

Minutes of Lower Neagh Bann Catchment Stakeholder Group Meeting 25 May 2011

The meeting was held at Ballymoney Town Hall, on Wednesday 25 May 2011 at 7.00pm.

Those present:

Mark Livingstone (Chairman) – NIEA, Water Management Unit
Conor Symington, NIEA, Water Management Unit
Gerry Wilson, NIEA, Water Management Unit
Alison McCaw, NIEA, Water Management Unit
Seamus Connor, DCAL
Garry O'Neill, DCAL
Tom Simpson, Maine Angling Club
Des Nevin, NIW
Alex McQuillan, NIW
Angela Halpenny, NIW
Gareth Greer, Rivers Agency
Samuel J Hanna, Ballymena Borough Council
James Simpson, CNCC
Maurice Parkinson, Antrim & District Angling Association & Six Mile Water Trust
Kathy McLean, Six Mile Water Trust
Richard Rowe, Clady & District Anglers
John McCombe, Moyola Angling Association
Robert Houston, Moyola Angling Association
Jim Haughey, Ulster Angling Federation
Norman Henderson, NIEA, Water Management Unit

Apologies were received from

Alan Morrow, DARD, Countryside Management Branch
Mark Henderson, Coleraine Angling Club
Seamus Burns, RSPB
Kieran Tully, Agivey Anglers
Alan Lawther, Antrim Borough Council
Andrew Hitchenor, Road Service
Stephen Foster, NIEA
Michael Martin, Six Mile Water Trust

AGENDA ITEMS

1. Welcome and Introductions

Mark Livingstone thanked everyone for attending the meeting and gave a brief outline of how the meeting would proceed. The minutes of the previous meeting were agreed to be an accurate record. Mark then asked Gerry Wilson to outline the actions from the previous meeting.

2. Actions from previous meeting – Gerry Wilson

A hand out was provided with the actions outlined and Gerry briefly ran through the outcomes. (See Appendix 1)

Action1: Some points from the previous meeting had been wrongly attributed to Garry Gregg instead of Tom Simpson. The information on Car Washes and Sand Extraction from Lough Neagh to be sent to Tom Simpson.

3. Catchment Case study by Seamus Connor, DCAL.

There are 4 areas that cover Northern Ireland. The Northern Area has a Senior Fisheries Officer, 3 Fisheries Protection Officers and is based in Bushmills. The South East has a Senior Fisheries Officer, 2 Fisheries Protection Officers and is based in Castlewellan. The South West has a Senior Fisheries Officer, 3 Fisheries Protection Officers and is based in Enniskillen. Lough Neagh has a Senior Fisheries Officer, 3 Fisheries Protection Officers and is based in Belfast.

Seamus outlined a number of areas that Inland Fisheries regulate and gave details of numbers of checks carried out of Fish Dealers, Restaurants, Hotels etc. The number of nets seized (66) and the length of nets seized (25 km) were noted. The bulk of these were in the Lough Neagh Area.

Seamus finished by reminding us that illegal fishing activity can be reported using the same number as the Water Pollution Hotline 0800 807060.

After the presentation the following questions were asked.

Q. When visiting hotels etc how do you know if the fish being used have been caught legally?

A. Legally bought fish will have a bill of sale from a recognized licensed dealer. The onus of proof to demonstrate compliance with the law lies with the premises owner.

Q. How often would somewhere like St George's Market be visited?

A. Usually visited at least once per quarter.

Q. Antrim & District Angling Club expressed concern about illegal fishing activity on the Lough.

A. DCAL are in the process of developing a Management Plan for the Lough. This will be informed by the Fish Survey which is due to commence shortly. There are now 3 FPO's were there used to be 2 in the Lough Neagh area. It was suggested

that the Angling Clubs should keep in contact with their local Fisheries Officer eg to suggest times that might be appropriate to check licenses at times of increased fishing activity.

Q. Do DCAL issue licences for Lough Neagh? Have the numbers increased in recent years?

A. The figures for the period 2004 – 2009 are around 15- 20 licences issued. This is less than for previous years.

Q. Indications from some rivers suggest there are less fish returning from the Lough. Is this an indication that too many fish are being caught (legally or otherwise)?

A. Lower numbers of fish returning to rivers do not necessarily mean that more fish are being caught. An example was quoted of a hatchery in Ballycastle that even with increased stocking there are less fish around. It may be a number of factors including predation at sea.

Q. A question was asked about foreign nationals who keep everything they catch. Is it harder to take them to court eg if they leave the country?

A. Eastern Europeans are taken to court if they are caught. Also people from East and west of the Bann. Caution cards are available in several different languages so offenders not speaking English should not be a big problem.

Q. Question was asked about water extraction for turbines on Clady River.

A. This was answered by Mark Livingstone. Mark outlined that NIEA has a rigorous Licensing regime in place. He undertook to look into the particular case cited.

Action 2: Mark Livingstone to check details of the water turbine on the Clady River.

Q. The figures show that 25 km of nets were seized. Is there a trend either up or down?

A. Seamus indicated that he couldn't comment on what the figures were before DCAL took on the responsibility. The information being gathered now is digitized to allow for better analysis.

Q. Has the tagging of salmon helped DCAL operationally?

A. The return rate of log books is currently around 15%. DCAL are looking to increase this and carry out more checks of log books.

Q. Concern was expressed that in a few years time there won't be any Dollaghan left. There are reports of large numbers of fish being dumped around the Ballinderry/Moyola area. Any comments on this?

A. Can't confirm fish being dumped but if this is true it is likely to be because the market is not there for illegal fish. This shows that DCAL policy is having an effect. If illegally caught fish can't be sold then people will stop taking them.

Q. How can fishing clubs help?

A. Report illegal activity. This can be done on the same number that pollution incidents are reported on, 0800 807060. DCAL uses this service as well

4. Operational Actions - Conor Symington, NIEA Regional Manager.

Conor Symington gave a presentation to the group on the range of work carried out by staff in the area, in relation to pollution incidents, prevention and progress made. During the period November 2010 to May 2011 there were 150 incidents reported to the Water Pollution Hotline. Of these, 89 were able to be substantiated and no pollution could be found at the remaining 61 sites. 75 incidents were classed as low severity, 12 were Medium Severity and there were 2 High Severity incidents. (Medium Severity incidents or worse are cost recoverable). For the medium severity incidents, 2 were sewage related, 7 were farm related, 2 were oil related and 1 was classified as other. Statutory samples were taken in 6 cases. A breakdown was also provided for the category of low severity incidents and there were 5 Chemical, 11 Agricultural, 35 Sewage, 18 Oil, 2 Non Agricultural Waste Disposal and 4 Others.

After the presentation the following questions were asked.

Q. How does the Sampling Officer decide if a statutory Sample needs to be taken?
A. Statutory Samples are taken at all High and Medium severity incidents. Once the incident has been assessed it is a matter of following NIEA procedures.

Q. Where farm incidents are cited, they seem to be mostly medium or high severity. Is this the result of leaks from storage facilities or from the effects of spreading?
A. it is usually escape from a storage facility probably due to poor maintenance

Q. You have mentioned farmers being breached for Cross Compliance. This seems to be a big deal with farmers. Why is this so?
A. A breach under the Cross Compliance assessments will result in the farmer losing a proportion of the Single Farm Payment. For a large farm this can cost them more than a fine for polluting the waterway.

Q. The UAF have had many calls about Membrane sewage Treatment Plants which do not appear to work very well. Can you give an indication if this is true?
A. There are 2 different types of membrane Treatment Plant. There are 15 Flat Plate type and 2 of the curtain type. Some of the plants are causing severe problems. The short term plan to deal with the problems involves removing the membranes and manually cleaning them. There would also be a clean up of the waterway. In the longer term NIW and NIEA have been meeting to try to resolve the more serious issues. This includes prioritizing which plants need upgraded first and identifying the budget to address these.

Q. The Ballyclare works was mentioned specifically and the question asked was "what is the timescale to sort out the problem?".
A. Ballyclare is not regarded by NIW as being the highest priority. It is currently designed to treat a PE of 24 000 and receives around 17 000 PE at present. If this works received more loading it would function better. There is a limited pot of money and it is not included in the next round of upgrades. Best estimate would be 3-5 years.

The point was made on behalf of Antrim and District Anglers that Ballyclare people were very concerned about the effluent coming from the Ballyclare Works and asked to have this specifically highlighted in the minutes.

Q. How much of the problems are caused by inappropriate material blocking the system.

A. Probably quite a lot. If people only flushed toilet paper along with the usual human waste then the blockage problem would be greatly reduced.

5. Local Management Area Action Plan - Lough Neagh LMA – Gerry Wilson, NIEA.

Gerry gave a brief overview of the process to date and highlighted some of the actions that have been happening within the LMA. It was stressed that the Action Plan is a working document and can be amended. It will be subject to review periodically. The problems that have been identified are related to sewage and agriculture with high organic loading and nutrient enrichment a common theme for most waterbodies.

Initial findings from AFBI monitoring suggest that the trend for phosphorus levels in the Lough for the past few years have been downward.

The new Signage project to promote the Pollution Hotline Number has been launched and sites to place the signs are being identified. Suggestions are welcomed for potential sites.

The Community Award scheme was also highlighted and the award ceremony for the winners is taking place on 26 May 2011.

Other items discussed included the Angler's Monitoring Initiative, InterReg projects on Alien Species and a Lake Modeling Tool and some work being done by the DARD Countryside Management Branch.

The plan for the Lower Bann LMA was discussed and already some work has been carried out here. Biological surveys have been carried out on the Drumawhiskey River and Lonagher Burn and these will be followed up with river walks. The Salmon in the Classroom Project funded by NIEA this year also took place in the Lower Bann LMA.

In the post presentation discussion the following topics were highlighted.

A representative from the UAF stated that they had been objecting to many aspects of the Action Plans at other CSG meetings and wanted again to make the point that they felt that NIEA had a lack of ambition in the targets that have been set. The WFD has an aim to have waterbodies at good status by 2015 but for NIEA the current target seems to be around 70% to be good status by 2015. It was felt that this, even if achieved, was not good enough. While pleased to see the good things that have been done and are in process of being done it is not enough.

It was also felt that more detail could have been given were, for example, a waterbody was failing due to only one element. The example quoted was from the Owenkillaw

where the waterbody was failing because of Copper but all other elements were good. It was felt that a better description of this could have been included in the Plan.

In response it was highlighted that NIEA plans were more ambitious than those for EA. Following criticism of the EA that their plan was too generic they are now adopting an approach very similar to the one that NIEA have used of having local plans with local measures. NIEA could be said to be leading the way and are ahead of other agencies in their implementation of WFD. WFD does allow for extended deadlines and some areas will require extra time eg nutrient levels in Lough Neagh.

Q. There is an interest in having the area at the bottom of the Six Mile Water designated as a Bathing Water. When will this happen?

A. This had been raised as an issue with DOE who are responsible for designating Bathing Waters. There is currently a review being carried out and Local Councils were approached in 2009 and asked to nominate candidate areas for inclusion in the designated Bathing Waters. The area at the outlet of the Six Mile Water where it flows into Lough Neagh was not nominated and is therefore not included in the current list of candidate Bathing Waters.

Q. How does it become a Bathing Water? Does it need low levels of bacteria?

A. Designation depends upon usage as a Bathing Area and is based upon numbers of people in the water bathing. Other water sports are not counted and cannot be taken account of when designations are made. Surveillance of numbers is carried out prior to designation and only after designation is Biological testing carried out.

6. Conclusion

Mark Livingstone concluded the meeting by thanking everyone for their attendance and stated copies of the minutes and action points would be circulated. The meeting concluded and the date of the next meeting has been set for Wednesday 16 November 2011.

Appendix 1:

Action Point 1: NIEA will develop an action plan to outline what members of the public can do to assist NIEA.

Practical assistance anglers and bailiffs can provide:

Although direct statutory sampling is not an option, there is a lot of practical help which anglers and bailiffs can provide to NIEA to help with pollution enforcement. The main examples are as follows:

1. **All** suspected pollution incidents, especially serious pollution, should be reported **promptly** through our Pollution Hotline (0800 807060) as, the quicker NIEA staff are on site at a serious pollution incident, the greater the likelihood of us being able to find the polluter and gather good evidence.
2. Once anglers have notified NIEA through the Pollution Hotline, it may often be helpful for them to carry out some preliminary investigation to narrow down the source of the pollution (though bearing in mind that anglers are not warranted to enter suspected polluters' property or formally interview suspected polluters). An update of their findings provided to NIEA staff when they arrive on site (or through the Pollution Hotline) may save valuable time in tracing or ruling out potential sources, again increasing the likelihood of NIEA being able to find the polluter and gather good evidence.
3. Anglers can also take photographs of polluting discharges or pollution effects, which may be of great help in building a case if pollution is intermittent or has stopped by the time NIEA staff arrive on site.
4. Anglers will more often than not have years of detailed experience on their local river; and so will often be able to accurately describe the damage caused to their river by a pollution incident. There is no reason why an angler who has witnessed pollution or its effects cannot add a witness statement (including photographs etc) to any of NIEA's prosecution files and appear in court to give evidence against the offender. I appreciate that court appearances are time consuming and not everyone will have the time or feel comfortable appearing as a witness in court. However this has always been and remains an option for anglers wishing to get directly involved in taking cases against those who have harmed their river. This has been done in the past – for example in a serious fish kill on the River Roe a few years ago, where witness statements from local anglers helped achieve a successful conviction.

Action Point 2: Circulate information on why water bailiffs cannot assist in pollution investigations to those in the CSG Group so that MLA's can be properly informed. NIEA to note that the CSG group would like to challenge this decision and refer the issue to PEPG.

Where any samples or evidence are being gathered for use in a prosecution, it is vital that those samples and any evidence are gathered by people warranted under

the relevant legislation. (This applies to any criminal offence, not just pollution.) Thus, for water pollution offences under the Water (Northern Ireland) Order 1999 it is vital that anyone formally investigating or taking samples is warranted under the Water Order.

Because this is such a crucial issue we sought advice from our Departmental Solicitors Office (DSO) as to how NIEA could go about warranting private bailiffs. The conclusion of legal experts in DSO, unfortunately, was that only staff employed by NIEA could be warranted under the Water Order as it is worded, and that private bailiffs could therefore not be warranted. This meant that private water bailiffs could not legally collect samples for use in Water Order prosecutions. A second possibility was that private bailiffs could instead collect samples under their Fisheries Act warrants and use this for Water Order prosecutions. Again, however, after considering this option the legal experts in DSO concluded that evidence gathered under a Fisheries Act warrant would not be admissible for a Water Order prosecution.

In summary there is, unfortunately, no apparent means by which private bailiffs can lift samples which could be used in a Water Order prosecution. I would also stress that this is not just a case of NIEA or DSO being unduly cautious, and that defence solicitors do routinely challenge our cases on procedural issues around sampling, warrants and training. To give an example, in a court case a couple of weeks ago one of our fully warranted and trained officers was aggressively cross-examined in the witness stand non-stop for about 3 hours, much of this focussing on whether he had exactly followed NIEA's Sampling Procedures when he took the statutory samples.

Action Point 3: Mark to raise the issue with WURG & NIW about the sewage discharges in the Mallusk area.

Brian Luke & colleagues from the Regional Ops team worked along with NIW staff and identified a blockage in the sewer caused by inappropriate material being placed into the system. The blockage has been removed.

Action Point 4: Raise the issue of Building Control with Planning Service to require a more pro-active approach to the inspection of extensions with a view to cutting down the number of misconnections.

Polluted surface water drainage from outfalls and misconnections can have a dramatic impact on rivers. It can cause visual and odour nuisance or even a health risk due to the levels of untreated sewage. NIEA is seeking to develop a Good Practice document the aim of which will be to implement an agreed partnership approach between NIEA and other key stakeholders in order to address the misconnections issue effectively. The parties involved are NIEA, NIW, Building Control and Homeowners. There is a need to investigate further what legal powers are currently available and who is responsible for enforcement. NIEA work along with NIW to identify issues but there is more work to do on the prevention side. Considerable time is required to identify where problems exist and it would be preferable to ensure misconnections do not happen in the first instance.

Action Point 5: A copy of NIEA policy on car washes to be sent to Garry Gregg.

Completed.

Action Point 6: NIEA to consider development of an “Award for Environmental Achievement”. This could be for businesses who have improved or CSG’s that have improved the most.

This has been discussed with our Corporate Communication Team and is under consideration.

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Why is Lough Neagh a Heavily Modified Waterbody?

Action Point 7: GW to forward information to Garry Gregg on designating HMWB and status .

Completed

The amount of sand available in the Lough is finite. How and when will it be known if continued extraction is impacting the Lough?

Action Point 8: To find out who deals with the extraction of sand in Lough Neagh in NIEA. The question to be answered is “ how much is too much and when will we know if it is too much”.

Land based operations are regulated by WMU (discharge considerations – mainly suspended sediment issues) and Planning Service (the physical structures associated with the operations).

Reporting in 2001 production from Lough Neagh was about 1 million tonnes annually. This accounted for some 15-20% of Northern Ireland sand and gravel production (representing some 5% of total NI aggregate production). No more recent figures to hand – I think tonnage figures are produced annually by DETI.

As I understand matters there is no restriction on rates of extraction, total tonnage or extraction locations although these may be negotiated with Shaftesbury Estate (who still hold the sand rights within the Lough) in the context of tonnage payments to the Estate.

Action Point 9: GW to send SUDS strategy to Garry Gregg.

Completed.

Action Point 10: Is there a requirement for farmers, particularly those in Agri-Environment schemes, to report incidents to allow a swift response?

Refer to Alan Morrow to answer query about Agri-Environment schemes.

This refers to pollution incidents on farms under agri-environment scheme agreement. The point raised had already been made to me at a meeting of the Six Mile Water River Trust in January 2010. Following the meeting I suggested to Countryside Management Development Branch that seeking pollution control advice immediately after a pollution incident be made a requirement for farmers participating in subsequent agri-environment schemes.

I would point out that although there is currently no requirement for farmers in agri-environment schemes to report pollution incidents on their farms, pollution control is taken very seriously indeed by DARD. Farm Nutrient and Waste Management Plans are a condition of entry to our agri-environment schemes. The plans help farmers focus their attention on issues requiring immediate action as well as recording areas for improvement in the medium to longer term. Part of the plan also involves drawing up an application plan for slurry, manure and farm effluents.

Action Point 11: Why are farmers permitted to build above ground storage facilities on the brow of a hill?

Refer to Alan Morrow to answer query about farm storage facilities.

This is a Planning issue and needs referred to Planning Service. However DARD does offer farmers advice on the siting of new buildings, encouraging the blending of farm buildings into the surrounding countryside. Our guidance includes avoiding the siting of buildings on the skyline and encourages the use of hollows and natural backdrops to reduce the impact of buildings.

Action Point 12: Is any monitoring done for hormones in the water? Refer to Drinking Water Inspectorate.

NI Water has not carried out monitoring specifically for endocrine disruptors but uses a risk based approach to establish if monitoring is required.

We direct enquiries to the information provided for the Water Industry through the Drinking Water Inspectorate for E&W and also Water UK.

I have attached the following links which might give you information which you could make available to the CSG members.

<http://www.dwi.gov.uk/consumers/advice-leaflets/index.htm>

<http://www.water.org.uk/home/policy/positions/endocrine-disrupters?s1=endocrine&s2=disrupters>

Action Point 13: DCAL to be approached to give a talk on what they are doing.

This is being addressed tonight.