

Meeting Record of the

# Upper Neagh Bann Catchment Stakeholder Group Meeting

25<sup>th</sup> November 2009, Market Place Theatre, Armagh.

## **Attendees:**

Tom Adamson, TA, NIEA  
Kieron Callaghan, KC, NIEA  
Mary Connacher, MC, NIEA, Regional Operations  
Denice Corbett, DC, Ballysaggart Lough Environmental Group  
Leslie Craig, LC, Ulster Farmers Union  
Aiden Donnelly, AD, Armagh Anglers  
Thomas George Grant, TGG  
Paddy Green, PG, Eastern Regional Fisheries Board  
Jim Haughey, JM, Ulster Angling Federation  
Norman Henderson, NH, NIEA  
Mervyn Hill, Me.H, Council for Nature Conservation and the Countryside  
Mark Horton, MH, Ballinderry Fish Hatchery  
John Kane, JK, DCAI, Inland Fisheries  
Aidan Kerr, AK, DARD, Countryside Management Branch  
Alan Keys, AK, Ballinderry Fish Hatchery  
Michaela Kirrane, MK, Eastern Regional Fisheries Board  
Eileen Mallon, EM, (Minutes) NIEA, Water Management Unit  
Robbie Marshall, RM, Ulster Angling Federation  
Kevin McGrady, KMcG, NIEA  
Niall NcKee, NMcK, Armagh Fisheries  
Michael McKernan, MMcK, NIW  
Christopher McKillen, CMcK, Armagh Fisheries  
Davy Millar, DM, NIEA  
Alan Morrow, AM, DARD, Countryside Management Branch  
Brendan Mulholland, BM  
Damien Mulholland, DM  
Ian Needham, IN, NIEA  
Gabriel Nelson, GN, (Chair) NIEA  
Bernie O'Flaherty, BOF, Monaghan County Council  
George Ruddell, GR  
Ian Simpson, IS, Ulster Farmers Union  
Jim Watts, JW, NIEA

## **1. Introduction**

GN welcomed those attending and outlined the agenda. The group were informed that due to a family bereavement, Angela Halpenny from NIW was unable to attend the meeting, but in her absence Michael McKernan would present some information and Angela would be invited to give the full presentation at the next CSG meeting. GN proposed that action points and a note of topics of discussion would be produced as a record of this and future meetings. This was agreed.

## **2. Report on action points from last meeting (Eileen Mallon)**

### **Action 1:**

PMcC to provide a list of Rivers Agency Designated watercourses to AE

**Response:** AE provided with information. Copies of the designated watercourses are available from Eileen Mallon on request.

### **Action 2:**

NIEA to submit a paper on fallen animal disposal to the WFD Implementation Working Group.

**Response:** Paper submitted. All relevant bodies i.e. NIEA (WMU), Rivers Agency, DCAL, DARD, USPCA, Loughs Agency, Local Councils etc have agreed to report incidents of fallen stock in watercourses, for information collation purposes only to [fallenanimals@doeni.gov.uk](mailto:fallenanimals@doeni.gov.uk) for a period of 6 months from 1<sup>st</sup> Nov 2009

Historical records (previous 3 year period) regarding the number type and location of fallen animals in watercourses to be provided where available. To date no new reports but some information on past history had been supplied

### **Action 3:**

DG and BL to meet with TC to address issues with Cookstown WWTW.

**Response:** BL & TC visited Cookstown WWTW and statutory samples were taken on 29 June 2009. NIW were issued with a postal caution and NIEA are awaiting a reply. When NIEA receive a reply the appropriate enforcement action will be taken.

### **Action 4:**

IN to provide details of Blackwater Action Plan at next meeting.

**Response:** IN discussed this during his presentation.

### **Action 5:**

All to forward ideas & suggestions for the regional managers update to EM

**Response:** All ideas welcome

### **Action 6:**

NIW to provide an update on the Capital Works Programme for the area at the next meeting.

**Response:** NIW invited to 25<sup>th</sup> Nov CSG. Apologies given as the original NIW presenter was unable to attend due to a family bereavement. Some information was presented by MMcK and NIW will be invited to give the full presentation at the next meeting.

### **3. Regional Managers (Ian Needham) (Presentation 1)**

IN gave a summary of the pollution incidents for the area from May to Nov 2009 -

138 confirmed incidents, 40 not confirmed, Statutory samples – 12 Warning letters - 16

Court Outcomes:

Antrim – Pig Farmer £1,000. Armagh – Tayto £3,500, Craigavon – Farm bound over for 2 years to prevent pollution. £5,000 at stake, Dungannon – Restaurant £2,500, Armagh – Farm £1,000, Dungannon – Farm £3,000

IN described the processes involved in investigating pollution incidents to preparing a prosecution case to giving evidence before the court.

#### **Discussion**

Clarification was sought on the timescale involved in attending pollution incidents. IN explained that all incidents reported to NIEA are investigated and the NIEA response targets are:

High & Medium severity incidents – to be visited within 2 hours (within normal working hours)

High & Medium severity incidents – to be visited within 4 hours (outside of normal working hours)

Low severity incidents – to be visited within 1 working day.

The classification of the severity depends on a number of variables such as pollutant type, quantity, length of watercourse affected etc. All pollution incidents should be reported via the Free phone hotline 0800 80 70 60 and NIEA also welcomed supporting evidence such as photographs which should be emailed to [emergency-pollution@doeni.gov.uk](mailto:emergency-pollution@doeni.gov.uk)

RM requested that the regional pollution incident information provided be categorised into high, medium and low severity at future meeting.

**Action 1: Regional pollution incident information to be presented as high, medium and low incidents at future meetings.**

A discussion took place on the mechanisms available to angling clubs to seek compensation for restocking of watercourses after pollution incidents. NH stated NIEA recover costs after a guilty verdict has been given in court. Options open to angling clubs seeking compensation include:

- Taking a civil case when a guilty verdict was given through the court
- Working through DCAL and NIEA. These organisations are finalising a Memorandum of Understanding which will address this issue.
- Clubs can take an action through bodies such as Fish Legal.

## **Action 2: Clarification to be provided on the NIEA and DCAL Memorandum of Understanding.**

JK reminded the group that DCAL provided a 24 hour on call service through the NIEA pollution hotline to deal with fishery related issues such as poaching.

The use of warning letters was discussed. Warning letters are part of NIEA enforcement and are used in appropriate situations such as low medium and high severity cases where there is insufficient evidence to secure a prosecution beyond all reasonable doubt'. The presumption is to prosecute where possible. However, the evidence must demonstrate 'beyond all reasonable doubt' for a prosecution case to be forwarded to the Public Prosecution service for their consideration.

In low severity cases advisory letters may be issued by the regional officers where there is insufficient evidence and no previous history (suggestions from JW 19.1.10)

#### **4. Northern Ireland Water capital works update for the area – Michael McKernan.**

MMcK explained that the planned presentation would not be presented but he would provide some summary information. MMcK circulated a paper listing the waste water treatment works which involved current and planned upgrading and improvements works. He explained that NIW is a regulated utility and spend had to be approved through the utility regulator. A decision on final spend from the regulator is expected on the 18 Dec 2009.

## **Action 3: Angela Halpenny to be invited to present at the next CSG meeting.**

### **Discussion**

LC described the practical implications of the recent wet weather on farming i.e. flooded slurry tanks, water logged land, closed period etc. Farmers with flooded tanks were being advised by the UFU to try and obtain the use of alternative tanks in their area. LC outlined issues surrounding the Closet river from the summer of 2007 to date. Farmers had sought compensation but had not received any feedback from the insurance assessor after an initial meeting. A clean up had not taken place and farmers had not been provided with any information from the NIW commissioned survey on the Closet completed by WRC. LC asked if NIEA could confirm if a prosecution case against NIW was to be taken and if NIW could provide an update to the UFU. TA explained that NIEA had served an enforcement notice on NIW and this notice had a few weeks left to run. NIEA expected to receive details of the clean up shortly. If this information was not received than a case with a view to prosecution would be prepared. The cleanup had not taken place due to upgrading of the adjacent works and possible future spills. The upgrading works had been completed in February 2008. In relation to

the report produced by WRC for NIW, TA explained that while NIEA had sight of the report they would not be able to supply any information from it as the report is the property of NIW.

It was suggested that an inequality of treatment may have occurred. KMcG informed the group this was not the case as from the 1<sup>st</sup> April 2007, NIW no longer had crown immunity and 10 prosecution cases had been taken against the company with a number of further cases pending.

MMcK explained that there were ongoing discussions between NIW legal advisors, the insurance company and the assessor. NIW are subject to and must comply with company law. A meeting has been scheduled to address the Closet issues on the 11<sup>th</sup> of Dec at which NIW should be in a position to clarify the issues raised.

RM stated that he had experienced problems in making contact with NIW and in obtaining replies. MMcK stated that NIW had a company policy concerning customer relations and acknowledged the need to engage with stakeholders. He suggested Angela Halpenny may be able to discuss this further at the next meeting.

#### **5. Selection of Local Management Areas for Implementation of River Basin Management Plans – Kieron Callaghan (NIEA) (Presentation 2)**

KC outlined the Local Management Areas within the CSG area and the NIEA proposals on selection for implementation. It was proposed to select 9 out of the 26 LMAs in NI each year for detailed analysis i.e. 1 LMA per CSG. Each LMA would be assessed twice in each 6 year planning cycle. Each LMA was given an “ecoscore” which included impacts on invertebrates macrophytes and fish for those water bodies not achieving good status. It was proposed that the LMA with the highest “ecoscore” in each CSG would be targeted first before moving onto the next highest in the CSG i.e.

- Ballinderry would be targeted in 2010
- Blackwater would be targeted in 2011
- Upper Bann would be targeted in 2012

#### **Discussion**

JK queried the absence of fish data for some waterbodies. KC explained the ecoscores were calculated using the data available to NIEA at the time and additional data on fish and other criteria would be added when available. MH expressed concern regarding the effects of season and flooding on the data e.g. the effect of flood water on invertebrate monitoring. GN confirmed that the invertebrate data had been looked at from 2007 and 2008 and both data sets were similar. GN explained the selection process for LMA, using the data available at present, resulted in a starting position for NIEA to target their resources as effectively as possible.

DC expressed concern regarding the exclusion of lakes smaller than 50ha in the process. GN explained this was due to making the best use of limited resources but highlighted that, improvements in water quality in the catchments of rivers, streams and groundwater would also result in improvements in water quality in these smaller lakes.

RM stated that a baseline study of the fish stocks in Lough Neagh was needed. GN stated that this had been raised as an issue at the WFD Stakeholder Forum and he would request that it was followed up and reported back to RM.

**Action 4: NIEA to provide an update to RM regarding Lough Neagh Fish Baseline.**

DC raised concern regarding the 100M tonnes of sand extracted from an ASSI i.e. Lough Neagh. GN stated this issue had been raised in the past and a lot of work had been completed in conjunction with the Quarry Products Association.

**Action 5: EM to provide information to DC regarding Lough Neagh Sand extraction.**

## **6. Discussion on the future of the CSGs**

GN welcomed all to provide comment on the draft terms of reference for the chair and gave an open invitation to all interested in the position of chair to contact Eileen Mallon. GN also suggested that future meeting agendas should include presentations of local interest and knowledge and welcomed input from all. The next meeting would be more interactive and involve the development of an action plan for the Ballinderry LMA. GN acknowledged that a significant amount of stakeholder engagement had taken place through the RIPPLE project.

## **7. AOB**

RM raised concern regarding pollution problems associated with the A4 road project and the possibility of these being repeated in the A5 road project. Lessons needed to be learned and applied to other road projects. MM stated that leadership was required from the relevant departments and a workshop on these issues should be held. GN suggested that the CSGs could be suitable as a vehicle for engagement for future large scale projects. IN suggested that the successful companies which were awarded the tender for such projects should attend the CSGs and address stakeholder concerns. JH stated a pathway to resolution was needed and a change in the contractual terms. NH informed the group a lot of work had been completed, statutory samples had been taken, prosecutions were pending, and a notice had also been served. NIEA had also arranged and facilitated meetings with UAF, local anglers, Road Service, contractors etc. Measures for future road projects are being developed. In relation to the A5 NIEA has met with Road Service and the consultants and issues are being addressed. RM acknowledged the work being done by NIEA.

**Action 6: NIEA to investigate the opportunity to advise third parties on progress made to date on the road projects.**

**The next meeting will be held in Spring 2010.**

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