

Dear Sir/Madam

My name [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] with Greencastle be recognised as one of the last fluent Gaelic speaking areas in the six counties, this area is also historical landscape in its own right, still resident are many families that can be described as indigenous people. During our research we found that it is possibly one of the last if not the last area that was never able to be 'planted' by the newcomers to Ireland in the 1690s, something that shows the strength of conviction and love of the land by the Greencastle community up till now!

I would like this statement of case to be taken in consideration with the other correspondences already sent previously to the PAC in regards to the Owenreagh river, pollenroe burn, sperrins AONB, the black bog an international designated ramsar site.

### **INTRODUCTION**

**The primary purpose of this statement of case is to address the perceived independence or lack of regarding Golder Associates (UK) Ltd ("Golder").**

**Golder have provided their 'Technical Review Report of the Mine Waste Management Plan for the Curraghinalt Project' (August 2021) ("2021 Report"). This document is now publicly available on the Planning Portal and details Golder's comment and conclusions as to Dalradian Gold Limited's ("Dalradian") all-important Mine Waste Management Plan ("MWMP").**

**This statement of case should be read in conjunction with a number of documents which are referenced throughout together with [REDACTED] original report which has been uploaded on the planning portal.**

Signed

[REDACTED]

Please take this as my statement of case in regards the upcoming public enquiry into the below planning applications-

***Dalradian Gold Ltd LA10/2017/1249/F (PAC Ref: C005)***

***Dalradian Gold Ltd LA10/2019/1386/F - NIE Networks (PAC Ref: C006)***

***Dalradian Gold Ltd LA10/2019/1000/F - NIE Networks (PAC Ref: C007)***

***Dalradian Gold Ltd TrC 080/20\_1 - DAERA (PAC Ref: 2021/WHR01)***

***Dalradian Gold Ltd TrC 081/20\_1 - DAERA (PAC Ref: 2021/WHR02)***

***Dalradian Gold Ltd AIL 2024/0008 - DAERA (PAC Ref: 2024/WHR01)***

***Dalradian Gold Ltd AIL 2024/0009 - DAERA (PAC Ref: 2024/WHR02)***

***Dalradian Gold Ltd Road Abandonment Application (PAC Ref: DR001)***

(A)To date Golder have failed to declare any potential conflict in their 2021 Report. This report effectively declares that the MWMP is ready for consideration at the proposed Public Inquiry. The following points are of note:

I).It appears that Golder – in their 2021 Report - have accredited work that they performed for Dalradian as being conducted by Micon International Ltd (“Micon”). This work relates to a site selection study done in 2011 – the 2011 report being described by the DFI as : “... of no relevance to the work now to be performed for the Department.”

II)There is evidence of Golder’s work informing both the ‘design and site selection criteria’ of the Tailings Storage Facility.

III)Golder have failed to declare in their 2021 Report that they provided testing services to SRK Consulting (Canada) Inc (“SRK”) in 2015 & 2016. SRK has been a consultant for Dalradian in the production of their MWMP. The results of these testing services can be said to have informed the ultimate design of the MWMP.

IV)The testing services provided by Golder in 2015 and 2016 appear to have included at least some degree of a ‘feedback loop’ between Golder and SRK Consulting this should be deemed as failure to disclose conflict of interest!

(B) For the Department to comply with its positive obligations under articles 2 and 8 ECHR they must make the proposed public inquiry fair and afford due respect for the interests of the Applicant. In doing so, they must consider all the procedural aspects, including the nature of decision, the views of my family the Greencastle community and the requisite procedural safeguards.

(c) The circumstances of this public enquiry are crucial In particular full and transparent review of the apparent issues as to the perceived independence of Golder - who have been appointed as a proposed safeguard - represents a unique issue. Golder forms part of the public inquiry which the Department suggests the community engage with to challenge the issues as to their independence. This process must at all times satisfy articles 2 and 8 ECHR in these circumstances.

#### RELEVANT BACKGROUNDS

(a) Golder has been appointed by the Department to review the content of the all-important MWMP submitted by Dalradian with its goldmine planning application. Further, to provide an opinion to the Department on the acceptability or otherwise of same.

(b) I first became aware of Golder's appointment by the DFI on foot of an article in the Irish News . This article highlighted that Golder had been retained by Dalradian in 2011 to complete "a Tailings Management Facility Site Selection Study aimed at identifying potential sites to store tailings - a by-product, or waste, of the mining process.

(c) This perhaps reflects the obvious complexity presented by this planning application to all involved and the glaring lack of in-house knowledge of the statutory Northern Ireland departments of the processes involved. My understanding of the height of the perceived conflict has naturally graduated with the passage of time and this is very concerning given the gravity of the health and environmental concerns around this contentious planning application.

(d) Dalradian's planning application has involved a significant number of experts as to the consideration resources, commerciality and methodology of extracting gold from those deposits. These are all experts paid for by the company , Golder's involvement with both the applicant and the

(e) As part of its expert team, Dalradian retained Golder in 2011 to carry out a 'Tailings Management Facility Site Selection Study' . This was aimed at identifying potential sites to store approximately and appropriately 2.92 Mt of tailings. Golder provided its report in December 2011, identifying 7 potential sites and recommending 3 of them for further investigation. This is the same company that is being paid by DFI to represent then at all

aspects of the public enquiry. I believe that as the PAC claim to be impartial it immediately needs to raise serious questions as to any involvement by Golder.

(f) Micon was also engaged to carry out an economic assessment of the gold deposit. In doing so, Micon considered the work of others, including Golder. Micon provided its report, 'An Updated Preliminary Economic Assessment of the Curraghinalt Gold Deposit, Tyrone Project, Northern Ireland', dated 30 October 2014. This report recommended that the "... tailings storage facility (TSF) should be built while respecting as much as possible Golder's design and site selection criteria." This admission alone should be immediately raised as a serious conflict of interest and if the PAC fails to do so, then its impartiality must also be called into question, possibly by way of the courts!

(g) SRK was also engaged. Specifically, it designed the Waste Management Plan which includes consideration of 'tailings management'. As part of its work, SRK engaged Golder to carry out the testing of samples of tailings material at its Burnaby laboratory. By 2016, Golder's laboratories had carried out Consolidated Undrained ("CU") triaxial tests on 2 sets of samples. The results of these tests are referred to in SRK's report: 'Mine Waste Facility Technical Design Report for the Curraghinalt Project, County Tyrone, Northern Ireland' (November 2017). The test certificates themselves are included in Appendix A. This report also refers to Golder's earlier work on 'tailings properties'.

(h) SRK then provided a 'Mine Waste Facility – Stability Analysis Update' report (July 2019). This too refers to the CU triaxial tests carried out by the Golder laboratory in 2015 and 2016. It also describes the subsequent three tests carried out by others, two in 2017 and 2018 at Tetra Tech (Canada)'s Richmond BC laboratory and a final test in 2019 by CTT Group near Montreal. The report refers to "the entire database is instructive for evaluating the tailings properties", which appears to be a reference that includes the work done by Golder and the test results provided by Golder's laboratory.

(i) Further reports are provided by SRK in 2020; however, they fail to declare the work done by Golder in 2015 and 2016. The only answer is that those rounds, while they were not part of the updated model continue to be relevant to the scheme, hence their continued inclusion.

(k) Further, Golder themselves comment in their 2021 Report that :

"Golder Comment

A wide range of testing has been completed on the tailings samples to date given the level of design development. It is acknowledged that some of this additional test work has been

due to changes on the processing methodology however even the earlier test work lends itself to understanding the overall characteristics of the material even if it is no longer directly representative of the tailings stream expected to be generated . For this reason Golder considers that an adequate level of tailings testing has been completed.”

(l) Golder provided its 2021 Report to the Department in August of that year.

#### RELEVANT MATERIAL AND ISSUES ARISING

##### Site Design & Selection Criteria

(m) The Department have acknowledged previously in legal documents seen by myself that

The 2011 report prepared by Golder Associates (UK) Ltd (“Golder”) in 2011 was titled “Curraghinalt Gold Project - Tailings Management Facility Site Selection Study”. Dalradian Resources inc. had requested Golder look at a site selection to aid locating a tailings management facility (TMF) for a proposed gold mine ... A scoring system was used to rank 7 different sites as presented in the report. Following completion of this study Golder were no longer retained to work on the goldmine project by Dalradian. That report is no longer relevant as SRK who are currently working for Dalradian on this project conducted its own site selection and chose a different location for the TMF to those previously considered by Golder.

However, when one reads Golder’s 2021 Report the following raises concern :

"... Section 2.2.1 indicates that 19 alternative sites were considered for the location of the MWF. Seven sites were proposed during 2011 as part of the preliminary economic assessment completed for the Curraghinalt Project (Micon International, 2012).

The other sites were included during 2015 (SRK, 2015). It is noted by SRK that although the site selection process initially included topography constraints only, all of the candidate sites were subsequently reviewed from an ecology, visual, water and traffic management perspective by specialists on the EIA team. It is stated that environmental considerations were given high priority in the evaluation of the sites. An updated site selection study was undertaken from January to June 2015 and is documented in the ES for the Curraghinalt Project.

Golder comment:

Golder has reviewed the relevant section of the ES for the Curraghinalt Project and is satisfied that the site selection process for the WMF completed was acceptable."

It appears that Golder are presenting its own work from 2011 as Micon's. This issue is compounded by the detail of Micon's Report: 'An Updated Preliminary Economic Assessment of the Curraghinalt Gold Deposit, Tyrone Project, Northern Ireland' (30th October 2014) which provides:

#### "1.9.4 Tailings Storage Facility

In 2011, Golder Associates UK (Golder) was retained by Dalradian to carry out a Tailings Management Facility Site Selection Study aimed at identifying potential sites to store approximately 2.92 million tonnes of tailings. Golder, in its December 2011 report, identified seven potential sites and recommended three of them for further investigation.

In order to store a total of 6.43 Mt (net of material utilized as underground backfill) and to minimize the associated capital cost, Micon considers that one large tailings storage facility (TSF) should be built while respecting as much as possible Golder's design and site selection criteria. Most likely, this would require expanding the footprint of Site 3 westward to connect with and incorporate Site 2, effectively doubling the footprint area. Alternatively, extending Site 6 to the south with a similar increase in footprint area could be considered.

In Micon's opinion further work is required in order to properly assess the feasibility of using a single large tailings storage facility (TSF) and its optimum site and Micon recommends that further investigations be carried out at the next development stage ...

#### 18.8 Tailings Storage Facility

... Another alternative, less favorable because of the higher capital costs involved, would be to construct two separate TSFs, each of approximately 3.22 Mt capacity, requiring the use of two of the three recommended sites.

This preliminary economic assessment makes provision for a single, large TSF to be constructed in phases over the project life. In Micon's opinion further work is required in order to properly assess the feasibility of using a single large tailings storage facility (TSF) and its optimum site and Micon recommends that further investigations be carried out at the next development stage."

It follows that not only can this be perceived as an example of Golder 'marking its own homework', but also that Golder is seemingly misleading the readers of the 2021 Report. At the very least Golder has omitted to declare the work that it has done in this regard. This is

further compounded by the fact that this issue was raised long before the completion of the 2021 Report, together with Golder's failure to declare any potential conflict in the 2021 Report.

#### Testing Services

It can be seen in SRK's Report 'Curraghinalt Project – 2015 / 2016 Overburden Geotechnical Investigation Program' (September 2016) that:

##### "2.7 Tailings Geotechnical Characterization

The Burnaby (British Columbia, Canada) laboratory of Golder Associates Ltd (Golder) was contracted by SRK to complete the laboratory testing program on representative tailings samples. Table 1 summarizes the testing completed on the samples. The laboratory test results are summarized in Section 4.2, and the laboratory certificates are included as Appendix G ...

#### 4.2 Tailings Test Results

Tailings samples were tested in Golder's Burnaby laboratory which is certified for providing geotechnical laboratory testing services by Canadian Standards Association (CSA). Table 1 summarizes the laboratory testing completed on the tailings samples. The laboratory test results are summarized in Table 19, and the laboratory certificates are included as Appendix G.

The tailings samples were tested in two sequences in December 2015 and June 2016 ...

As shown in Figure 13, the tailings samples tested as part of the first round of testing are composed of silty sand with trace amount of clay with an average of 44% (by weight) passing the No. 200 sieve (finer than 0.075 mm). The average percent by weight of clay sized particles (finer than 0.002 mm) in the tailings sample was approximately 9%. The tailings were found to be non-plastic and the measured specific gravity of the tailings particles was 2,750 kg/m<sup>3</sup>.

The tailings from the second round of testing is mainly composed of silty sand with trace amount of clay with 33% (by weight) passing the No. 200 sieve (finer than 0.075 mm). The percent by weight of clay sized particles (finer than 0.002 mm) in the tailings sample was approximately 5%. The tailings were found to be non-plastic and the measured specific gravity of the tailings particles was 2,720 kg/m<sup>3</sup>.

Then SRK provide their Report 'Mine Waste Facility Technical Design Report for the Curraghinalt Project, County Tyrone, Northern Ireland' (November 2017) which provides :

## “4 Mine Waste Characterization

### 4.1 Tailings Properties 4.1.1 Physical Properties

Tailings samples were tested in Golder Associates Burnaby (Canada) laboratory which is certified for providing geotechnical laboratory testing services by the Canadian Standards Association (CSA). The laboratory test results are summarized in Table 2. Appendix A contains the full suite of laboratory test results along with the compiled laboratory certificates.

Two rounds of testing were completed on tailings samples in December 2015 and June 2016. As shown in Figure 4, the tailings sample that was tested in June 2016 is composed of coarser grain size material. It is anticipated that this sample is more representative of the tailings that will be generated during the life of mine ...

There is also a ‘memo’ dated 10th November 2017 included in appendix D to the above Report titled ‘Slope Stability Analysis Results’ addressed to Dalradian. It can be seen in this memo that :

#### “2.3.1 Dewatered tailings

The effective friction angle for the tailings was determined from one consolidated undrained (CU) triaxial test completed by Golder Associates in 2016 .”

It can also be seen in this memo that there is a disclaimer at the end which reads :

“Disclaimer—SRK Consulting (Canada) Inc. has prepared this document for Dalradian Resources. Any use or decisions by which a third party makes of this document are the responsibility of such third parties. In no circumstance does SRK accept any consequential liability arising from commercial decisions or actions resulting from the use of this document by a third party.

The opinions expressed in this document have been based on the information available to SRK at the time of preparation. SRK has exercised all due care in reviewing information supplied by others for use on this project. While SRK has compared key supplied data with expected values, the accuracy of the results and conclusions from the review are entirely reliant on the accuracy and completeness of the supplied data. SRK does not accept responsibility for any errors or omissions in the supplied information, except to the extent that SRK was hired to verify the data.

SRK then provide a Report ‘Addendum: Mine Waste Facility Design Curraghinalt Project, County Tyrone, Northern Ireland’ (July 2019) . When one reads “Appendix B – Mine Waste

Facility – Stability Analysis Update” (July 2019) of this report - Golder’s testing is again referenced :

### “2.3.1 Dewatered Tailings

The effective friction angle for the tailings was determined from one consolidated undrained (CU) triaxial test completed by Golder Associates in 2016, and two CU triaxial tests completed by Tetra Tech in 2017 (SRK 2019). The critical friction angle was calculated to be approximately 35° .

The 2019 Report itself makes reference to 5 rounds of testing. The 3rd and 4th of which were completed at Tetra Tech (Canada)’s Richmond, BC’s laboratory and the 5th by CTT Group near Montreal:

## “3. Updated Mine Waste Characterisation

### 3.1 Tailings Characterization

The database for characterization of the physical properties of the tailings in the 2017 Mine Waste Management Plan (Appendix G) was based on two rounds of testing. An additional three rounds of testing have since been completed, bringing the total number of testing rounds to five. These multiple rounds of testing were required to establish the geotechnical properties of the tailings in response to adjustments to their particle size distribution as the metallurgical process was optimized over time. However, viewed in a geotechnical context, the entire database is instructive for evaluating the tailings properties.

- First Round (2015): An initial round of tailings test work was completed on tailings samples received in December 2015.
- Second Round (2016): A second round of test work was completed in June 2016. As shown in Figure 1, the tailings sample that was tested in June 2016 was composed of coarser material. At the time, it was anticipated that this sample was more representative of the tailings that will be generated during the life of mine.
- Third Round (2017): Since the first and second rounds of test work included only a single Proctor, triaxial, and consolidation test, a third round of test work was commissioned in October 2017 to provide a broader base of tailings strength and density information for use in the MWF design at that time. This third round of test work was completed on tailings samples having the same gradation as those tested in June 2016.
- Fourth Round (2018): A fourth round of test work was completed on two new sets of samples representing two processing options with similar but different particle size

distributions. As shown in Table 1, both tailings samples were generally finer than previous tailings samples but had little to no clay content due to changes in the ore sorting process.

- Fifth Round (2019): A fifth round of test work was completed in 2019 to confirm expected interface friction angles between the liner and tailings for stability assessments. The test work was completed using the same tailings samples tested in the fourth round ..."

SRK's Report 'Second Addendum: Mine Waste Facility Design, Curraghinalt Project, County Tyrone, Northern Ireland' (October 2020) then provides :

#### "2.1 Overview of Samples used in the Tailings Testing Programs

... The details of the first five tailings testing rounds were discussed in the 2019 Addendum. The samples associated with the fourth, fifth and sixth testing rounds are described below ..."

It can then be seen in "Appendix A – Results of Geotechnical Testing of Rougher Tailings" of the above addendum :

#### "1 Introduction

... Results from previous rounds of geotechnical test work on tailings samples (referred to as "Round 1-4 Testing") are fully documented in the Mine Waste Facility Design Report for the Curraghinalt Project (SRK, 2017) (ES Appendix B3, Appendix G) and the Addendum to Mine Waste Facility Report for the Curraghinalt Project (SRK, 2019) (ES Addendum, Appendix B3, Appendix G). As detailed in the main body of this Addendum Report, results from additional testing have been used as input parameters for updated limit equilibrium stability analysis and seepage modelling, which underpins the Dry Stack Facility (DSF) design."

Then Golder ultimately provide their comment and conclusion on the 'Tailings Parameters' in their 2021 Report. This entails comment on the adequacy of the level of tailings testing conducted by Dalradian thus far. In doing so, they refer to all 6 rounds of testing and comment / conclude as follows :

"Golder comment:

A wide range of testing has been completed on the tailings samples to date given the level of design development. It is acknowledged that some of this additional test work has been due to changes on the processing methodology however even the earlier test work lends itself to understanding the overall characteristics of the material even if it is no longer directly representative of the tailings stream expected to be generated. For this reason,

Golder considers that an adequate level of tailings testing has been completed. In relation to the test work carried out by P&C on the thickening characteristics, it is noted that the expected tailings stream (rougher tailings) is coarser than the sample tested and hence is expected to display similar or better thickening capacity.

Golder conclusion:

Golder considers that an adequate amount of tailings testing has been carried out and that a sufficient amount of information has been gathered on the geotechnical parameters and characteristics of the tailings.”

In doing so, again, Golder make no reference to the fact that their own Burnaby Laboratories conducted the 1st and 2nd rounds of testing.

However, it has been established that the Mine Waste Facility Technical Design Report issued in November 2017 was based on geotechnical analysis of tailings properties that had been carried out by Golder. At this point it was open to Golder to address the contents of the earlier reports and testing rounds which continued to be part of the MWMP(2020) and accordingly declare its previous involvement in an open and transparent manner. Instead Golder left the 2017 and 2019 versions of Appendix G out of its review and in so doing avoided having to identify or address the work carried out in its laboratory in 2015 and 2016. I have previously noted that it considers that the earlier testing work “lends itself to understanding the overall characteristics of the material”. In the introduction to the Executive Summary of the report, Golder sets out its brief, referring to the MWMP(2020) and states:

“The version of this report [MWMP2020], which has been reviewed by Golder and which forms the basis of this report, was issued under a Further Environmental Information request (FEI2) numbered U7511 2020 and dated June 2020 which forms Appendix B3 of the all-encompassing package of FEI documents issued in support of the planning application.”

Appendix B3 included Golder’s laboratory test results in the MWMP(2020) Appendix G.

To my knowledge Golder has not declared at any point that it had a prior involvement in the Curraghinalt Project; instead of making such a declaration it would appear that it has on several occasions avoided referring to its own work. This being the case Golder should have declared its interest in order to be open and transparent with both DFI and the public. The planning system operates in the public interest, the general public has access to all the reports and Golder in acting on behalf of the Department also has a responsibility to act in the public interest. Both Golder and the Department may have been concerned about the appearance of bias.

There is a clear trace of Golder’s work which permeates throughout this entire process and influences the ultimate design of the MWMF. The geotechnical testing work on the tailings was central to the design of the MWF, in particular in securing its long-term stability. The amendments to the MWF design submitted in 2020 constitute minor or not material changes to the design that accords with Appendix G of the MWMP being updated not superseded and continuing to include the work carried out by Golder in 2015 and 2016 on the geotechnical properties of the tailings. For this reason the opinion can be formed that Golder’s previous work carrying out geotechnical testing remains relevant to the MWF design although its importance has been reduced by subsequent testing rounds.”

What compounds the above issue is Golder’s abject failure to disclose their involvement in their 2021 Report. Golder has a long history of involvement with the Curraghinalt Gold Deposit extending back to 2011 and it was in the public interest for Golder to declare that involvement as it creates the perception that it has an unresolved conflict of interest. By not declaring its past involvement Golder has created the conditions in which it would be possible for a perception of bias to arise and any failure by the PAC to raise the issue could imply that it would raise a serious perception on bias also. I would have expected that, at the least, Golder would have declared its involvement in a clear statement setting out the extent to which its experience related to the current scheme.

However, rather than taking steps to mitigate any perceived conflict of interest, Golder appears to have attempted to avoid declaring those aspects of the work that it was involved in. Furthermore the Department was aware of the conflict from the time it appointed Golder but neither it nor Golder attempted to address the matter. So for that reason I concluded that it is possible a reasonable member of the public may form the impression that there is bias in this case as a result of Golder’s long running involvement, the Departments knowledge of the issue from the beginning and the failure of both parties to address.”

Golder Associates Ltd based in British Columbia, Canada (hereafter “Golder (Canada)”), conducted testing on 2015 Bulk Scavenger Tailings for the 2017 Environmental Statement. This testing work represents a tiny fraction of the assessments and work carried out for the 2017 Environmental Impact Assessment. The client for that work was SRK

it can be seen in “Appendix G – Tailings Raw Laboratory Results” to SRK’s ‘Curraghinalt Project – 2015/16 Overburden Geotechnical Investigation Program’ Report that there is a letter from Golder to SRK, dated 17th December 2015. This letter refers to ‘Laboratory Testing Services – Dalradian Bulk Scavenger Tailings Project’. Of note, it can be seen at the end of this letter that it is said :

“... It is hoped that this will meet your current requirements. If you have any questions or concerns please contact Mr. Leonard Perrey at our Burnaby Laboratory ...”

It is acknowledged that the Applicant does not know if there was any ‘feedback sought on the data and its interpretation or application’ – to use the words of the Notice Party. However, this case turns on the issue of perception.

The entirety of the above causes real concern when one considers the alleged conflict in its relevant context - as highlighted by [REDACTED] : “The current form of the proposed Curraghinalt Gold Project would pose a significant risk to the health and safety of the surrounding community.”

In short - Golder and Dalradian have been far too close from the inception of this project. A fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that Golder is biased in performing its appointed role . Nor can Golder’s appointment command widespread acceptance among the general public knowing the full background .

I believe therefore that it is possible a reasonable member of the public may form the impression that there is bias in this case as a result of Golder’s long running involvement, the Departments knowledge of the issue from the beginning and both parties failure to address the matter.”

The relevant law and jurisprudence regarding articles 2 & 8 ECHR have been raised on a number of occasions to the DFI and the PAC, The Department is subject to positive duties both under both articles 2 & 8 ECHR. Further, an ‘overlap’ between the two articles has been acknowledged by the ECtHR in *Budayeva and others v Russia* [2008] App. No 15339/02:

“133. It has been recognised that in the context of dangerous activities the scope of the positive obligations under Article 2 of the Convention largely overlap with those under Article 8 ... Consequently, the principles developed in the Court's case-law relating to planning and environmental matters affecting private life and home may also be relied on for the protection of the right to life.”

In the article 2 ECHR sense, the following from *Budayeva* is relevant:

"132. As regards the substantive aspect, in the particular context of dangerous activities the Court has found that special emphasis must be placed on regulations geared to the special features of the activity in question, particularly with regard to the level of the potential risk to human lives. They must govern the licensing, setting up, operation, security and supervision of the activity and must make it compulsory for all those concerned to take

practical measures to ensure the effective protection of citizens whose lives might be endangered by the inherent risks. Among these preventive measures, particular emphasis should be placed on the public's right to information, as established in the case-law of the Convention institutions. The relevant regulations must also provide for appropriate procedures, taking into account the technical aspects of the activity in question, for identifying shortcomings in the processes concerned and any errors committed by those responsible at different levels ... “

In the article 8 ECHR sense, similar principles are identifiable in *Taskin v Turkey* [2004] App. No 46117/99:

“118. The Court reiterates that, according to its settled case-law, whilst Article 8 contains no explicit procedural requirements, the decision-making process leading to measures of interference must be fair and such as to afford due respect for the interests of the individual as safeguarded by Article 8 ... It is therefore necessary to consider all the procedural aspects, including the type of policy or decision involved, the extent to which the views of individuals were taken into account throughout the decision-making process, and the procedural safeguards available ... However, this does not mean that decisions can only be taken if comprehensive and measurable data are available in relation to each and every aspect of the matter to be decided.

119. Where a State must determine complex issues of environmental and economic policy, the decision-making process must firstly involve appropriate investigations and studies in order to allow them to predict and evaluate in advance the effects of those activities which might damage the environment and infringe individuals' rights and to enable them to strike a fair balance between the various conflicting interests at stake...The importance of public access to the conclusions of such studies and to information which would enable members of the public to assess the danger to which they are exposed is beyond question ... “

It is acknowledged that the particular practical measures employed by the State in taking positive measures is a matter that falls within the State's margin of appreciation . Further, an impossible or disproportionate burden must not be imposed on the State without consideration being given, in particular, to the operational choices which they must make in terms of priorities and resources .

However, the ECtHR in *Budayeva* also recognised that:

“136. In assessing whether the respondent State had complied with the positive obligation, the Court must consider the particular circumstances of the case, regard being had,

among other elements, to the domestic legality of the authorities' acts or omissions ... the domestic decision-making process, including the appropriate investigations and studies, and the complexity of the issue, especially where conflicting Convention interests are involved ...

As part of the public enquiry the PAC must at all times be fully aware of the relevant ECHR legislation any failings on the interpretation of said legislation by commissioners could possibly leave that individual open to possible legal action being taken against that individual if applicable.

Because of the size, nature and complexity of the application at hand the PAC and its commissioners will need to afford the general public every opportunity to engage both the DFI and the other statutory departments for clarification of points and requests for disclosure at a public enquiry Forum bearing in mind that failure to do so could impinge on their right under the Aarhus House Conversion or ECHR legislation

As the Planning Portal itself is enormous, complex and inaccessible. I am in no doubt that a member of the public would not have been able to understand the documents or navigate the Planning Portal to find them.

So the now apparent issue as to the perceived independence of Golder. Particularly given they are meant to be performing a role as a safeguard against the risks which the general public is concerned about. To re-iterate [REDACTED] conclusions in his expert report cited above: "The current form of the proposed Curraghinalt Gold Project would pose a significant risk to the health and safety of the surrounding community."

Golder's appointed role forms part of the public enquiry system including the PAC and which the DFI suggests the general public engage in order to raise their concerns and worries, I am now raising the very real concern of independence of the whole process and any ability of the general public to get a fair and unbiased hearing.

But without the benefit of publicly funded representation of experts and legal representation the process follows that the belief of a massive disparity in resources between myself and the Greencastle community and Dalradian making our ability to properly take part in this process extremely limited, more so when you see those who were instrumental in the design process not sitting across the table be paid to help make the decision on the projects outcome.

The importance of this issue is reflected by the widespread objection (and divide) within the local community, regarding issues around policing, police harassment and other issues which was highlighted in the human rights organisation the CAJ report earlier this year and the questionable actions of the company including but not limited to collating files on

locals along with many false allegations by staff to try and criminalise members of the local community, all these issues have been highlighted to a high degree by the continuous and in some cases controversial media attention this planning application has attracted along with the many statements from locals of abuse at the hands of the company.

Importantly, the proposed public inquiry is to be organised by the Planning Appeals Commission (“PAC”). Further, that the ‘Procedures for Public Inquiries and Hearings into Regionally Significant and Called-in Planning Applications’ is indicative of the approach that will be taken as to an individuals involvement. When one reads sections 203(5) & (6) of the Planning (NI) Act 2011 (“2011 Act”) it appears that the provision of funding is possible:

“The Planning Appeals Commission

203—(1) There shall continue to be a planning appeals commission (in this Part referred to as the “appeals commission”).

(5) The Department may appoint persons to assist the appeals commission in the performance of its functions, and there shall be paid to persons so appointed such remuneration and allowances and to, or in respect of the services of, those persons such pensions, allowances or benefits as the Department may determine with the approval of the Department of Finance and Personnel.

(6) In this Part, except in section 204(9), “the Department” means the Office of the First Minister and deputy First Minister.”

One would imagine that equally as funding was made available for Golder’s appointment – funding could be made available for the myself and others to be properly represented at the proposed public inquiry.

So in brief summary

- . There are apparent issues as to the perception of bias in Golder’s appointment.
- ii. These issues are apparent when one compares the findings of the 2021 Report and the work actually done by Golder for Dalradian and its consultants. In essence – Golder is marking its own homework.
- iii. Golder provided services to Dalradian in 2011 as to ‘design and site selection’ for the all important MWMP. This work was discarded as irrelevant by the Department. Despite this, Golder appear to accredit this work to Micon. At the very least they omit to declare it in the 2021 Report. Mr. Worthington describes refers to : “Golder’s history of providing services for Dalradian at the Curraghinalt site could create an impression that it is conflicted; its apparent avoidance of referring to its own work adds to that impression.”

iv. Golder has provided testing work in 2015 & 2016, the results of which have permeated and informed the final MWMP which Golder has in turn approved for the purposes of the proposed inquiry. This testing work was not declared by Golder in its 2021 Report. Rather, Golder appears to have attempted to avoid declaring those aspects of the work that it was involved in.” Further, there would appear to be at least the possibility of some form of feedback between Golder and SRK in providing this testing work.

v. In these circumstances, those positive obligations which the Department is subject to under articles 2 and 8 ECHR ,The nature, size and complexity of the issue at hand. The widespread objection to the application in the local community generally. The disparity in resources between the local residents and Dalradian combined with a member of the public being unable “... to understand the documents or navigate the Planning Portal to find them.” aggravates this divide. The now apparent issue as to the perceived independence of Golder in its role to protect against the risks which the Applicant is concerned with. Golder forms part of the system to which it is suggested concerned residents take part in to challenge its lack of independence, without access to a fair and unbiased process, all of these factors are crucially relevant .

Signed



## APPENDIX

SRK Consulting, ‘Second Addendum: The Mine Waste Facility Design Report for the Curraghinalt Project, County Tyrone, Northern Ireland’ (October 2020) .

SRK Consulting, ‘Second Addendum: The Mine Waste Facility Design Report for the Curraghinalt Project, County Tyrone, Northern Ireland’ (October 2020): “Appendix A – Results of Geotechnical Testing of Rougher Tailings” .

SRK Consulting, ‘Addendum: Mine Waste Facility Design Report for the Curraghinalt Project, County Tyrone, Northern Ireland (July 2019) .

SRK Consulting, 'Addendum: Mine Waste Facility Design Report for the Curraghinalt Project, County Tyrone, Northern Ireland' (July 2019): "Appendix B – Mine Waste Facility – Stability Analysis Update" .

SRK Consulting, 'Mine Waste Facility Technical Design Report for the Curraghinalt Project, County Tyrone, Northern Ireland' (November 2017) .

SRK Consulting, 'Mine Waste Facility Technical Design Report for the Curraghinalt Project, County Tyrone, Northern Ireland' (November 2017) – "Appendix D – Slope Stability Analysis Results" .

SRK Consulting, 'Curraghinalt Project – 2015/16 Overburden Geotechnical Investigation Program' (September 2016) .

SRK Consulting, 'Curraghinalt Project – 2015/16 Overburden Geotechnical Investigation Program' (September 2016): "Appendix G – Tailings Raw Laboratory Results" .

Micon International Ltd, 'An Updated Preliminary Economic Assessment of the Curraghinalt Gold Deposit, Tyrone Project, Northern Ireland' (30th October 2014) .