

**PAC REFERENCE:2024/ WHR01 and WHR02**

**DAERA/NIEA REFERENCE: AIL 2024/0008 and AIL 2024/0009**

**REBUTTAL EVIDENCE**

**Public Local Inquiry into Dalradian Gold (Curraghinalt) Project**

**Department of Agriculture, Environment and Rural Affairs**

**Northern Ireland Environment Agency, Water Regulation.**

**November 2024**

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## **1. Introduction**

- 1.1. This Rebuttal responds to matters raised in the Statements of Case submitted to the Appeals Commission in regard to the Abstraction Applications.
- 1.2. The Commission should note that NIEA strongly refutes allegations of collusion, malfeasance and corruption that are included in some Statements of Case made to the Inquiry. In all their work, NIEA officials seek to abide by the Civil Service Code of Ethics and maintain integrity, honesty, objectivity and impartiality. That approach has been sought to be consistently adopted here. It is normal and appropriate for the NIEA to engage in discussions with the Applicant to: (1) understand the details of the application; (2) highlight issues with it in law, science and fact; and (3) set out what would be required to make the application acceptable. No evidential basis for the allegations of impropriety have been provided to allow for detailed rebuttal. NIEA is of the view that unfounded and personal criticism of officials should not form any part of the Inquiry process.
- 1.3. Consistently with the position adopted in NIEA's original Statement of Case, the NIEA do not consider that on the information currently available and on its understanding of the law that it can determine that there will be no adverse effect on a designated site (Owenkilliw SAC, ASSI and the Owenreagh River ASSI) from the proposed abstraction.
- 1.4. Flow has been identified as a key attribute for the Atlantic Salmon in the Conservation Objectives for the Owenkilliw SAC and the River Foyle and its Tributaries SAC (and is also a relevant consideration for the same reasons in respect of the ASSI designations). The Conservation Objectives confirm that river flow affects a range of habitat factors of critical importance to Atlantic Salmon including current velocity, water depth, wetted area, substrate quality, dissolved oxygen levels and water temperature. The maintenance of both flushing flows and baseflows based on natural hydrological processes is vital. Headwater sections are particularly vulnerable to abstraction, and this may affect the survival of juvenile fish and prevent the upstream migration of adult fish to the key habitats.
- 1.5. In this particular case, the surface water abstraction proposals have been highlighted to impact the flow regimes of both the unnamed stream and the Pollanroe Burn. The groundwater abstraction proposals have highlighted drawdown which will impact on the baseflows of the burns and streams.
- 1.6. NIEA set out, in their response to support the DfI Rebuttal statement, the functional linkages in respect of Atlantic Salmon and highlight in particular the need to protect areas functionally linked to the SAC (as Pollanroe Burn is) where known sensitive Salmonid habitat exists. This response goes on to further confirm NIEA's position on the high sensitivity, high ecological value of the burns and the unnamed stream as a result of the

Loughs Agency surveys.

- 1.7. Atlantic Salmon is at unfavourable condition. It is the NIEA's view, that any abstraction must avoid perpetuating and entrenching an unacceptable situation and in particular must be consistent with achievement of Favourable Conservation Status (FCS). NIEA is proposing the application of appropriate flow standards within the water courses, to ensure the abstractions are consistent with achievement of FCS protecting the salmonid habitat.
- 1.8. Based on the current information, it is NIEA's view that the proposals would not achieve the appropriate flow standards. In addition, the applicant has not adequately assessed the impact of the abstractions on the unnamed stream, Pollanroe Burn, Curraghinalt Burn, Attagh Burn and Glenealy Burn and the potential impacts on the Atlantic Salmon and Brown Trout.
- 1.9. In addition, NIEA are unable to complete the assessment required under Regulation 10(2)(a) of the 2016 Regulations to consider the impacts on other users of the groundwater resource. The issues raised by the Drinking Water Inspectorate have not yet been answered in relation to the private water supplies which may be impacted by groundwater drawdown.
- 1.10. A significant amount of information has been received in Statements of Case. Inadequate time has been available to fully assess all the detailed information which has been provided. NIEA has, therefore, focussed on the more salient points in order to meet the rebuttal timeframes set by the Commission.

## **2. Summary of Key Points**

- 2.1. The NIEA has reviewed the Statements received in regard to the abstraction proposals.
- 2.2. The NIEA do not agree with the applicant's assessment that the abstraction proposals would have a neutral impact on the environment. The NIEA does not agree with the applicant's assessment of the ecological sensitivity of the smaller burns. See Annex 1 for NIEA's rebuttal comments in relation to the applicant's Statement of Case. See also the NIEA rebuttal statement in regard to the Discharge Consent applications. and the NIEA comments provided to support the DfI rebuttal statement. In particular, the Commission is asked to take into account the Natural Environment Division: Conservation Designation and Protection comments to DfI. The NIEA have provided detailed comments in relation to the Agency's position on the various reports provided in the applicants Statement of Case which are relevant to the consideration of the abstraction applications.

- 2.3. NIEA has reviewed the Statements of Case made by the other parties in response to the application for the abstraction proposals. See Annex 2 for NIEA's rebuttal comments in relation to the third-party Statements of Case.
- 2.4. The Statements of Case from Loughs Agency and from Fermanagh and Omagh District Council broadly align with NIEA's assessment and application of standards.
- 2.5. Specific issues raised in third party Statements of Case are addressed, where possible.

### **3. Conclusion**

- 3.1. This rebuttal statement has sought to identify those key areas of disagreement in the applicant's Statement of Case and those of other parties and clarify, where possible, NIEA's position.
- 3.2. It has not covered those areas in other parties' Statements where NIEA is in agreement with the details presented. Nor has it addressed areas where NIEA may not agree, but it is the role of the applicant or other parties to the Inquiry to address the points raised.
- 3.3. NIEA's position remains as outlined in its Statement of Case for abstraction proposals that it would not be possible to approve the applications as they stand, due to the potential for an adverse impact on a designated site.
- 3.4. Considerable additional information has been provided in support of the applicant's case and NIEA has sought to identify headline points in this rebuttal evidence. NIEA looks forward to the Inquiry considering the further points presented by the applicant and the other parties.

## **Annex 1: NIEA comments on the Dalradian Gold Limited Statement of Case: Water Abstraction**

- 4.1. When assessing the applicant's Statement of Case, NIEA has taken into account the information submitted in the applicants Statement of Case for the Discharge Consent and the relevant documents appended to the Planning Application Statement of Case including the technical reports.
- 4.2. Within the Executive Summary, page 1, the applicant makes the following statement: "*Archaeological impacts have been specifically considered following discussion with NIEA and are not significant.*" This statement is not correct. NIEA have not discussed this matter with the applicant and have not indicated to the applicant if this matter is significant or not. NIEA rely on the Department for Communities, Historic Environment Division on the archaeological issues.
- 4.3. **Section 4 "The Case for the Applicant" of the Applicants Statement of Case:**
  - 4.3.1. The applicant claims that the impact on surface water of the proposed abstraction is neutral and not significant. The NIEA Statement of Case (sections 6, 7 and 8) sets out the technical assessments carried out by NIEA. NIEA disagree with the applicant's position. It is NIEA's view that there is significant impact on the flow regime of the Pollanroe Burn and that there has been inadequate assessment of the impact on the unnamed stream, Curraghinalt Burn, Attagh Burn and Glenealy Burn.
  - 4.3.2. The applicant has presented arguments, in relation to the ecological sensitivity of the burns in the Ecology and Nature conservation report, particularly 1.74 to 1.113.
  - 4.3.3. NIEA maintain, based on advice from Loughs Agency, as the statutory body with responsibility for fish, that the small watercourses present potential habitat for Atlantic Salmon at different times of their life cycle. As such, the water flow in these small watercourses should be maintained at a level which is consistent with that considered to provide favourable conditions for this species.
  - 4.3.4. The role of Salmon in the life cycle of the FWPM and their designation as selection feature of the SAC in their own right, means that it is appropriate for flow standards identified in the SAC Conservation Objectives to be applied in these water courses. In the NIEA Statement of Case for abstraction, section 4 outlines the appropriate standards which should be applied when assessing the abstraction proposals. The High Ecological Status Flow standards outlined are designed to protect the wetted area in the river to ensure sufficient flows are maintained during drought periods and are used by the NIEA to set conditions to control an abstraction to protect the wetted

area within the watercourse.

- 4.3.5. NIEA consider that a functional linkage does exist for the reasons explained in the discharge consent Statement of Case and rebuttal.
- 4.3.6. NIEA has assessed that the proposals will result in drawdown and impact on baseflows in the smaller streams. The applicant has not provided any new information or evidence which would change NIEA's understanding.
- 4.3.7. In addition to Atlantic Salmon, the Loughs Agency has identified the presence of Brown Trout in both the Pollanroe and the Curraghinalt burns. Whilst not a selection feature for the SAC, Trout is a protected species, under the Wildlife and Natural Environment Act (NI) 2011. Maintenance of flow within the burns suited to trout is also therefore required. The presence of trout in the burns further highlights the ecological value and sensitivity of the burns which is not reflected in the applicant's assessment.
- 4.3.8. On the evidence provided by the Loughs Agency, as set out in section 2.3.3 above, NIEA concludes that the applicant has wrongly dismissed the impact of the proposal on the flow regimes of the small watercourses, burns and streams. NIEA therefore maintain its position and considers that, on the basis of current information, that there is a risk of likely significant effect on designated sites and that an appropriate assessment is required. An adverse effect on integrity cannot be ruled out. Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences.
- 4.3.9. On this basis the NIEA do not accept the findings of the applicant's Updated Shadow HRA dated November 2020. NIEA have carried out the test of likely significance and have found that likely significant effect cannot be ruled out both alone and in combination. NIEA have not proceeded to the Appropriate Assessment stage of the Habitats Assessment as significant changes are required to the proposal to meet the appropriate standards to achieve favourable status. It is NIEA's intention to complete the Habitats Assessment following the public local inquiry and in advance of the final determination.
- 4.3.10. As to groundwater, the applicant states that the Groundwater Impact Assessment concluded the impact was negative but not significant. NIEA do not accept the applicant's position as a full assessment of the potential impacts as a result of the Groundwater drawdown has not been carried out.
- 4.3.11. The Land and Groundwater ("LGW") team within NIEA have considered the information submitted in the applicant's Statement of Case. The applicant has not answered the issues identified by the LGW team in their planning response or the

response to the abstraction proposals. See NIEA Abstraction Statement of Case AIL 11 for the issues raised.

4.3.12. The Drinking Water Inspectorate (DWI) within NIEA have considered the information in the applicant's Statement of Case see Annex 3. The applicant has not answered the queries raised by the DWI in their planning response or the response to the abstraction proposals. See NIEA Abstraction Statement of Case AIL 12 for the issues raised.

#### **4.4. Section 5 “DAERA Comments” of the Applicant’s Statement of Case**

4.4.1. NIEA issued regulation 18 Notices to the applicant on 18<sup>th</sup> November 2021 and again in December 2021 seeking further information and clarification. See Annex 7 for copies of the Regulation 18 Notices issued in 2021 to the applicant. [Page 13, 1<sup>st</sup> Paragraph of the applicant's Statement of Case: Water Abstraction], the Applicant has inferred that the regulation 18 Notices issued by NIEA, represented all of NIEA concerns at that time. The notices did not reflect all the NIEA concerns at that time, they were simply requests for clarification and additional information raised by the Land and Groundwater Team and the Historic Environment Division.

4.4.2. NIEA have consulted with the Department for Communities, Historic Environment Division (HED) on the information submitted in Appendix B of the applicant's Statement of Case. HED provided a response which is included in Annex 4.

#### **4.5. Section 6 “Third Party Representations” of the Applicant’s Statement of Case.**

4.5.1. The applicant has provided a very brief summary of the representations received. NIEA have reviewed all of the representations and provides a summary of the key representations in Annex 5.

4.5.2. The Commission is referred to the NIEA Statement of Case for the abstraction proposals particularly sections 6, 7 and 8 for the NIEA assessment of impact.

4.5.3. As to last bullet point on page 15 of the applicant's Statement of Case, where the applicant has inferred the Golders Associates contract was with both DAERA and DfI, NIEA can confirm that Golders Associates was in fact contracted only by DfI.

4.5.4. The applicant has stated that *“there is no credible potential for transboundary impacts from the project”*. NIEA disagree with this statement. Please refer to the NIEA Statement of Case Section 7. NIEA has assessed there is potential impact on certain protected features in the River Foyle and its Tributaries SAC in the Test of Likely Significance see NIEA SoC AIL 21 and AIL 22. NIEA therefore intend to

consult with the Nature Conservation Body in the Republic of Ireland, when NIEA move to completing the Appropriate Assessment of the Habitats Regulation Assessment.

## **Annex 2: NIEA Comments on Third Party Statement of Cases**

- 5.1. A total of 27 Statements of Case have been received in regard to the abstraction Proposals. The Commission is invited to refer to the NIEA Statement of Case, in particular Sections 6, 7 and 8, to find the NIEA position on a number of the points raised.
- 5.2. The Commission should note that NIEA strongly refutes allegations of collusion, malfeasance and corruption that are included in some Statements of Case made to the Inquiry. In all their work, NIEA officials seek to abide by the Civil Service Code of Ethics and maintain integrity, honesty, objectivity and impartiality. That approach has been sought to be consistently adopted here. It is normal and appropriate for the NIEA to engage in discussions with the Applicant to: (1) understand the details of the application; (2) highlight issues with it in law, science and fact; and (3) set out what would be required to make the application acceptable. No evidential basis for the allegations of impropriety have been provided to allow for detailed rebuttal. NIEA is of the view that unfounded and personal criticism of officials should not form any part of the Inquiry process.
- 5.3. A number of points have been raised which are not for NIEA to consider, in particular the applicability of the Reservoir Act and flooding concerns. NIEA anticipate the relevant team within DfI will respond to these points in response to the planning applications. Questions on the management and control of the water storage will be ones which the Inquiry will address as part of its consideration of representations on the mining application
- 5.4. Also matters relating to sufficient public drinking water supply are for Northern Ireland Water. NIEA anticipate that NIW will respond to these points in response to the planning applications.
- 5.5. Several of the Statements challenge the use of the Lough Fea rainfall data. Please refer to the NIEA Statement of Case for Abstraction documents: (1) AIL 10 for the Water Management Unit Reports; and (2) AIL 25 for the NIEA Hydrological Assessment Method Note applied to the assessment of flows and consideration of rainfall. NIEA maintains that the rainfall dataset from Lough Fea offers available, long-term, Met Office quality assured data that has an annual mean which is likely to be reasonably representative of the Pollanroe Burn location. Baseline monitoring of rainfall at the Pollanroe Burn site would not be able to offer a climate representative dataset within a reasonable time period.
- 5.6. Concern has been highlighted about the loss of peatland due to the proposal. That issue is addressed by NIEA in its comments to DFI to inform the DFI rebuttal. The applicant has stated, in the 2017 ES Chapter 8 Environmental and Social Impact Assessment (Part 3, page 5 (19)): Sections 8.4.3 and 8.4.4, that three very small areas on the north side of Crocknamoghil have the potential to be impacted while mine dewatering takes place during operation of the mine. Other areas around the mine entrances are likely to be temporarily

impacted during construction works. NIEA's assessment was based solely on impacts to blanket bog NI Priority Habitat. The peatland in these 3 small, localised areas do not qualify as a Habitats Regulation 1995 Annex 1 habitat as it has been degraded. Proposed compensation measures will be applied to three areas of peatland on the north side of Crocknamoghil, measuring 52.73ha, and blanket bog will also be restored on three areas of peatland within the infrastructure site but outside of the development footprint measuring 23.54ha. It is the NIEA opinion that the extent of blanket bog restoration proposed is sufficient to compensate for the loss of peatland to the infrastructure site, the powerline and any potential areas impacted by drawdown. However, NIEA have sought clarification on the extent of peatland that will be directly impacted by the proposed development infrastructure, in our comments provided to support the DfI rebuttal statement.

- 5.7. Black Bog Ramsar site has been highlighted in a number of Statements of Cases as requiring protection. NIEA has advised in its comments to support the DfI rebuttal that following consideration of the independent review undertaken by Golder Associates, the NIEA are content with the applicant's calculations and hydrological modelling in relation to impacts from the abstraction as part of the planning application. Black Bog ASSI/SAC/RAMSAR was not directly assessed as it was determined to be outside of the zone of influence of the abstraction. For this reason, Black Bog ASSI/SAC/RAMSAR is not considered at risk as a result of the proposed groundwater abstraction. In addition, the Black Bog is upstream of the proposed surface water discharges and abstraction, it was, therefore, screened out of our assessment of designated sites. Please refer to the NIEA Statement of Case for abstraction section 7 and the NIEA test of likely significance for both mine water and surface water proposals: AIL 21 and AIL 22.
- 5.8. Individuals have questioned how the proposals would be regulated if granted. When a site is authorised under an environmental regulatory regime, NIEA apply a risk-based approach to regulation using a range of tools to assess compliance against the conditions set within a licence or discharge consent, these include operator self-monitoring requirements, NIEA monitoring (quantity and quality), NIEA site inspection/ surveillance. NIEA carry out compliance assessment using these tools and implement the DAERA Enforcement Policy when non-compliance with authorisation conditions has been detected. See Annex 6. NIEA would allocate appropriate resources to implement the Agency's environmental regulatory regimes if the operation was approved.
- 5.9. A number of Statements of Case have made reference to the formation and existence of a Water Council in Northern Ireland under the Water Order. Provisions on the Northern Ireland Water Council in the Water (Northern Ireland) Order 1999 were repealed by the Water and Sewerage Services (Northern Ireland) Order 2006. Project splitting has been highlighted by a number of respondents. Abstraction proposals and discharge proposals are regulated by separate legislation. These activities are covered by separate and specific

regulatory regimes and are regulated by a different Department (DAERA) than the planning application. There is, therefore, a legal requirement to consider these applications separately. Nevertheless, NIEA was aware of the need to assess the impacts of the proposed mine project as a whole, and as part of the overall assessment referred all the applications to the PAC for consideration as part of the Public Local Inquiry. NIEA are of the opinion that this provides the best opportunity to ensure that public representations on all aspects of the proposed mine project can be adequately considered. The total impacts of all the proposals will be taken into account in making the final decision

5.10. Several Statements of Case have raised concerns in relation to the impact of the groundwater drawdown on wells used for private water supplies or water supply to farms. The NIEA Drinking Water Inspectorate has considered the applicant's information and has provided rebuttal see Annex 3.

5.11. Reference has been made that a Habitats Regulation Assessment has not been submitted for the project and calls for an independent HRA to be completed. Under the Conservation (Natural Habitats etc.) Regulations (NI) 1995, NIEA as the competent authority is required to carry out a Habitats Regulation Assessment before a final determination is made. NIEA have commenced the Habitats Assessment for the abstraction applications, see section 7 of the NIEA Statement of Case and AIL 21 and AIL 22. It is important to note that NIEA have completed the Test of Likely Significance. The Appropriate Assessment has not been completed as substantial changes to the proposal would, in NIEA's current view based on current evidence, be required to bring the proposal into compliance with the appropriate standards. An appropriate assessment will be completed following the PAC's report from the public local inquiry before a final determination is made. NIEA will take account of other Competent Authorities' Habitats Assessments in the final HRA for the abstraction licence applications.

#### 5.12. ***Fermanagh and Omagh District Council***

5.12.1. Fermanagh and Omagh District Council Statements of Case align with the NIEA position.

5.12.2. At Para 2.2 and 2.6 the Council have requested a summary of the representations received in respect of the abstraction applications. See Annex 5 for the summary of key representations received.

**Annex 3 : NIEA Drinking Water Inspectorate Comments on the Applicants  
Statement of Case**

<b>Statement Number:</b>	2
<b>Date of Rebuttal:</b>	13 November 2024
<b>Rebuttal Author:</b>	
<b>Issues Identified:</b>	Mitigation of risk to Private Water Supplies Sufficiency risk to Private Water Supplies Drinking Water Protected Areas
<b>SME Input:</b>	Drinking Water Inspectorate

**1.1 Statement 1: Mitigation of risk to Private Water Supplies**

1.2 Dalradian Gold Limited; Curraghinalt Project, County Tyrone, Northern Ireland; Statement of Case: Water Abstraction

1.3 On page 12, first bullet point following on from paragraph 4, it is stated “*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.*”.

1.4 Mitigation requires co-operation of landowner and supply users (i.e. regulatory relevant persons) to facilitate advancement of new supply or wayleave to allow for mains connections. The degree to which quantity and or quality can be impacted is yet to the proposed.

1.5 As per DWI Statement of Case, the degrees to which quantity and or quality can be impacted should be subject to agreement with DAERA DWI and the applicant.

**2. Statement 2: Sufficiency risk to Private Water Supplies**

2.1 Dalradian Gold Limited; Curraghinalt Project, County Tyrone, Northern Ireland; Statement of Case: Water Abstraction

2.2 On page 16, bullet point 1 under ‘Response’, it is stated “*A comprehensive groundwater impact assessment... was carried out to inform the potential impacts of the project... on groundwater quality and quantities... The assessment report shows the maximum modelled*

*extent of the drawdown and proposes mitigation measures for local groundwater users where appropriate.”.*

- 2.3 The predictions in this assessment are partially made using estimated or variable measurements, e.g. proposed potential depths rather than measured. There remains an incomplete dataset relating to private water supply information. Without a complete dataset on private water supply depths, water level and purpose, the level of risk regarding sufficiency cannot be accurately defined.
- 2.4 As per DWI Statement of Case, the applicant must continue to strive and obtain outstanding supply depths to enable the assessment to be completed. Only at this time can DWI confirm if they are content with the assessment

### **3. Statement 3: Drinking Water Protected Areas**

- 3.1 Dalradian Gold Limited; Curraghinalt Project, County Tyrone, Northern Ireland; Statement of Case: Water Abstraction
- 3.2 No discussion or consideration to the Drinking Water Protected Areas is provided, particularly with respect to the Drinking Water quality for public consumption.
- 3.3 As per DWI Statement of Case, no reference or assessment has been completed with respect to the development and its impact on Drinking Water Protected Areas. It would be beneficial for the applicant to clearly demonstrate the site is within a Drinking Water Protected Area and summarise the findings of any assessment completed.

**Annex 4: Department of Communities, Historic Environment Division Comments on the Applicants Statement of Case Appendix B.**

<b>Statement Number:</b>	1
<b>Date of Rebuttal:</b>	18 November 2024
<b>Rebuttal Author:</b>	
<b>Issues Identified:</b>	Water level data having been accepted Lack of sufficient time for independent specialist review
<b>SME Input:</b>	DfC Historic Environment Division (HED)

**1.0 Context**

- 1.1 This rebuttal document relates to the Statement of Case submitted by Dalradian Gold Limited on the Curraghinalt Project, Co. Tyrone, specifically Appendix B *‘Evaluation of impact of dewatering activities on potential peatland archaeology’* dated 7<sup>th</sup> October 2024.
- 1.2 This rebuttal document is submitted by Historic Environment Division (Dept. for Communities) Scheduled Monuments team, in relation to the Water Abstraction and Impoundment Licence (AIL) applications relevant to the Curraghinalt Project i.e. AIL/2024/0008 & AIL/2024/0009 (DAERA references). HED is a consultee of Northern Ireland Environment Agency (NIEA) in respect to AIL consultations where there may be potential impacts on the archaeological resource.
- 1.3 HED responses to the AIL consultations had stated that concerns around the archaeological resource had not been addressed and advised that *‘the applicant engage an appropriately qualified and experienced wetland archaeologist(s) to reassure us that the matter of peatland archaeology and potential dewatering has been appropriately assessed’*.

**2.0 Qualifications of Assessor**

- 2.1 HED is content that Dr. Gill Plunkett is a qualified and experienced archaeologist in peatland and wetland archaeology and is appropriately placed to undertake such an assessment of impact.

### **3.0 Assessment**

- 3.1 Dr. Plunkett has listed the documents that she reviewed in undertaking the desk-based assessment. No site visit or field walk over the application site is recorded to have been undertaken as part of the assessment.
- 3.2 Dr. Plunkett's assessment concludes that "*dewatering of bedrock is unlikely to pose a threat to any buried archaeological structures in the activity zones, provided water levels are maintained within the peat as expected*" (section 9.1 of Statement of Case Appendix B).
- 3.3 It is not currently known to HED whether the statements made by Dalradian Gold in respect to the water level data and projections are accepted without refutation; this requires specialist hydrological knowledge that HED does not hold, nor would we expect Dr. Plunkett to hold. Therefore, the conclusions drawn on this data may or may not be substantiated; this may be dependent on confirmation that the hydrological and/or any other relevant technical data is accepted.
- 3.3 Given the compressed timeline for response to this Statement of Case, it has been impossible for HED to obtain a specialist assessment of this conclusion relating to the archaeological impacts, which would be required to provide a fully informed comment on the archaeological conclusions made in the Statement of Case. In this context, HED would provisionally accept Dr. Plunkett's findings, but will obtain an independent review of her findings in advance of the hearing. Therefore, HED may provide updated advice to the Inquiry, through NIEA.

## **Annex 5: Representation Summary**

Representation Issue	NIEA Response
<p>Representations have referred to the pre-inquiry hearing and the deemed refusal of the AIL applications. NIEA have been accused of misleading the PAC.</p>	<p>A procedural error led to the November 2020 Applications being deemed withdrawn. NIEA have apologised to the Appeals Commission for the honest mistake made and did not knowingly mislead the Commission.</p>
<p>Individuals have highlighted concern over the Government Departments citing the following:</p> <ul style="list-style-type: none"> <li>- Lack of Transparency</li> <li>- Lack of Competency/ Expertise</li> <li>- Pre-determined decisions</li> <li>- With-holding information/ Failure to disclose conflicts</li> <li>- Collusion</li> <li>- Malfeasance in office</li> <li>- Breach of Statutory duty</li> <li>- Negligence</li> <li>- Violation of Environmental Regulations</li> </ul>	<p>NIEA strongly refutes allegations of collusion, malfeasance and corruption that are included in some representations. In all their work, NIEA officials seek to abide by the Civil Service Code of Ethics and maintain integrity, honesty, objectivity and impartiality. That approach has been sought to be consistently adopted here. It is normal and appropriate for the NIEA to engage in discussions with the Applicant to: (1) understand the details of the application; (2) highlight issues with it in law, science and fact; and (3) set out what would be required to make the application acceptable. No evidential basis for the allegations of impropriety have been provided to allow for detailed rebuttal. NIEA is of the view that unfounded and personal criticism of officials should not form any part of the Inquiry process.</p>

<p>Concerns have been raised regarding the environmental assessment process, adherence to current environmental legislation, and the overall procedural integrity in how these applications are being reviewed.</p>	<p>The Department is assessing the application in accordance with the applicable law.</p>
<p>Request that the applications are not considered in isolation of the other applications under consideration. Project-splitting has been identified as a major concern.</p>	<p>The NIEA gives appropriate consideration to all representations and is also confident that the inquiry process will assist in consideration of representations referred to the PAC. The Department will make its final determination in accordance with the applicable law. These (Abstraction and discharge) activities are covered by separate and specific regulatory regimes and are regulated by a different Department (DAERA) than the planning application. There is, therefore, a legal requirement to consider these applications separately. Nevertheless, NIEA was aware of the need to assess the impacts of the proposed mine project as a whole, and, as part of the overall assessment referred all the applications to the PAC for consideration as part of the Public Local Inquiry. NIEA are of the opinion that this provides the best opportunity to ensure that public representations on all aspects of the proposed mine project can be adequately considered. The total impacts of all the proposals will be taken into account in making the final decision.</p>
<p>Concerns at the pace at which the hearing for these applications is being proposed seems to undermine the ability of regulatory bodies to perform thorough assessments aligned with these frameworks. There have been calls to reconsider the processing timeframes to allow for detailed public and expert consultation.</p> <p>Representations have highlighted concerns on the numerous submissions as attempts to swamp relevant authorities and potential objectors. Specifically, questions arise on the numbers of representations received and alleges that the public consultation process has been breached.</p>	<p>The NIEA gives appropriate consideration to all representations and is also confident that the inquiry process will assist in consideration of representations referred to the PAC. The Department will make its final determination in accordance with the applicable law.</p> <p>A total of 156 representations were received in response to the November 2020 AIL applications.</p> <p>A total of 383 representations have been received in response of the April 2024 AIL Applications.</p> <p>A total of 597 representations have been received in response to the July 2024 AIL Applications.</p> <p>Representation 1 submitted in August 2024 included redacted copies of all previously received representations in relation to the applications submitted in November 2020 and April 2024.</p>

<p>Representations have questioned the economic viability of a gold mine and the overall need for a gold mine in Northern Ireland</p>	<p>This is likely to be an issue which will be considered by the PAC as part of the public local inquiry.</p>
<p>Numerous representations drew attention to the use of outdated data. Specifically, the supporting environmental data for the Dalradian project, being approximately five years old in some respects, does not reflect the current state of the local ecosystems or the legislative changes affecting environmental governance in Northern Ireland.</p>	<p>The continuing relevance and accuracy of the environmental data is an issue which will likely be considered by the PAC as part of the public local inquiry.</p>
<p>Concerns raised on the inaccuracy of the data and models used to predict flows, resulting in underestimation/ overestimation of water availability and flow rates. In particular, concerns raised on the use of rainfall data from Lough Fea, reliance on linear interpolation of climate change impacts based on UKCP18 scenarios, use of FL13 gauging stations.</p>	<p>See the NIEA SoC AIL 25, NIEA Methodology for assessing flows. This methodology has been applied by NIEA to assess the potential impact of the proposed abstraction and its return on the flow regime in the natural environment. The rainfall dataset from Lough Fea offers available, long-term, Met Office quality assured data that has an annual mean is likely to be reasonably representative of the Pollanroe Burn location. Baseline monitoring of rainfall at the Pollanroe Burn site would not be able to offer a climate representative dataset within a reasonable time period.</p>
<p>Significant concerns expressed in the management of the water storage in the ponds. Particular reference to the risk of overtopping/ failures in structures resulting in flood. Representations have highlighted concern on the potential impact on environment and residential properties downhill.</p>	<p>NIEA are not the responsible authority for Flood Risk management. It is likely this issue will be considered by the PAC as part of the public local inquiry.</p>
<p>Representations have challenged the position on the Reservoir Act and if it applies to the pond storage.</p> <p>Concerns include fear of catastrophic failure of the structures, inadequate design standards and lack of emergency preparedness.</p>	<p>Reservoir Act and flooding concerns are not for NIEA to consider. NIEA anticipate the relevant team within DfI will respond to these points in response to the planning applications.</p> <p>It is likely this issue will be considered by the PAC as part of the public local inquiry.</p>

<p>Representations have highlighted transboundary issues and that there is a need to have thorough bi-national consultation.</p>	<p>NIEA has not consulted on the transboundary issues at this stage. NIEA have carried out a test of likely significant and identified the potential impact on the River Foyle and its Tributaries. NIEA therefore intend to consult with the Nature Conservation Body in the Republic of Ireland, when NIEA move to completing the Appropriate Assessment of the Habitats Regulation Assessment.</p>
<p>The Espo Convention obligations have been cited in relation to consultation. Reference has also been made to the Aarhus Convention to ensure non-discriminatory participatory rights.</p> <p>Calls have been made to seek full and informed public consultation</p>	<p>Regulation 9 of the Abstraction and Impoundment Licensing Regulations 2006 sets out the provisions to advertise an application if required. The NIEA determined that the proposals set out in the application required advertisement under Regulation 9(1).</p> <p>Under Regulation 17 (1) of the Regulations, NIEA directed the Appeals Commission to hold a public local inquiry to consider the representations made under Regulation 9(4).</p> <p>NIEA have fulfilled the public participation requirements in relation to the Abstraction and Impoundment Licensing Regulations 2006</p> <p>The NIEA will take into account all relevant considerations when making its final determinations on these applications, including information from the public.</p> <p>The Department is of the view that it has complied with provisions of international law which are given effect in domestic law in relation to these applications. The NIEA will take into account all relevant considerations when making its final determinations on these applications, including information from the public</p>

<p>Individuals flagged a concern on limiting the scope of assessment under Regulation 10(2)(b) and consideration of the broader environmental impacts.</p> <p>Individuals have cited Articles 2 and 8 of the European Convention on Human Rights protect the right to life and the right to respect for private and family life, both of which are threatened by the potential environmental degradation</p> <p>Reference has also been made that NIEA have made a decision to narrow the cope of the Regulation 10(2)(b)</p> <p>Calls have been made for NIEA to undertake an EIA as a result.</p>	<p>Regulation 10(2)(b) of the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 ensures the NIEA must have regard to representations made in response to the advertisement and the terms set out in Regulation 9(4).</p> <p>The NIEA will take into account all relevant considerations when making its final determinations on these applications which fall within its remit. Other applications will be considered by the relevant decision-maker under the appropriate legal framework. The applications will be determined in accordance with the applicable law, including international law where it is given domestic effect.</p> <p>The NIEA have not narrowed the scope of the assessments. In conjunction with the 2006 Regulations, NIEA are also required to consider the proposal under a range of legislative requirements, see the NIEA Abstraction Statement of Case and AIL 4.</p> <p>The EIA process is implemented through the Planning application process and is outside the scope of the Abstraction and Impoundment Licensing Regulations 2006.</p>
<p>Representations have highlighted that the documents submitted do not address how the potential changes in water flow and quality could affect the ecosystems downstream. Highlighting that changes could have a cumulative impact on the rivers ecology and hydrology.</p>	<p>SEE AIL 26 The NIEA Methodology for Assessing Flows. This methodology has been applied by NIEA to assess the potential impact of the proposed abstraction and its return on the flow regime in the natural environment.</p> <p>Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences. Any further information provided by the applicant or from other sources will be considered in any subsequent assessment.</p>

<p>Concerns have been highlighted about the proposed water treatment plant and its ability to function at peak efficacy. Representations have highlighted concern on the modelling approach and the use of assumptions and predictions not taking account of the real-world conditions.</p>	<p>The impacts of the proposed discharge have been assessed separately under Application TrC 81/20. See SoC for Discharge Consent Applications. The potential impact of the discharge has been taken account of in the assessment of the Abstraction applications. See Statement of Case for Abstraction applications. Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences or the discharge consents, due to the potential for a significant impact on the designated site. Any further information provided by the applicant or from other sources will be considered in any subsequent assessment.</p>
<p>Representations have highlighted their concern at the quality of waterbodies in Northern Ireland. A number of articles have been cited to highlight the current position on water quality.</p>	<p>See NIEA Statement of Case for Discharge Consent and for Abstraction applications, for details on the assessments carried out. Assessments have been undertaken to take account of water quality protection and improvement. The Department will make its final determination in accordance with the applicable law.</p>
<p>Significant concerns have been highlighted on the potential impact of the proposal on public water supplies and question how the applicant could abstract the volumes proposed.</p> <p>Reference has been made to an additional public water supply application for the applicant, citing the construction of a new pumping station near the Greencastle Community Centre.</p> <p>Particular queries relate to the quality of drinking water, citing the World Health Organisation.</p>	<p>The matter of sufficient public water supply is not for NIEA it is for NIW.</p> <p>Under Regulation 10(2) (a) of the Abstraction and Impoundment Licensing Regulations 2006 the NIEA is required to consider the impacts on other water resource users. We have highlighted issues which have been raised under the planning application consultation process. This element of the assessment cannot be concluded until the planning issues have been resolved. The Water Undertaker (NIW) have advised that the abstraction presents a low risk to public water supply. However, NIW did flag that if granted, controls should be put in place to ensure the quality and quantity of raw water to supply drinking water. SEE AIL 20</p>

<p>Several representations have raised significant concerns in relation to the potential impact of the drawdown of groundwater on surrounding wells and groundwater fed natural habitats.</p> <p>Representations have highlighted their reliance on private wells to provide water supply for domestic and farming uses.</p> <p>References have been made to the protection of the Drinking Water Protected areas with particular concern on potential impact as a result of pollution of the groundwater. Specifically, significant concerns have been highlighted about the potential of Arsenic pollution, and the location of the “Tailings” on top of the Pollanroe Burn which is part of a drinking water catchment.</p>	<p>Under Regulation 10(2) (a) of the Abstraction and Impoundment Licensing Regulations 2006 the Department is required to consider the impacts on other water resource users. We have highlighted issues which have been raised under the planning application consultation process. This element of the assessment cannot be concluded until the planning issues have been resolved.</p> <p>Article 4 of the Water (NI) Order 1999 imposes a duty on the Department to promote conservation and cleanliness of water resources, including under Article 42(c) the protection of public health. NIEA discharge consent limits are therefore set to ensure this duty can be met.</p> <p>Northern Ireland Water were consulted on the application for the mine and have not expressed concerns regarding potential impacts on raw water abstracted for drinking water purposes [add reference to NI water response].</p>
<p>Specific concerns have been highlighted about Arsenic pollution as a result of the proposal.</p>	<p>NIEA have considered the background water quality, relevant regulatory standards (Environmental Quality Standards) and the water quality requirements of the protected site in seeking to determine appropriate consent limits, should a consent to discharge be approved for the site.</p> <p>The impacts of the proposed discharge have been assessed separately under Application TrC 80/20 and TrC 81/20. See SoC for Discharge Consent Applications.</p> <p>The potential impact of the discharge has been taken account of in the assessment of the Abstraction applications. See Statement of Case for Abstraction applications.</p> <p>Data collected on Arsenic (and other parameters) in waters at the Dalradian site has been shared with the PAC and is available on their website at</p> <p><a href="https://www.pacni.gov.uk/publications/dgl-data-amap-and-routine-compliance-monitoring">https://www.pacni.gov.uk/publications/dgl-data-amap-and-routine-compliance-monitoring</a>. (AMAP tab contains NIEA collected As data)</p> <p><a href="https://www.pacni.gov.uk/publications/self-monitoring-reports">https://www.pacni.gov.uk/publications/self-monitoring-reports</a></p>

Concerns have been highlighted about RADON and other radioactive material

Environmental Statement Vol 3 C7 “Radon and NORM Emissions Impact Assessment”, submitted by Dalradian Gold Ltd in support of their planning application in Nov 2017, contains an “assessment of radon gas and NORM emissions impacts at the Curraghinalt Project” carried out by RPS. This report was assessed by staff from NIEA’s Industrial Pollution & Radiochemical Inspectorate as part of the planning consultation process for LA10/2017/1248/F and comments on it were provided in our consultation response dated 24 April 2020.

*Our comments were: Appendix C7 (Radon and NORM Emissions Impact Assessment) from the “2017 design” documents and the Addendum to the Assessment of Radon Gas and NORM Emission Impacts from the “2019 update” documents have been reviewed. IPRI is content with the methodology used and the impact assessment carried out. In order to ensure that no waste materials produced by the process contain NORM in quantities above the exempt criteria, IPRI is content with the proposed quarterly monitoring of wastewater samples for NORM radionuclides in a laboratory capable of achieving detection limits well below the out-of-scope levels for the first 12 months of operation (refer to Informative 5). If any of these monitoring results show that waste materials produced by the process are above the exempt criteria specified in the Radioactive Substances Exemption (NI) Order 2011, the company should apply for a Certificate of Authorisation under the Radioactive Substances Act 1993, (refer to Informative 6).*

*Informative no 5: Quarterly monitoring of wastewater samples for NORM radionuclides should be carried out for the first 12 months of operation in a laboratory capable of achieving detection limits well below the out-of-scope levels specified in the Radioactive Substances Act 1993 (Amendment) Regulations (Northern Ireland) 2011.*

*Informative no 6: If any waste materials produced by the process contain naturally occurring radioactive materials (NORM) in quantities above the exempt criteria specified in the Radioactive Substances Exemption (NI) Order 2011, the operator will have to apply for a Certificate*

	<p>NIEA have recently reviewed that report and remain content with the contents and the monitoring carried out. We believe it is unlikely that the process will require regulation under RSA93. At present, we are not aware of any other mining sites elsewhere in the UK where NORM is being regulated under the equivalent environmental legislation.</p>
<p>Representations have highlighted concern of the closure phase proposals. Particular reference has been made to the potential impacts on water quality i.e. the removal of the pond linings allowing the contents to soak in to the ground, and the fact that the applicant has said that it would take 100 years for the water to return to its natural state.</p>	<p>NIEA have not assessed fully the potential impacts as a result of the decommissioning/ post pumping phase. NIEA have highlighted a number of concerns in regard to the proposed management and controls of the mine water rebound when the proposed mine ends and the groundwater levels would return to original levels. These points have been raised through the planning response to Dfl and are also outlined in the NIEA SoC for Abstraction AIL 11.</p>
<p>Concerns identified about the contamination / pollution leaching/ seeping into the groundwater as a result of the proposed operations.</p>	<p>NIEA have considered the supporting documents provided by the applicant and have requested clarification on a number of points in regard to the protection of groundwater quality.</p>
<p>Questions have been raised in relation to the processing of materials and the chemicals proposed to be used, attention has been drawn to the potential impact. Several examples have been cited to highlight the potential impacts/ risks. References to processing chemicals and the impact of those chemicals have been highlighted in particular cyanide and thiosulphate. Particular reference has been made to the run-off from the proposed tailings pile.</p>	<p>NIEA had requested clarification from the applicant on the arrangements for the use and storage of specific chemicals on the site, during operation in our letter of the 5<sup>th</sup> Sept 2024 (DC 35 in the Consent SOC).</p> <p>NIEA await full details of the pollution prevention and containment arrangements for the use of specific chemicals on the site and these will be subject to suitable conditions on any authorisations if granted.</p>
<p>Reference to the Climate Change Act and the obligations to reduce carbon emissions has been highlighted. Representations challenge the proposals carbon cost, highlighting the impact of the infrastructure on the environment and local communities.</p> <p>Statements have been made that it is premature to grant the water abstraction licenses before the Climate Action Plans are published.</p>	<p>It is anticipated that the climate impacts of the proposed gold mine will be considered as part of the planning process and during discussions of the Public Local Inquiry</p> <p>See also the NIEA statement of cases in relation to both the Discharge consent applications and the Abstraction applications.</p>

<p>References have been made to the regions vulnerability to Climate Change, citing the storm of August 2017 and the exacerbation of these as a result of the proposals.</p>	<p>Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences. Any further information provided by the applicant or from other sources will be considered in any subsequent assessment.</p>
<p>Calls have been made to preserve and protect the delicate environmental setting. Citing the Sperrins Area of Outstanding Natural Beauty (AONB), Owenkillew Special Area of Conservation (SAC), Owenreagh Area of Special Scientific Interest (ASSI), River Foyle &amp; tributaries Special Areas of Conservation (SAC) &amp; Areas of Special Scientific Interest (ASSI), and the nearby Ramsar site.</p> <p>References have also been made to call for compliance with Fermanagh Omagh Local Development Plan (2030), Water Framework Directives NI (2015 &amp; 2017), Habitats Regulations (1995), and the Owenkillew River Management Plans (2013 &amp; 2023).</p>	<p>Specific requirements are in place to protect and enhance the designated sites and local biodiversity. The Department has carried out initial assessments of the proposals and found that there is a risk of likely significant effect. Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences. Any further information provided by the applicant or from other sources will be considered in any subsequent assessment.</p>
<p>Significant concerns have been raised in regard to the potential impact on the surrounding peatland/ bog as a result of the proposed abstraction.</p> <p>Particular points have been raised in regard to Carbon Storage/ Carbon Sink protection/ Carbon Sequestration and natural flood management. The Meenbog has been cited as an example.</p>	<p>The NIEA has provided a response to the planning applications and is of the opinion that, provided the peatland compensation measures are implemented, the proposed mine development would be unlikely to have a significant adverse impact on peatland habitats within the application site. See NIEA's comments provided to Dfl through the planning process and in support of the Dfl Statement of Case and Rebutalls.</p> <p>It is anticipated that the climate impacts of the proposed gold mine will be considered as part of the planning process and during discussions of the Public Local Inquiry</p>
<p>Concerns have been raised in relation to the potential loss of sub-surface archaeological deposits retained in the peat as a result of the impact of abstraction on the peatland.</p>	<p>The Department has consulted with the Department for Communities, Historic Environment Division. HED have identified a risk of impact SEE AIL 14. HED have also considered the information provided in the Applicants SoC and have provided comment in the NIEA Rebuttal Statement.</p>

<p>Concerns have been raised about the potential impacts during the construction phase. With particular reference to sedimentation and the potential negative impact on aquatic environments.</p>	<p>The impacts of the proposed discharge have been assessed separately under Application TrC 81/20. See SoC for Discharge Consent Applications.</p> <p>The potential impact of the discharge has been taken account of in the assessment of the Abstraction applications. See Statement of Case for Abstraction applications.</p> <p>NIEA has considered advice from Loughs Agency and its own ecologists on the water quality requirements for the ecosystems in the waterways around the site and should an authorisation be granted, strict limits on discharges will be in place, including during any construction activities.</p>
<p>Representations have highlighted the potential impact of the discharge on the quality of the Burns and on the welfare of livestock.</p>	<p>The impacts of the proposed discharge have been assessed separately under Application TrC 81/20. See SoC for Discharge Consent Applications.</p> <p>The potential impact of the discharge has been taken account of in the assessment of the Abstraction applications. See Statement of Case for Abstraction applications.</p>
<p>Calls have been made for the implementation of robust mitigation measures, ongoing monitoring protocols and transparent communication to ensure continued health and resilience of waterways.</p>	<p>Any environmental authorisations granted for the mining activity will be subject to appropriate conditions which will include suitable monitoring arrangements, with contingency and action plans should problems arise. Any breaches of the relevant regulatory controls will be responded to in line with the DAERA Enforcement Policy.</p>
<p>Points have been made in regard to the deemed refused applications stating applications deemed refused in January 2021 however the Applicant continued operations for almost 3.5 years have been unlawful and a failure of government bodies failure to enforce.</p>	<p>The applications currently under consideration relate to the proposed mine. Exploratory works have been regulated separately.</p>
<p>Individuals have highlighted a concern about the Groundwater abstraction resulting in a cone of depression impacting the</p>	<p>The NIEA gives appropriate consideration to all representations and is also confident that the inquiry process will assist in consideration of</p>

stability of houses in the locality.	representations referred to the PAC.
A conflict of interest was flagged on the use of Golders Associates.	NIEA can confirm that Golders Associates was in fact contracted only by Dfl. This is a matter for Dfl.
Challenges have been identified on the applicants proposed water requirements stating that the current usage equates to 10% of stand industry practices.	Matters for the Applicant to confirm.
Individuals have challenged the documents provided with the applications highlighting a number of areas requiring clarification citing the reports are too vague in their description of how water is managed on site.	Matters for the Applicant to confirm.
Questions in relation to water rights and access rights.	Any applicant applying for authorisation in accordance with Regulation 8. should have established "water rights" and "access rights" either through ownership or by agreement with any relevant third party.
Individuals have challenged the level of evidence provided to demonstrate that there will not be an increase in flood risk, out of bank flows, bank erosion and deterioration of ecological habitats.	<p>NIEA have carried out assessments, SEE AIL 26 The NIEA Methodology for Assessing Flows. This methodology has been applied by NIEA to assess the potential impact of the proposed abstraction and its return on the flow regime in the natural environment.</p> <p>Specific requirements are in place to protect and enhance the designated sites and local biodiversity. The Department has carried out initial assessments of the proposals and found that there is a risk of likely significant effect. Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences. Any further information provided by the applicant or from other sources will be considered in any subsequent assessment.</p>
Individuals have challenged the applicant's assessment of the ecological value of the water courses impacted by the proposal. Representations have highlighted that the Applicant has no regard for the protect species FWPM	NIEA have specific requirements are in place to protect and enhance the designated sites and local biodiversity. The Department has carried out initial assessments of the proposals and found that there is a risk of likely significant effect. Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction

	<p>licences. Any further information provided by the applicant or from other sources will be considered in any subsequent assessment.</p> <p>See the NIEA Statement of Cases for both the Discharge Consent and the Abstraction applications. In conjunction with the NIEA responses to support the Dfl planning Statements.</p>
<p>Significant concerns have been raised in regard to the Black Bog RAMSAR site specifically. Individuals have alleged that the Department have not fulfilled their legal responsibilities in the management of the RAMSAR/ reporting to the Secretariate of RAMSAR.</p> <p>References have also highlighted concern in relation to the potential of Air Bourne Pollutants potential to affect the Black Bog.</p>	<p>Black Bog SAC is located outside of the predicted zone of influence of the proposed groundwater abstraction for the Dalradian Gold Mine. For this reason, Black Bog is not considered at risk as a result of the proposed groundwater abstraction. The Black Bog is upstream of the proposed surface water discharges and abstraction, it was therefore screened out of our assessment of designated sites. Please refer to the NIEA Statement of Case for Abstraction section 7 and the NIEA test of likely significance for both mine water and surface water proposals: AIL 21 and AIL 22.</p> <p>NIEA have received confirmation that it was not necessary to inform the Ramsar secretariat at this stage of the process.</p> <p>Environmental Statement 2017: Volume 2. Chapter 8. Environmental and Social Impact Assessment, Section 8.6 Air Quality and Dust, states that dust deposition from construction and operation is not likely to extend for more than 200m from the source, with most of the large particle fraction (&gt;30 microns) deposited within 100m. In addition, dust suppression measures will be implemented. It is not expected that the concentrations of trace metals in the deposited dust will be significant. Impacts from dust deposition at Black Bog are therefore unlikely.</p>
<p>Individuals have highlighted that the applications submitted do not address the cumulative impact of all the relevant aspects of the planning application and as a result do not take account of the in-combination impacts on the sensitive areas.</p>	<p>NIEA have carried out the test of likely significance and have found that likely significant effect cannot be ruled out both alone and in combination for the abstraction proposals.</p> <p>The NIEA gives appropriate consideration to all representations and is also confident that the inquiry process will assist in consideration of representations referred to the PAC. The</p>

	Department will make its final determination in accordance with the applicable law.
Calls have been made for an independent review of the documents submitted by the applicant.	NIEA take an impartial and objective approach to determining any applications, considering the evidence presented, the science available and the relevant regulatory and policy context. These details will also be subject to the scrutiny of the PAC during the Public local inquiry.
Individuals have referenced a number of Environmental Information Requests handled by NIEA and the subsequent withholding of information. Citing the Aarhus Convention.	The Department have sought to provide all the relevant information to the Inquiry and in response to requests under EIR, which gives effect in domestic law to the information pillar of the Aarhus Convention. Where information has been withheld, the Department will have relied on the appropriate exemptions provided for in the Environmental Information Regulations.
Representation have raised a number of procedural matters relating to the public local inquiry. Calling for a judge led Public Inquiry.  Statements have been made in relation to the PAC becoming the Decision Maker.	Wider issues on the statutory powers of the PAC are not for NIEA.
Calls for a new planning application and references to the use of Cyanide in the process.	Not Matters for NIEA
References have been made to the Landmark Chambers Report in relation to the proposed discharges and the importance of this report to the Abstraction Applications.	Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences.  The impacts of the proposed discharge have been assessed separately under Application TrC 81/20. See SoC for Discharge Consent Applications.  The potential impact of the discharge has been taken account of in the assessment of the Abstraction applications. See Statement of Case for Abstraction applications.
Representations have repeatedly called for the precautionary principle to be applied. Case Law has been cited throughout a number of representations.	NIEA will apply the law as it applies to Northern Ireland, including environmental principles.

<p>Reference has been made to Article 24 of the Nature Conservation and Amenity Lands (NI Order), citing a number of activities. The Representative has requested confirmation of how NIEA have taken account of this legislative requirement.</p>	<p>NIEA will apply the law- as it applies to Northern Ireland, including on designated sites.</p>
<p>Reference has been made on the designation of the Owenreagh ASSI</p>	<p>The specific stretch of the Owenreagh River that was selected for Area of Special Scientific Interest (ASSI) designation was based on the single qualifying feature: the Freshwater Pearl Mussel population. The ASSI also includes the river channel which contains the known population of Freshwater Pearl Mussel at the time of designation, high-quality river habitat supporting the species, and areas suitable for spawning Atlantic salmon and Brown trout are also known to occur. The river from Cashel Bridge downstream to the confluence with the Owenkillew was excluded from the designation as it did not contain any extant Freshwater Pearl Mussels and was considered to be significantly more modified than the area designated.</p> <p>See the NIEA Abstraction SoC and the NIEA Discharge SoC. NIEA have identified a functional link with the selected features of the Owenkilliew, as a result the appropriate standards for the protection of selected features have been applied to the abstraction and discharge proposals.</p>
<p>Individuals have questioned the regulatory oversight and have cited the requirement under the Water Order 1999 to have in place a Northern Ireland Water Council.</p>	<p>Provisions on the Northern Ireland Water Council in the Water (Northern Ireland) Order 1999 were repealed by the Water and Sewerage Services (Northern Ireland) Order 2006.</p>

<p>Representation highlights that this proposal has the potential to fall within the emerging UN definition of "ecocide". While this does not have the force of law yet in this jurisdiction, any decision would likely be able to be retroactively prosecuted should this change in the future.</p>	<p>NIEA will apply the law- as it applies to Northern Ireland.</p>
<p>Misleading Cross-Sectional Data: Similar to the hydropower case, the Curraghinalt project's reliance on east-west cross-sectional data inadequately represents the true north-south elevation gradient and hydrological dynamics of the site. This misrepresentation leads to flawed conclusions about water flow, storage capacity, and potential flood risks</p>	<p>This is an issue which the PAC may choose to consider as part of its consideration of representations.</p>
<p>Underestimation of Flood Risks: References have been made to a previous PAC decision which underscored that inadequate hydrological assessments could lead to significant underestimation of flood risks, especially during extreme weather events. The Curraghinalt project's assessments similarly fail to account for worst-case scenarios, particularly considering the area's complex topography and climatic variability.</p>	<p>SEE AIL 26 The NIEA Methodology for Assessing Flows. This methodology has been applied by NIEA to assess the potential impact of the proposed abstraction and its return on the flow regime in the natural environment.</p> <p>Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences. Any further information provided by the applicant or from other sources will be considered in any subsequent assessment.</p>
<p>Individuals highlighted concerns in deficiencies in contingency planning and water treatment infrastructures, in particular highlighting an over reliance on single treatment systems, inadequate capacity for extreme events. This also includes the lack of contingency citing no emergency response plans, insufficient monitoring and maintenance provisions.</p>	<p>Any environmental authorisations granted for the mining activity will be subject to suitable conditions which will include suitable monitoring arrangements, with contingency and action plans should problems arise. Any breaches of the relevant regulatory controls will be responded to in line with the DAERA Enforcement Policy.</p>
<p>Reference has been made to the previous abstractions points throughout and beyond the area that is subject of these applications.</p>	<p>The Applicant held temporary surface water abstraction temporary authorisations, allowing the abstraction of small quantities of water at a range of locations to support the exploration activities. The last temporary authorisation ended in September 2022.</p>

<p>Reference has been made to a recent legal challenge in relation to mineral exploration licences. This representation also cites research carried out on the extent of unrecorded extractive operations. The research has uncovered significant unrecorded extractive operations currently operational in the Sperrins Area. Specifically, highlights there is a significant gap in the baseline knowledge to the extent of the extractive operations and the potential unassessed environmental damage.</p>	<p>This would be a matter for discussion at the Public Local Inquiry on which DFI would be the lead NI department</p>
<p>Representations have challenged the applicant's assessment of the impacts of the abstractions and attention is drawn to the impacts of over abstraction.</p>	<p>Based on the information currently available, the NIEA consider that it would not be possible to grant the abstraction licences. Any further information provided by the applicant or from other sources will be considered in any subsequent assessment.</p>
<p>Attention is drawn to Regulation 10(3) in the granting of licences with conditions and requests for draft conditions for consideration at the inquiry.</p>	<p>Whilst further information may be provided, on the information currently available, the NIEA does not consider that it can lawfully or should on the merits grant the abstraction licences. However, under instruction by the Appeals Commission the Department has provided draft conditions on a without prejudice basis.</p>

**Annex 6 : DAERA Enforcement Policy**

**Department of Agriculture,  
Environment and Rural Affairs (DAERA)  
Enforcement Policy**

*Sustainability at the heart of a living, working, active landscape valued by everyone.*



Department of  
**Agriculture, Environment  
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**INVESTORS  
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# DAERA Enforcement Policy

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# DAERA Enforcement Policy

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# DAERA Enforcement Policy

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## 1.0 Introduction

- i. The Department of Agriculture, Environment and Rural Affairs (DAERA) has responsibility for food, farming, environment, fisheries, forestry, sustainability policy and the development of the rural sector in Northern Ireland. The Department is structured into five groups, including one Executive Agency (Northern Ireland Environment Agency) and one Public Corporation (Forest Service).
- ii. DAERA seeks to ensure continued food supply and security, champions the health and welfare of animals, and regulates activities in relation to protecting public health and the environment.
  - It is illegal to carry out a range of activities without registering compliance, making a notification, or being granted the appropriate licence, authorisation, permit, consent, or exemption.
  - It is also an offence to fail to comply with the relevant legislation, including any conditions set out in authorisations, permits, consent or licences.
- iii. The relevant statutory provisions under which we work can be found at: <https://www.daera-ni.gov.uk> and also at <https://www.netregs.org.uk>
- iv. Effective enforcement is a key component in securing compliance with the legislation, delivering government objectives and ultimately enhancing economic prosperity, the health and welfare of animals, public health and environmental quality.
- v. This policy aims to ensure that staff, those we regulate, and other stakeholders are aware of the general intent and principles underpinning our approach to enforcement. Significant work also goes into linked areas of prevention, education and compliance.
- vi. We wish to set and publish clear standards and the criteria on which we base our actions. Our policies and processes should be clearly explained and understood by all stakeholders.
- vii. This document outlines the principles and framework that we will follow to deliver consistent and proportionate enforcement and promote confidence in our enforcement process.

# DAERA Enforcement Policy

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## 2.0 Objectives of DAERA Enforcement

- i. The objective of DAERA enforcement can be described in general terms as the prevention or reduction of harm, caused by non-compliance with statutory requirements.
- ii. Statutory regulations are laws which are intended to deliver the policy outcomes that prevent harm, and indeed provide benefits, to the agri-food and fishing industries, animals, rural communities, natural resources, our environment, the economy and wider society. **It is ultimately the responsibility of individuals and businesses to be aware of and comply with the law.** The Department expects full voluntary compliance but where compliance is not forthcoming, enforcement activities and resource will be directed at those non-compliances which are most harmful.
- iii. DAERA believes that in most cases, working with those it regulates, in a positive and practical manner will achieve compliance with the legislation and successful delivery of policies. However, where there are breaches of the legislation that may cause harm or deny benefits, then the presumption will be to take enforcement action appropriate to the level of harm or risk.
- iv. The significance and impact of breaches will vary considerably. When deciding the appropriate response, priority will be given to those breaches where the greatest harm is likely to be caused. Assessment of priority and conduct of actions will be guided by our key principles of enforcement below.
- v. In addition to taking enforcement action, as part of our wider objectives we will also consider:
  - Preventative action to protect public health, animal health and the environment;
  - Remedial action to repair any damage;
  - How ongoing compliance can be secured;
  - Deterrence to prevent further breaches of the law;
  - The status of any existing licence, authorisation or exemption;
  - How financial benefit gained from illegal activity can be removed; and
  - Where possible, we will seek to recover appropriate costs and ensure that the offender pays.

## DAERA Enforcement Policy

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### 3.0 Principles of DAERA

- i. All enforcement action carried out by the DAERA will be firm, fair and reasonable. Our overall approach to enforcement is underpinned by the **eight principles of better regulation**:
  1. Proportionality
  2. Accountability
  3. Consistency
  4. Transparency
  5. Targeted
  6. Collaboration
  7. Support
  8. Regards for Economic Growth

#### 1. Proportionality

The sanction of prosecution is available for all criminal offences by law; some legislation attracts civil sanctions/recompense; however, we will seek to use enforcement action that is proportionate to the significance of the offence. This includes the level of harm, the type of offending, the impact on communities, the level of financial benefit arising from the offence(s)/breach(es), or the regulatory costs avoided by failure to make the necessary notification, registration or authorisation. For minor offences, our key objective will be to seek a return to compliance. For more serious offences, we may submit a report to the Public Prosecution Service for Northern Ireland for consideration of prosecution or conduct prosecutions through solicitors.

#### 2. Accountability

As a Government Department, DAERA is accountable to the public through the arrangements of the Legislative Assembly for Northern Ireland.

All enforcement decisions will be made with an appropriate level of oversight within the Department. All decisions to take enforcement action will be recorded and retained. Legislative arrangements are in place to allow appeals against enforcement action. DAERA's work is also subject to scrutiny by the Northern Ireland Audit Office, the Public Accounts Committee of the Northern Ireland Assembly, the Criminal Justice Inspectorate and the Agriculture, Environment and Rural Affairs Committee of the Legislative Assembly.

## DAERA Enforcement Policy

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Many of DAERA's policies concern the implementation of EU legislation which still apply in NI, even though the UK has left the EU. DAERA remains accountable to the EU and is subject to inspection and audits. We also provide assurances and annual reports to the EU.

### 3. Consistency

We will aim to take a consistent approach to our decision-making with respect to enforcement. However, consistency is not a simple matter of uniformity so, while we will consider how similar situations were handled previously, we will always consider the individual circumstances of each case.

### 4. Transparency

We want to help those we regulate to understand what we expect of them and what they should expect from us. It also means making clear why we have taken, or intend to take, enforcement action. Where we have appropriate discretion in the legislation being enforced, and where the assessment of the risk of harm permits, we will:

- Provide an opportunity to discuss what is required to comply with the law, sometimes before formal enforcement action is taken;
- Confirm in writing where remedial action is found to be necessary (in cases where urgent action is necessary, confirmation and explanation will be issued as soon as practicable after the event if required);
- Provide written confirmation of any rights of appeal against formal enforcement action at the time the action is taken.

These actions may not be appropriate if urgent action is required to avert or mitigate harm or there is a need to prevent evidence being destroyed, or in some cases where the potential harm is significant.

We will publish an annual report setting out a summary of all the enforcement action that has taken place during the previous year. We will also make this policy available on the DAERA website.

### 5. Targeted

We will direct our enforcement activity towards individuals or businesses that:

- Cause or risk serious damage to the DAERA's key objectives;
- Operate illegally outside the regulatory regime;
- Persistently and/or intentionally break the law;
- Commit an offence for the purpose of obtaining a specified payment, from a Government or an EU funded support scheme;
- Acquire significant financial advantage from their crime.

# DAERA Enforcement Policy

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## 6. Collaboration

- Policymakers and regulators should collaborate with key stakeholders to identify best solutions;
- Regulators should actively identify opportunities to lessen the burden on business through more effective joined up working;
- Recognising the value of good regulation, interested parties should work together to identify opportunities for reform.

## 7. Support

- Regulators should work to support legitimate businesses to achieve compliance;
- ‘Think business first’ when designing processes which businesses are required to adopt when ‘transacting’ with regulators;
- Policies should be designed to support regulators and enforcers in securing compliance to meet the policy objective.

## 8. Regard for Economic Growth

- Regulations should balance the need to meet necessary protections while supporting wider economic growth. This may mean taking enforcement action against a person/ business in order to support the wider industry and maintain public confidence;
- Regulators should consider economic impact of their respective enforcement and inspection policies.

Link for further information: [Better Regulation An Action Plan for Reform - March 2016.pdf \(archive-it.org\)](#) pages 11 & 12 for Principles.

## ii. Compliant with Key Legislation

In accordance with the European Convention on Human Rights, DAERA will endeavour to ensure policies and procedures reflect and recognise human rights. In particular, DAERA enforcement activities will comply with the key legislation governing the rights of individuals. This includes:

- Human Rights Act 1998;
- Police and Criminal Evidence (Northern Ireland) Order 1989 and its Codes of Practice;
- Criminal Procedure and Investigation Act 1996;
- Regulation of Investigatory Powers Act 2000;
- Additional Safeguards.

## DAERA Enforcement Policy

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### 4.0 Compliance, Enforcement & Prosecution

- i. In the case of those we regulate who fail to comply; advice and guidance will often be our first route to securing compliance. It is important that those we regulate are fully aware of legal requirements and the relevance to their activities, as well as how to comply. We will work with stakeholder bodies to identify barriers to compliance and to provide clear, unambiguous guidance as necessary. We will also seek to educate stakeholders and the public to avoid breaches in the first place. However, this is dependent on both the severity and impact of the non-compliance.

For many policies, compliance will be assessed through inspection, testing and audits. We will devote more resources to those activities and locations presenting the greater risks of harm through non-compliance.

- ii. The choice of enforcement action taken is dependent on a range of factors and the circumstances of each case. The form, or forms, of enforcement action, which DAERA may use, will therefore differ depending on:
  - the particular nature of the non-compliance;
  - the harm caused or likely to be caused; and
  - the history of the responsible person, including any previous non-compliance or criminal conviction(s) and/or civil sanctions.
- iii. Where legislation or cross-compliance rules have been breached, and subject to the circumstances and severity of the breach, the Department has a range of actions for securing compliance including:
  - Compliance Assessment Reports;
  - Warning letters;
  - Enforcement Notices;
  - Suspension/revocation of licences/approvals;
  - Imposition of restrictions or conditions;
  - Fixed Penalty Notices;
  - Fixed Monetary Penalties or Discretionary Requirements;
  - Seizure of livestock or fish;
  - Euthanasia of animals;

## DAERA Enforcement Policy

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- Seizure of evidence, vehicles, boats, machinery, tools or equipment;
  - Financial penalties including reduction/withholding of Single Farm Payments or animal disease compensation payments;
  - Referral of case files to other enforcement agencies (for example the Police Service of Northern Ireland);
  - Adult Cautions;
  - Referral for prosecution;
  - Applying to the courts for additional orders e.g. disqualification from keeping animals.
- iv. This high-level enforcement policy does not give explicit guidance on the level of investigation expected of Departmental Officials. Each case is treated on its own merits and the level of investigation should be proportionate to that individual case and in line with this policy.
- v. Similarly this high-level enforcement policy does not give explicit directions on when actions should be undertaken nor what compliance/enforcement action to use. All of the actions listed in this document are open to investigators to use as and when it is deemed appropriate. Each individual case is and must be treated on its own merits. It is right that each action is open to be used when and where appropriate, without being limited by explicit directions in this guidance.
- vi. Prosecution is an important part of any statutory enforcement system - acting as both a deterrent and a punishment. As a regulator, DAERA is legally responsible for investigating breaches of legislation and preparing and submitting files to either the Public Prosecution Service (PPS) or to a solicitor.
- vii. If an investigation file is referred to the PPS, the decision to prosecute and to take a case to Court is made by the PPS. See the code for prosecutors for further info: [https://www.ppsni.gov.uk/files/ppsni/2023-05/Code%20for%20Prosecutors%20-%20May%202023\\_0.pdf](https://www.ppsni.gov.uk/files/ppsni/2023-05/Code%20for%20Prosecutors%20-%20May%202023_0.pdf). The PPS is a wholly independent body and its decision is based on an impartial and professional assessment of the available evidence and the public interest.
- viii. Two tests, the evidential test and the public interest test, must be satisfied before the PPS will prosecute. Thus, before recommending and submitting cases to the PPS, the investigating officers must be mindful that there is sufficient evidence and that it is in the public interest to take a case.
- ix. The evidential test is met if the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction. The DAERA investigating officers will consider if there is sufficient credible admissible evidence that could be proved beyond reasonable doubt, of the commission of a criminal offence by an identifiable individual.

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- x. The DAERA investigating officers will also consider public interest factors and may highlight these in the file to the PPS. Although the PPS Code for Prosecutors states that there is a presumption that the public interest requires prosecution where there has been a contravention of the criminal law, it is not the case that all offences for which there is sufficient evidence must be prosecuted.
- xi. Generic public interest factors supporting a recommendation for prosecution include:
- The seriousness or significance of breach or offence;
  - The harm caused or likely to be caused;
  - Where the harm has not been remedied;
  - Where the offence is prevalent;
  - Where the offence has resulted in financial loss to an individual, company or society;
  - Where the offence is premeditated;
  - Where the offence is against an authorised officer or other person serving the public;
  - Likelihood of continuance of offence or repeat offences;
  - Previous convictions/cautions;
  - Offences carried out by someone in a position of authority or trust;
  - Offences carried out by a group.
- xii. In addition to generic public interest factors there may also be policy specific factors supporting a recommendation for prosecution.
- xiii. Generic Public Interest factors against prosecution include:
- Where the court is likely to impose a very small or nominal penalty;
  - Where the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by an error of judgement or a genuine mistake;
  - Where the offence is not of a serious nature and is unlikely to be repeated;
  - Where the defendant is elderly or where the defendant is a child or a young person;
- xiv. It is recognised that prosecution is a serious matter and a decision to take this approach is not taken lightly. Under certain circumstances, DAERA may decide to recommend or pursue a prosecution without prior warning or prior use of other methods of enforcement. However, the decision to prosecute is taken only after careful consideration of all the circumstances. Prosecution is conducted either by Solicitors on our behalf or by the PPS.

## DAERA Enforcement Policy

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- xv. Further measures can be taken after prosecution, such as the confiscation of assets under the Proceeds of Crime Act 2002. Our aim will be to deprive those convicted of the profits of their criminal activities. Any financial investigation will be conducted with the aim of obtaining a Criminal Confiscation Order which, if unpaid, can result in a prison sentence. If the offender is imprisoned for non-payment, the Order remains in force until paid.
- xvi. Where an offence results from a Company's activities, it may be possible to enforce against individuals within the Company or against the Company itself (or both). In doing so, it is usual to consider any part played in the offence by the senior officers of the Company, including Directors, Managers and the Company Secretary.

## DAERA Enforcement Policy

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### 5.0 Authorised Officers/Inspectors

- i. Authorised Officers/Inspectors are DAERA staff who have been authorised under the specific legislation that DAERA is responsible for. Authorised Officers are given the statutory authority to exercise powers and discharge responsibilities for the relevant legislation.
- ii. When exercising their authority, Authorised Officers carry a photographic authorisation card, which they will produce upon request.
- iii. When breaches of DAERA legislation are prosecuted or civil sanctions imposed, DAERA Authorised Officers may be required to assist investigations by providing witness statements, attending court and giving evidence.
- iv. This high-level enforcement policy is not designed to document officers' individual roles and responsibilities across all of DAERA work streams. More detail on this may be found within relevant work streams/policies.

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### 6.0 Obstruction of DAERA Officers/Inspectors

- i. DAERA Officers/Inspectors are entitled to conduct their duties without fear, threat, interference or obstruction. In addition to its duty to implement and enforce the legislation, DAERA has a duty for the health and safety of its staff and will take appropriate measures to protect its staff.
- ii. Obstruction or interference with Officers/Inspectors may be a criminal offence under the legislation that the Officers/Inspectors are authorised.
- iii. In cases of obstruction, interference or threats DAERA may apply its “Unacceptable Customer Behaviour Policy” but DAERA may also take one or more of the following measures:
  - Seek PSNI assistance;
  - Seek a Warrant;
  - Submit a case file with an obstruction offence to the Public Prosecution Service for prosecution in Court.

# DAERA Enforcement Policy

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## 7.0 Communication Policy

### i. Press Releases

Following convictions in Court, the DAERA Press Office generally issues a press release on its website and to media organisations detailing the defendant, the offences and the penalties. The press releases provide transparency and the publicity of the penalties (custodial or financial) may act as a deterrent to others who may be tempted to offend.

### ii. Intelligence and Data Sharing

Individuals who commit crimes often do not limit their criminality to one area and may indeed exploit the different enforcement roles discharged by Government agencies. It is important that enforcement agencies co-operate in investigations and in sharing information. DAERA is committed to sharing intelligence and data with other key partners including DEFRA/APHA, local District Councils, the Police, HMRC, UK Border Agency (UKBA) and our counterparts in the Republic of Ireland. Information is shared through various methods including National Intelligence Model intelligence reports and data sharing agreements.

### iii. Under the Data Protection Act 1998, subject to certain conditions, personal data may be shared between authorities for the prevention and detection of crime and the apprehension and prosecution of offenders.

### iv. Under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, information held by DAERA for the purposes of a criminal investigation may be exempt from the general obligation to release or disclose information held. Each request is considered on its merits by DAERA in line with the above legislation and the General Data Protection Regulations.

### v. Third Party Communications and Engagement

In conducting criminal investigations, DAERA investigators will communicate directly with the defendants and their legal representatives. After cases have been submitted to the PPS, the PPS will be responsible for such communications.

However, third parties including public or industry representatives, the media, lobby groups, government officials and the general public often have an interest in cases under investigation. Sometimes they are acting on behalf of an individual under investigation or being prosecuted in Court. On other occasions, interested third parties may be pressing for DAERA or the PPS to take prosecution cases to Court.

At common law, it is an offence to pervert or obstruct the course of justice. Any attempted interference with, or obstruction of, the course of justice is a serious matter. Accordingly, DAERA will not tolerate interference by third parties, which could prejudice

## DAERA Enforcement Policy

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the prosecution decision-making process. Such interference may be reported to the PSNI.

vi. Feedback

If there is dissatisfaction with the level of service we provide, we welcome comment and constructive opinion about ways we can improve it. Comments on our regulatory activity can be made through an online feedback facility to the Department of Economy website [Better Regulation feedback \(economy-ni.gov.uk\)](https://www.economy-ni.gov.uk/better-regulation-feedback) This is part of the NICS's commitment to deliver Better Regulation.

vii. Details of our complaints procedures can be found at: [How do I make a complaint if I am unhappy with the quality of service I received? | Department of Agriculture, Environment and Rural Affairs \(daera-ni.gov.uk\)](https://www.daera-ni.gov.uk/how-do-i-make-a-complaint-if-i-am-unhappy-with-the-quality-of-service-i-received/).

viii. This policy will be reviewed every five years unless an earlier review is needed.

ix. Ownership of this policy rests with the Chairs of the EMFG Enforcement Liaison Group (to be reviewed) and the head of VSAHG's Welfare and Enforcement Branch.

All enquiries to:

Department of Agriculture, Environment and Rural  
Affairs  
Jubilee House  
111 Ballykelly Road  
Ballykelly  
Limavady  
BT49 9HP

Email: [WEB.Admin@daera-ni.gov.uk](mailto:WEB.Admin@daera-ni.gov.uk)  
[www.daera-ni.gov.uk](http://www.daera-ni.gov.uk)



Department of  
**Agriculture, Environment  
and Rural Affairs**

[www.daera-ni.gov.uk](http://www.daera-ni.gov.uk)



**INVESTORS  
IN PEOPLE**

**Annex 7: 18<sup>th</sup> November 2021 and 20<sup>th</sup> December 2021 Regulation 18 Notices issued in respect of applications AIL 2020/0105 and AIL 2020/0106**

TC80/20  
AIL/2020/0105  
AIL/2020/0106



18<sup>th</sup> November 2021



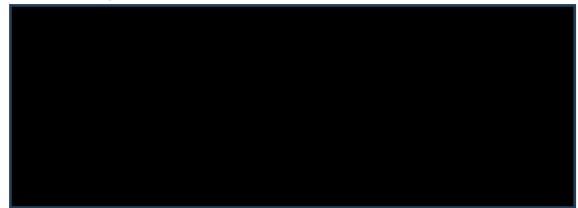
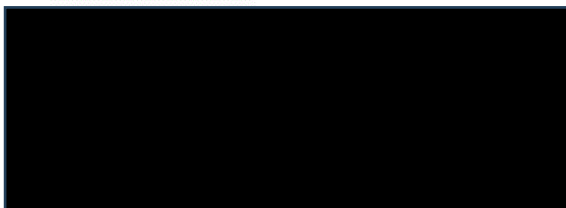
**Further Information Request under the Water Order (NI) 1999 and the Abstraction and Impoundment (Licensing) NI Regulations 2006 (as amended).**

Please find attached a request for additional information in regards to the following applications:

TC81/20: Trade Discharge Consent Application  
AIL/2020/0105: Surface Water Abstraction Licence Application  
AIL/2020/0106: Groundwater Abstraction Licence Application

Please be advised that we are at the final stages of the Habitats Assessment for the above proposal and the associated applications listed above. Once complete NIEA will share the findings with you. We may also request further information or clarification is required.

Yours sincerely,



*Sustainability at the heart of a living, working, active landscape valued by everyone.*



## **FURTHER INFORMATION REQUIRED:**

### **A: IN RESPECT OF APPLICATION NUMBER: AIL/2020/0105 and AIL/2020/0106**

1. Please provide a Water Balance Test.

The Water Balance Classification Test determines the available groundwater resource that can be abstracted for the groundwater body. Due to the volume of the proposed abstraction feasibility should be considered against the available groundwater resource within the groundwater body. NIEA therefore seek further supporting information to verify whether the proposed abstraction will impact the status of the groundwater body based on the water balance test.

Further information in regarding this analysis is available at:

<https://www.daera-ni.gov.uk/sites/default/files/publications/doe/groundwater-classification-methodology-water-balance-2015.pdf>.

2. Confirm the volumes to be abstracted at all proposed abstraction points.

### **B: IN RESPECT OF APPLICATION NO: TC 81/20**

1. Please confirm proposed maximum daily discharge volume of trade effluent.

Application form (WO1) and relevant annex (2) states a maximum daily discharge volume of 7,212m<sup>3</sup>/day, of which 12m<sup>3</sup>/day is to consist of sewage effluent.

Additional supporting information provided for this application for Consent to Discharge indicates a discharge volume of 28l/s used to complete Mass Balance Modelling. This figure equates to 2,419.2m<sup>3</sup>/day.

AIL/2020/0105  
AIL/2020/0106



20<sup>th</sup> December 2021



**Further Information Request under the Water Order (NI) 1999 and the Abstraction and Impoundment (Licensing) NI Regulations 2006 (as amended).**

Thank you for the submission of information on Saturday 18<sup>th</sup> December.

NIEA will assess the information provided on the Groundwater Balance. However, your response did not provide the detail requested in relation to the proposed volumes to be abstracted.

NIEA consulted with DfC Historic Monuments Division on the proposed abstractions, please see attached DfC consultation response. DfC require additional information.

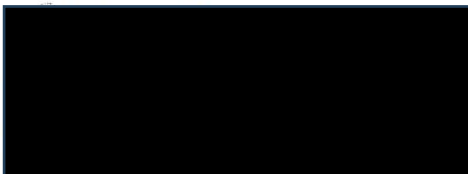
As a result, please find attached a request for additional information in regards to the following applications:

- AIL/2020/0105: Surface Water Abstraction Licence Application
- AIL/2020/0106: Groundwater Abstraction Licence Application

As we continue to technically assess the applications, we may also request further information or clarification if required.

Please reply by email to: [AIL@daera-ni.gov.uk](mailto:AIL@daera-ni.gov.uk) by Friday 28<sup>th</sup> January 2022

Yours sincerely



*Sustainability at the heart of a living, working, active landscape valued by everyone.*



**FURTHER INFORMATION REQUIRED:**

**A: IN RESPECT OF APPLICATION NUMBERS: AIL/2020/0105 and AIL/2020/0106**

1. Please confirm the actual volumes proposed for abstraction for both applications AIL/2020/0105 and AIL/2020/0106. Please provide a detailed schematic drawing of the full proposal setting out clearly the volumes for abstraction, storage volumes and finally discharge. NIEA recognise that these details may have been submitted previously however a range of figures have been provided, as such the information provided in response to this information request will be considered the final volumes proposed for abstraction.
2. Please provide an archaeological impact assessment for the proposed development that should consist of a full peatland survey carried out by an appropriately qualified and experienced wetland archaeologist(s).

## **Annex 8: Issues/ Questions for consideration.**

In the light of all the material the NIEA asks the PAC, in your role of facilitating the consideration of representations, to assist NIEA and consider the following (non-exhaustive) issues. Similar issues also fall to be considered in respect of the SSSI.

- a. What are the applicable standards under the relevant statutory schemes for assessing impact on river flow conditions?
- b. Have these been properly applied in the evidence?
- c. Is there a functional link between the unnamed stream/ Pollanroe Burn/Curraghinalt Burn/ Attagh Burn/Glenealy Burn and the SAC in respect of FWPM and/or Atlantic Salmon which would be impacted by the changes in flow regime in these Burns.
- d. If so. what is the significance of the change in the flow regime in the PB to the functional link with the SAC in respect of the FWPM and/or Atlantic Salmon
- e. What is the significance of the change in the flow regime in the Curraghinalt Burn/ Attagh Burn/Glenealy Burn to the FL with the SAC in respect of the FWPM and/or Atlantic Salmon
- f. Can the constraints to permission set out in the NIEA's SOC and this rebuttal statement be overcome by changes to the proposed abstractions or mitigation
- g. In light of the SAC requirements and the appropriate standards what is the maximum allowable abstraction for both surface water and mine water.
- h. In order to complete the Regulation 10 (2) (a) assessment are the representations relating to the impact on private water supplies and other users relevant and if so, how do those matters affect the analysis and the merits of the grant of a licence.
- i. Is the information provided regarding the impact on sub-surface archaeological deposits sufficient?
- j. Is the information provided regarding post closure and restoration arrangements sufficient for adequate assessment
- k. What Climate change considerations need to be taken into account in respect of the abstractions