

Statement of Case against consent to discharge applications 2021/WHR01 & 2021/WHR02 – TrC 080/20_1 & TrC 081/20_1 – DAERA, on behalf of Dalradian Gold

For these discharge consent applications, I would direct the PAC to my previously submitted and recorded objections, provided for both and still relevant.

Furthermore, the history of pollution instances involving the applicant must be taken into consideration as part of the Precautionary Principle.

Numerous pollution incidents from Dalradian's Curraghinalt site and from its exploration and core sampling sites have been recorded since reports of pollution from its drill rigs on 20th July 2011 and again on 2nd August 2011 were drawn to the Department's attention by the public. Discharge parameter limits were repeatedly transgressed over the period since then. It remains a matter of public consternation that a senior NIEA officer reported on 27th January 2022 to the Stormont Committee for Agriculture, Environment & Rural Affairs that there were no breaches by Dalradian of their Discharge Consents. This briefing of the AERA Committee by NIEA occurred in the wake of a Spotlight Programme that was highly critical of the environmental governance of the Dalradian project by NIEA.

The BBC Spotlight programme in October 2021 drew heavily on a successful High Court challenge by local woman, [REDACTED], to NIEA/DAERA and Dalradian regarding a 2017 Discharge Consent of heavy metals into the Owenkillew River SAC. The programme highlighted the incompetence of NIEA to properly regulate, monitor and enforce environmental protections. An international expert on gold mining reported to the authorities here that NIEA was not fit for purpose in not even having proper equipment to check Dalradian Gold's discharges into the legally protected waterway against the set parameters.

The lack of supporting evidence in the 'tick-box' consultees' assessment of the environmental impacts of previous applications, LA10/2023/1758 & 59, points to a superficial and inadequate approach that fails to address the key issue. In the public mind the question grows more urgent: why do Planning and NIEA/DAERA continue to turn a blind eye to their obligations to the beautiful Owenkillew River valley with all its environmental designations: AONB, ASSI, SPA and SAC with its Draft Owenkillew Sub-Basin Management Strategy (2012) giving legal protection to its most endangered species, the amazing freshwater pearl mussels, salmon, trout and otters, while refusing to enforce against such toxic industry that is so inappropriate for an important Sperrins cultural/rural tourism destination?

Questions persist about the "temporary" nature of the site Dalradian at Curraghinalt, including whether it was always their plan to keep this development indefinitely, indeed was it merely a ruse that the works were just described as temporary in order to secure a negative EIA determination and planning permission on this protected site by claiming

the environmental effects would only be short-lived? The environmental effects of the Curraghinalt works have not been assessed including the effects beyond the date the development was meant to be removed. Why no EIA? Where is the new EIA screening for such an environmentally sensitive site? Has one been carried out by FODC? What about the hydrological impacts of not just the blasting and the underground workings, the infilling and the waste rock dump and the discharges from the site? What about an assessment of the impact of the blasting on the surrounding peatlands including the extensive bog slip further up the Camcosy Road on [REDACTED]? What about the hydrological impact on the Owenkillow River and on the SAC of the scores of deep bore holes on the side of the valley that was repeatedly drilled like a pin cushion? What about the impact of the 'accidental' discharges escaping over the period from the Dalradian workings, the failed waste discharge treatment plant and from the uncapped boreholes up the valley and in the neighbouring townlands (all known to Planning and by NIEA).

The environmental sensitivity and associated legally protected status of the Owenkillow River SAC must give the Curraghinalt site and surrounds much more robust environmental protection, with its ASSI and AONB designations. Planning, in working closely as it does with NIEA/DAERA, must discontinue its practice of evading enforcement of the environmental protections proportionate to the risks presented by such toxic 'exploratory mining' and 'exploratory drilling'. There have been significant material changes involving a programme of underground blasting over the lifespan of the site; extensive & deep borehole drilling throughout the valley & beyond in addition to discharges into the waterways in the intervening years since the parent applications were controversially 'approved' by Strategic Planning Division (SPD) without the requirement of an EIA or proper Habitats Assessment. What of the cumulative impact?

The Owenkillow River SAC is home to one of the most significant populations of freshwater pearl mussels (FWPM) in Europe, as well as being a site for salmon spawning & for brown trout and otters. In determining "no significant risk" reasonable justification is absent. Statutory consultees must address more recent shocking water quality surveys and reports of these rivers. The December 2021 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 Owenkillow River. The seriousness of these findings on uPBT (ubiquitous, persistent, bioaccumulative, toxic) pollution in the Owenkillow River cannot be overstated. This Report's findings, including the fact that the water in the Owenkillow failed to achieve 'good status', are a serious matter in relation 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? How come the statutory consultees do not include even one word of comment on the subject? It appears that just as the Renewable Heat Initiative Public Inquiry exposed the lack of accountability for bad, indeed corrupt,

practice in public governance in the North, so too, the absence of any comment from statutory consultee on the threats to the Owenkillev from these planning applications exposes the reality that no statutory body takes responsibility for protecting the Owenkillev. The evidence belatedly brought into the public domain through Aarhus and freedom of information directives appears to be an effective example of policy capture with the mining company's experts also advising Government Departments on what to include in their Discharge Consents & in planning conditions. FOI/EIR disclosures relating to the period from 2013 through 2021 show what looks like a systematic attempt by the company to establish a misleading and unsubstantiated narrative on the water of the Curraghinalt Burn being 'naturally' significantly polluted and incapable of sustaining aquatic life.

It is a sad reflection on the state of our statutory environmental regulatory system for Special Areas of Conservation (SAC) that it remains so dependent on the voluntary commitment of the public to remind our statutory bodies they have a legal duty not just to maintain the water quality status for the protected species but to improve it. This is a legal requirement. (Planning and FODC have already been criticized by the High Court for failures in these matters).

A Belfast High Court decision of November 2019 that QUASHED a Discharge Consent issued to Dalradian by NIEA / DAERA in Sept 2017, is material for statutory assessment of LA10/2023/1758 & 59. The judgement arose from a Judicial Review taken by [REDACTED] against the Department's decision to significantly relax the parameters restricting the company's permission to discharge highly toxic heavy metals into the Owenkillev 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.

There is no evidence that the applicant has accounted for or addressed the questions arising from the multiple pollution incidents on the site stretching as far back as 20th July 2011 and 2nd Aug 2011 (according to SH, Strategic Planning Division letter of 8th May 2014) and until today very high levels of toxic pollution have been recorded on the Curraghinalt site by Dalradian's own agents in recent years according to documentation submitted to the Department for Infrastructure as part of the bulk of documents that comprise Planning Application LA10/2017/1249/F. The decision of Dalradian to disregard a number of these 'problematic' records /results as merely 'outliers' is particularly suspect. In view of the history of mine exploration works on the site, the previous evidence of acid mine drainage, the nature of the exploratory workings 2014-2017, the location of the test sites etc the evidence of highly dangerous toxic

substances must be treated with the gravity it merits in any assessment of present or future planning applications on the site.

I will conclude my Statement of Case by positing that one does not have to be an environmental engineer or scientist to appreciate that any application to discharge 20+ heavy metals, acids, fuels, etc. from a gold mine and processing plant into a protected conservation area is not a good idea.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]