health and to the environment and habitats and we only have to look at the history of the mine in Cavanacaw, Omagh which promised, economic prosperity for the area. This mine has been in operation for well over twenty years now and no economic, "bonanza", has been experience in this area to date.

I am very concerned about the disadvantage that ordinary local people are placed in terms of gaining information in relation to the planning application both in terms of the time required to search through the reams of documents in the planning portal and the many Freedom of Information requests sent to various public bodies, many of these requests being denied or replied to with heavily redacted documentation. I would posit that the three pillars of the Aarhus Convention have not been upheld in this process, particularly in relation to access to environmental information.

I must express my disdain as a witness to the proceedings in March at the Preliminary Inquiry meeting in Omagh where representatives for the statutory bodies whose remit is to oversee strategic planning in Northern Ireland managing and maintaining infrastructure, roads, rivers, etc., appeared not to understand the questions posed by the Chief Commissioner or to not know the answer to or how to answer questions, with one particular representative repeatedly stating that they were "content ", with the level of information provided from the applicant, seeming to trust that the applicant would make the right decision as to what information should be provided for the purposes of the inquiry. This approach in managing the assets and infrastructure of Northern Ireland is incredulous and I would again urge the need for extreme caution in making a decision on this issue due to the apparent lackadaisical attitude to the requirements for information on serious environmental issue which will have repercussions on this area for many years to come. It was also quite insulting to see this lady act like a duck in thunder when questioned, particularly as many of the people including myself had taken a day off work to watch her performance, for which I am sure that she was well paid. The actions by these representatives did not inspire faith that this process was rigorous, fair and transparent.

I have serious reservations about the appointment of Golder Associates UK Ltd. to review the applicant`s waste management plan, a plan that they were employed by the applicant to formulate. Surely this is conflict of interest, and a more objective review could be undertaken by a company with no previous links to the application.

The inquiry process is not accessible for the public also as restrictions were placed upon the public as to how they viewed the proceedings on this date. No minutes or record of proceedings was made available, and the public had two options whereby they could attend the meeting in person or watch it remotely. No recording would be provided for the public to watch after the meeting. This is not a transparent process and does not meet the standards of the three pillars of the Aarhus convention.

Overall, my main concern in this matter is the lack of due diligence applied in accessing, formulating, and providing full, unbiased and detailed information on all aspects of these plans to provide a transparent, rigorous and fair hearing for all so that a well informed and wise decision can be made on this matter. I fear that this will not be the case and would urge the Planning Appeals Commission to reject these plans outright.

Yours sincerely,

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## Appendices

### Appendix 1



DfI Strategic Planning Division  
71 Ebrington Square  
Derry/Londonderry  
BT47 6FA

19<sup>th</sup> December 2019

Dear Sir/Madam

**Re: Planning Application LA10/2017/1249/E – Underground valuable minerals mining and exploration, surface level development including processing plant and other associated development and ancillary works, Greencastle, County Tyrone. Please see application form P1, sheet 1 for full project description. (Revised description and amendments to the planning application, receipt of Further Environmental Information (FEI), other information and updates to the Waste Management Plan (WMP), supporting documents and provision of new and amended drawings). Lands NW Of Greencastle E Of Rouskey N Of Crockanboy Rd W Of Mullydoo Road N And S Of Camcosy Rd Including Lands 165m W Of No. 45 Camcosy Road To The Junction Of Camcosy Rd And Crockanboy Rd And Lands 47m To The SE Of 73 Crockanboy Rd**

Thank you for your recent correspondence dated 7<sup>th</sup> October 2019 in relation to the above-mentioned proposed development. The Loughs Agency is the statutory body charged with the conservation, protection and development of inland fisheries within the Foyle and Carlingford systems, the promotion of development of Loughs Foyle and Carlingford, and catchments for commercial and recreational purposes in respect of marine, fishery and aquaculture issues and the development of marine tourism.

The Loughs Agency has tried to review this application, but the volume of material and the cross referencing to previously supplied data has made this a significant task and as such some of the issues relating to fisheries management were difficult to locate and extract.

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However the Agency would like to submit the following comments;

Loughs Agency welcomes the removal of cyanide processing from the proposal.

Loughs Agency and its stakeholders remain concerned about the structural stability of a waste rock stockpile and its resilience in relation to extreme weather events. Within the documents supplied the statement that '*the most likely failure scenario is a translational sliding failure along the liner surface*', is of concern to the Agency.

The detailed monitoring and control measures associated with the 4 settlement ponds around the proposed waste stockpile are not clear to Loughs Agency staff.

The source of the estimated clean water usage of 750,000 litres per day was explained to Agency staff in a recent face to face meeting as no loss to the catchment, based on a recirculation re use process between the various onsite ponds. However, it seems clear to the Agency that the waterways adjacent to the proposed site remain likely to lose water flow, while at the same time being the main receptor of treated water from various discharge points. While these waterways may have limited fisheries interests adjacent to the site, the confluence of these sites with the main river downstream are important refuges for juvenile salmonid fish.

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Furthermore, in relation to the stability of the ponds on site, the Agency would seek clarification on what emergency response measures have been put in place should any of these structures fail.

The alleged presence of Uranium in the rock to be mined and its control and management are not clearly explained.

A detailed silt management plan for the development phase of the site does not appear to present and is an important management tool to prevent the potential for deleterious matter to enter a watercourse which is of primary concern. Impacts on the aquatic environment that precipitate any decrease in water quality can cause a significant impact upon various life history stages of fish species.

Loughs Agency has also considered the most recent shadow HRA (dated July 2019). The assessment refers to *indirect* hydrological and ecological impacts from the proposed activity and associated operations at the site. Whilst the Pollanroe Burn and the Owenreagh River are not designated as Special Areas of Conservation (SAC), the Agency would advise that Atlantic salmon (*Salmo salar*) are present in the Owenreagh River and utilise this watercourse for spawning. The hydrological connectivity with the Owenkillev River SAC means that the Owenreagh River should be considered as part of the SAC and its associated conservation objectives assessed accordingly. Furthermore any indirect impacts may need to be reassessed as *direct* impacts in this regard.

As previously highlighted, the Fisheries and River Habitat Assessment, Biological Water Quality Assessment, and Surface Water Impact Assessment are written to a high professional standard and provide the basis for

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environmental baseline data that can be used for ongoing monitoring throughout the lifetime of any approved extractive processes, activities or operations as part of the development proposal. Given the sensitive environmental receptors within the catchments of the Owenreagh and Owenkillev rivers, such monitoring is extremely important to allay the genuine fears of our stakeholders. However, it is of concern that the Loughs Agency have at the not been approached for views in developing an appropriate monitoring strategy for the lifetime of the proposed project.

Given the sensitivity of the downstream waterways Loughs Agency would seek assurance that the appropriate regulations as deemed by DAERA, in its role as the environmental licensing authority have been appropriately applied including any wastewater treatment discharge conditions from the site and associated infrastructure.

Loughs Agency assume that the existing groundwater within the mine is a significant source of recharge to the adjacent rivers. The Owenkillev may be a groundwater-dependent river, and as such, the Loughs Agency is concerned that the proposals for backfill and the extraction methods will allow a higher exposure to mineral sulfides and metals and may exacerbate the natural rock weathering process leading to groundwater recharge of acidic metals laden groundwater.

It is likely that some of the components of this acidic groundwater will include levels of Zinc and copper in an area that has been previously highlighted in Water Framework Directive monitoring as being high in background total Zinc and dissolved Copper (along with other metals such as cadmium, iron,

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mercury, manganese and selenium). It is also a concern that there may be a delay in the detection of groundwater recharge from acidic drainage even as long term as 2–5 years after mining begins or even longer.

The development of the site and the removal of natural vegetation cover and peat areas has the potential to change the hydrology of the downstream rivers by reducing rainfall retention and subsequently accelerating the discharge of rainwater to the main rivers, this may increase the velocity of flood water and affect resident fish species – no consideration seems to have been given to infiltration type drainage to mitigate this potential issue.

In relation to the emergency response plan, Loughs Agency feel that this document is too generic and needs to be specific, and in particular there needs to be an area and receptor site-specific plan that include the provision of scenario testing with the appropriate authorities.

#### INFORMATIVES

1. The applicant should demonstrate best environmental practice when working close to watercourses. The potential for deleterious matter to enter a watercourse is of primary concern. Impacts on the aquatic environment such as a decrease in water quality can cause a significant impact upon various life history stages of fish species.
2. The applicant will require consent under Section 46 of the Foyle Fisheries (NI) Act 1952 (as amended) to undertake any works within the river channel.
3. The applicant should also be aware that it is an offence under section

41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.

I hope that you will find this information useful and please do not hesitate to contact me should you need further assistance.

Yours sincerely



Director of Conservation & Protection

 Designated Officer)