



Inquiry Reference - 2024/WHR01 and 2024/WHR02 Abstraction

AIL 2024/0008

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Rebuttal November 2024

1. Introduction

- 1.1. This is the rebuttal of Fermanagh and Omagh District Council ('the Council') in objection to two applications made by Dalradian Gold Limited ('DGL') under the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 ('2006 Regulations') to abstract and impound water. The applications are made in connection with the related application for planning permission for an underground gold mine also made by DGL (LA10/2017/1249/F).
- 1.2. In its main statement of case and rebuttal in connection with the application for planning permission (LA10/2017/1249/F), the Council explained that it obtained the views of expert consultants in order to assist it in these inquiries. Two of the statements of case and rebuttals are relevant to these abstraction consent applications. The Commissioner is invited to read these in full.

*Ecology statement of case and rebuttal prepared by Mr Jon Davies
BSc FCIEEM CEcol CEnv of RSK Wilding.*

*Hydrology, hydrogeology and peat statement of case and rebuttal
prepared by Dr Catherine Isherwood PhD MSc CGeol FGS MIMMM of
the Water Research Centre.*

- 1.3. At that stage the Council did not consider that the abstraction consents could be granted in the terms sought and offered three draft reasons for refusal for consideration at the inquiry. The Council remains opposed to the applications for abstraction as set out in detail in its SoC and this rebuttal.
- 1.4. The Council reserves the right to modify or add to its concerns in respect of these broad areas of concern as the inquiry progresses.

2. Documents reviewed

- 2.1. In preparing this rebuttal the following SoCs, which have been submitted by the applicant have been reviewed.

'Dalradian Gold Limited, Curraghinalt Project, Statement of case, Water Abstraction, DAERA Refs: AIL/2024/0008 & AIL/2024/0009'

'Northern Ireland Environment Agency (NIEA) Statement of Case in respect of the following applications:

Abstraction of surface water upstream of the Pollanroe Burn and storage in the Clean Water Pond. (Application Reference AIL/2024/0009).

Abstraction of Mine Water through dewatering of the underground mine and storage within the West Pond. (Application Reference AIL/2024/0008) October'

- 2.2. The Council notes that within the DGL SoC, there is reference to various technical reports submitted as part of the main mine application.
- 2.3. In previous correspondence to the Planning Appeals Commission, and also raised in its SoC, the Council has also observed that the representations made in connection with these applications had not been made publicly available.
- 2.4. In addition, the Council did not receive a full exchange of SoCs in relation to these applications, contrary to the procedures. All these must be made available in advance of the hearing sessions as the purpose of the hearing sessions is to explore the representations that have been made.

3. Comments on SoC submitted on behalf of Dalradian Gold Limited and NIEA

- 3.1. In its SoC the Council set out in detail its concerns in relation to these applications for abstraction.

DGL SoC

- 3.2. The applicant in its SoC, concludes that the impacts to surface water flows and groundwater levels from the project were assessed as not significant.
- 3.3. In relation to surface water abstraction, the applicants SoC, explains that the ES concluded the impact on surface waters (SW01) was neutral (neither positive nor negative) and not significant. Abstracted water will be returned to watercourses within the surface water catchment of the Gortin groundwater body with the discharge volume exceeding the extracted volume. Therefore, following UKTAG and NIEA guidance the proposed abstractions are excluded from the Water Balance Test. As a result, there will be no impact on the status of the Gortin groundwater body.
- 3.4. In relation to groundwater abstraction and its potential impact, the applicant explains that, 'when dewatering activities cease at the end of operations, the groundwater impacts will reverse, and groundwater levels will return to near natural conditions around 15 years post-closure' and the potential impacts associated with this drawdown are predicted to include (taken from 2020 ES Second Addendum, Section 3.2.3):
 - For private abstractions, two shallow abstractions near the underground mine development could be impacted by drawdown and may go dry. These abstractions will be monitored and, should losses occur due to mining activity DGL will offer replacement if requested by the landholder. Six other abstractions listed as "used" (i.e. active) are predicted to have water level drawdown but not go dry. Two of these are on DGL land and will be removed as part of the development. The remaining abstractions will be monitored during mine operation and replacement supplies will be offered if required.
 - When the mine is at its maximum depth, groundwater contributions to baseflow in the Curraghinalt Burn and Attagh Burn will reduce. As these

contributions are small, the impact on flows in these burns is predicted to be negligible (Curraghinalt Burn) or minor (Attagh Burn) by the surface water assessment. At closure, reductions in low flows in the Attagh Burn and Glenealy Burn will be lower than during operations, and will continue into the closure period.

- As most of the peatland comprises blanket bog habitat, which is supported by high rainfall as opposed to groundwater flow, no impacts are expected on peatland from mine dewatering.

3.5. The applicants SoC concludes that impacts to surface water flows (under different rainfall conditions), groundwater levels and the surface water/groundwater interaction (particularly with respect to river base flow and peatland habitats) has been evaluated and documented in the ES. The impacts to surface water flow (SW01) and groundwater levels (GW02) from the Project were assessed as not significant. The abstraction volumes applied for reflect the maximum volume to be abstracted.

NIEA SoC

- 3.6. NIEA raise a number of key concerns within section 8 and these are summarised below. Within this the Council notes the ongoing engagement between NIEA and DGL, out with this inquiry (June and September 2024), which it considers to be inappropriate.
- It is understood that these applications apply to the operational period of the mine only and further consideration of any post closure and restoration period would be needed if the proposal were to go ahead. The applicant has provided a Closure plan as part of the Environmental Statement (Vol. 3), but this is intended as a conceptual plan to be used as basis for development of detailed closure, aftercare and surrender arrangements. As such, there is insufficient detail for NIEA to fully assess the potential environmental impacts of this stage of the mine proposal.
 - The technical assessment of TC 81/20 application has identified significant potential issues with respect to flow volume at the Pollenroe discharge point (outfall 4). The applicant does not appear to have adequately considered the impacts of the proposed high-volume discharge at this point, in line with the relevant guidance.
 - The current assessment of the proposed applications finds that the likely impact on the receiving water body would be unacceptable in terms of the potential degradation of the habitat for a protected species, notably the FWPM.
 - Based on the information currently available, NIEA would not be in a position to approve the applications for consent to discharge that are currently under consideration, due to the identified potential for negative impact on the designated site.

Council's comments

- 3.7. The Council disagrees with the assessment and conclusions reached within the applicants SoC and supporting technical reports. It supports some of the conclusions reached by NIEA in their SoC.
- 3.8. As outlined in its SoC, the Council relies principally on the evidence of Dr Catherine Isherwood and Mr Jon Davies on these matters.
- 3.9. The main issues raised by Dr Isherwood in her rebuttal, Hydrology, Hydrogeology and Peat November 2024 can be summarised as follows;
 - The apparent absence of water quality data or consideration of hydromorphology of these smaller watercourses remains a significant concern in relation to their assigned sensitivity rating. On this basis, I am unable to change my opinion that the watercourses should all be assigned 'High' sensitivity status in line with the precautionary principle and accepted industry best practice, and that the significance of impact has been considerably under-stated in the ES and supporting documents.
 - Under current proposals, the Unnamed Watercourse would lose 0.07 km², or approximately 5%, of its natural catchment area which would be diverted into the Pollanroe Burn catchment. This would result in a reduction in flows to the Unnamed Watercourse of approximately 5% and a stated increase in catchment area for the Pollanroe Burn of 6%.
 - As a small watercourse, the Unnamed Watercourse would be particularly sensitive to reductions in flow, especially under low flow conditions during drier periods. I have been unable to find any significant consideration of the potential impacts that a 5% reduction in flow would have on the integrity of the watercourse and its habitats.
 - Operational flows within the Pollanroe Burn are predicted to increase by 75% in annual average flows at the discharge location. This increase is anticipated to reduce to approximately 50% higher than natural pre-development flow following closure and reinstatement of the project.
 - There is also a predicted reduction in flood flows within the Pollanroe Burn by approximately 15-35% as a result of the retention and storage of water within the pond system.
 - While the predicted flow balancing for the Pollanroe Burn can be considered beneficial, there is limited consideration of the observed climate-related increases in frequency and intensity of storm rainfall and the effect this may have on high and extreme flood flows and water levels in the Pollanroe Burn during the lifetime of the Proposed Development. Such consideration is becoming more important as our understanding of climate change increases and the incidence of 'extreme' weather

- I set out in my SoC my concerns over potential reductions in groundwater baseflow to the main watercourses in the area around the proposed development. In TR10 Groundwater, the author Mr James Bellin notes that reductions in baseflow to surface watercourses is assessed to be minor. Predicted reductions are all less than 3.5% of median summer (low) flow.
- However, this assessment is based on the tributary watercourses having a 'Low' sensitivity rating. A 3.5% reduction in baseflow to the Unnamed Burn, not considered in the groundwater level modelling, may give rise to a significant reduction in flow during low flow conditions when considered alongside the 5% reduction in flow arising from the reduction to its catchment area, as discussed in paragraphs □ to **Error! Reference source not found.**
- There is also no consideration of potential changes to groundwater baseflow to the Owenreagh River, although part of the underground mine and associated works is located within the Owenreagh hydrogeological catchment area.
- I retain a concern over potential impacts to surface watercourses as a result of groundwater drawdown, and the potential under-stating of the impact as a result of the 'Low' sensitivity rating applied to tributary watercourses.

3.10. The main issues raised by Jon Davies in his rebuttal, Ecology can be summarised as follows;

- In my SoC, for example, I discuss the potential impacts associated with the changes in flows to the watercourses as a result of the proposals, with significantly elevated flows in some cases and significantly lower flows in others (as also described in the SoC of Dr Isherwood[FODC SOC – LA10/2017/1249/F, Appendix 4). I therefore note with interest that Mr Goodbun, when arguing that the numbers of salmon and trout are insignificant (para 1.119 of TR6), says that 'The extent to which these fish species use the burn over the course of the year is dependent upon water levels'; it is for this very reason that these changes in water levels, caused by the proposals, have the potential to have a significant effect on these qualifying species.
- Furthermore, Mr Goodbun also (para 1.73) talks of 'a purported 'functional linkage' [my emphasis but his speech marks] existing between the SAC and the Pollanroe / Curraghinalt burns', and also says that 'it is disputed that the either of the burns perform a function which is significant in the context of maintaining the populations of species (e.g. Atlantic Salmon) for which the SAC is designated'. This disregard for the role of these watercourses as 'functionally-linked land' for the SAC species (including salmon, otters and freshwater pearl mussels, all of which will depend to a greater or lesser extent upon the wider catchment of the Owenkillew River) is, in my opinion, a major shortcoming of the assessment.
- The survey and assessment work carried out by the Applicant was insufficient to properly understand the implications of the proposed gold mine for key ecological receptors (in particular, Designated Sites, aquatic habitats and

species, and peatland habitats), and that the conclusion of a lack of significant ecological effects was unsound.

- Instead it seemed more likely that significant effects, especially upon the more sensitive habitats and species, would be more likely given the scale of the works, the sensitivities of the receiving environment and the inadequacy of the proposed mitigation.
- The majority of the update surveys provide a very limited, and sometimes inaccurate evaluation section, even where there was clearly relevant new information. Given that the purpose of the follow-up surveys is to ensure that the impact assessment remains appropriate, much greater analysis of the difference between the previous and current surveys is required, not least because the additional information is supposedly strengthening the evidence base and should thus allow a more nuanced and in-depth assessment of the baseline situation and thus the impacts.
- Having reviewed the new information provided by the Applicant, therefore, my contention is that all of the draft RfR remain unchanged, and that it has not been demonstrated that there will not be significant impacts upon European designated sites, ASSIs, European Protected Species, nationally protected species and other habitats and species of conservation importance. Overall, it is clear that biodiversity will not be protected or conserved as a result of the proposals, quite the contrary.

3.11. Accordingly, as outlined in its SoC and based on the above, the Council has concerns about the impacts of changes to the groundwater environment could have on ecological receptors, including but not limited to, the Owenkillev River Special Area of Conservation and its qualifying features. On the basis of the information which is currently before it, the Council does not consider that adverse effects can be ruled out from the abstractions which have been proposed.

3.12. In light of all the concerns raised by the Council's expert witnesses, NIEA and other consultees, the draft reasons for refusal as previously set out in its SoC remain.