



Our reference: **DAERA/24-128**

██████████ via email

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11 April 2024

Dear ██████████

### **Environmental Information Regulations 2004**

With regard to your request for information received by the Department on 12<sup>th</sup> March 2024 which sought the following information:

- (1) Please explain whether Inland Fisheries and NIEA will be denying licences for abstraction and impoundment to those schemes which have recently been granted planning permission but which have not started operation;
- (2) Please provide details of any reviews of permits undertaken for the schemes on the river including Barclays and Brone;
- (3) Please provide copies of the permits for Brone and Barclays;
- (4) Please provide the monitoring results for the Brone;
- (5) Please indicate whether the Department will be requiring that fish

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passes are added to the existing schemes on the river at Barclays and Morrisons;

(6) Please provide a list of where Fisheries or NIEA believe that a hydro operator has been in breach of licence conditions over the past 5 years;

(7) Please provide an update on progress with installation of suitable screening arrangements at Barclays and Hunters turbines in particular.

I can advise that the Department has completed its search and can confirm that it holds the information you requested.

(1) The NIEA is not aware of any proposed hydropower schemes on the Agivey River that have recently been granted planning permission. The most recent scheme, for which an Abstraction Licence was applied for, was received in 2015 and licenced in 2016. Six applications for an Abstraction Licence for hydropower schemes on the Agivey River have been licenced. Two, on the Aghadowey River, part of the same catchment, are operating with “deemed” authorisations issued under the transitional provisions of the regulations.

DAERA Inland Fisheries Inspectorate Branch does not issue abstraction and impoundment licences but is responsible for ensuring compliance with the Fisheries Act (Northern Ireland) 1966 in respect of fish passage (section 54), weekly closure (section 58 and gratings (section 59).

(2) There has, to date, been no formal review of any of the six Abstraction Licences issued for hydropower schemes on the Agivey river. The two “deemed” authorisations will be determined in line with the Action Plan requested by the Office for Environmental Protection for the determination of such authorisations. The Action Plan can be found at:  
<https://www.theoep.org.uk/sites/default/files/uploads/NIEA%20response%20and%20proposed%20action%20plan.pdf>

Operators may apply to DAERA Inland Fisheries Inspectorate Branch for exemption permits issued under the Fisheries Act (Northern Ireland) 1966. All applications are assessed by the DAERA Inland Fisheries Technical Assessment Group. Permits can be considered for exemption from the requirement for a 24-hour weekly closure under section 58 of the Act and from requirements to have specific gratings installed under section 59 of the Act. At present Inland Fisheries are reviewing exemption permits across the DAERA

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area and will be communicating with all abstractors to remind them of their obligations under the Fisheries Act (Northern Ireland) 1966.

- (3) Copies of AIL/2011/0012 and AIL/2011/0003 are attached as Schedules 1 and 2. The Department is applying exception 12(3) 13(1) to withhold the personal data of the staff members named on the documents. A Lawfulness, Fairness and Transparency Test has been conducted and is attached.

DAERA Inland Fisheries Inspectorate are currently reviewing the exemption permits for both Brone and Barclays as part of the review outlined above.

- (4) This monitoring is part of an ongoing investigation. Exception 12(5)(b) applies and the Department is not releasing this information. A Public Interest test has been carried out and is attached.

- (5) DAERA Inland Fisheries notes that fish passage is possible over both weirs. Barclays weir is a complex structure, but extensive electrofishing survey results indicate an excellent population of juvenile salmon are present above Barclays weir. Fish passage would be improved across a larger part of the hydrograph if a seasonally variable abstraction regime was in place. It should also be noted that abstractors can be directed to cease abstraction for periods to facilitate fish migration as outlined by an Abstraction and Impoundment Licence condition. DAERA Inland Fisheries Inspectorate currently have a programme of barriers to fish migration assessment underway across Northern Ireland and the Agivey catchment including the Aghadowey River will be assessed for all possible barriers and a list of structures requiring easement (removal or provision of adequate fish passage) will be prepared.

- (6) In the last 5 years, NIEA is aware of one breach of Abstraction Licence conditions for a hydropower operator on the Agivey River. A regulation 20(2) notice was issued to the operator of licence number AIL/2014/0010 in September 2023.

- (7) DAERA Inland Fisheries Inspectorate have previously discussed the installation of gratings at the return point to the river at Barclays with the Agivey Angling Association. The gratings were previously removed by the operator at the request of the club. A condition of any future exemption will be that suitable screening must be available to be deployed if required. It should be noted that screening could be to the detriment of migratory salmonids at certain times of the year and that a removable screen may be a better option. The operators at Barclays and Hunters will be notified of any changes

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regarding screening that maybe required once the ongoing review has concluded.

If you require any clarification, believe that any part of your request has been overlooked, misunderstood or misinterpreted, please contact me in the first instance to see if it is a matter that can be resolved.

If you are unhappy with the manner in which your request for information has been handled or the decision to release/withhold information, you have the right to request a formal review by the Department.

If you wish to do so, please contact The Review Section either by e-mailing [daera.informationmanager@daera-ni.gov.uk](mailto:daera.informationmanager@daera-ni.gov.uk) or by post at The Department of Agriculture, Environment and Rural Affairs, Data Protection & Information Management Branch, Floor 2, Jubilee House, 111 Ballykelly Road, Ballykelly, Limavady BT49 9HP, within two months from the date of this letter.

If after such an internal review you are still unhappy with the response, you have the right to appeal to the Information Commissioner at Wycliffe House, Water Lane, Wilmslow, CHESHIRE, SK9 5AF, who will undertake an independent review of the Department's decision.

Yours sincerely,

**Water Regulation**

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