

Dorota Richards

From: Noeleen Keavey
Sent: 13 September 2011 12:13
To: Grainne Oglesby; Dorota Richards
Subject: FW: New submission entered for [REDACTED] (Reference Number: P0599-02-110913121118)
Attachments: bulrush_ippc_sub_13sept11.pdf
Importance: High
Categories: Red Category

From: Caroline Lewis [<mailto:caroline@friendsoftheirishenvironment.org>]
Sent: 13 September 2011 12:11
To: Licensing Staff
Subject: New submission entered for Reg no: P0599-02. (Reference Number: P0599-02-110913121118)
Importance: High

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Submission to the IPPC licence application no P0599-02 made by Bulrush Horticulture Limited on the 15/04/11.

Under EU law, this is an activity which requires Environmental Impact Assessment. (Please see further details below.) The European Court of Justice has decided that the EIA Directive does not permit the granting of retrospective consent for such activities. Therefore the Agency cannot allow the continuation of this activity.

In addition and without prejudice to our submission in relation to the above legal requirement, we draw to your attention the following:

- The activity must be assessed against the obligation in the Water Framework Directive to achieve good status for the downstream water bodies. (We consider it highly unlikely that it could be permitted within the WFD framework.)
- The Sediment Traps & Buffer Zones are inadequate to prevent water pollution and habitat damage. (Please see further details below.)
- The activity involves the destruction of a terrestrial carbon store and former carbon sink which has the potential to be restored to a sink contrary to Ireland's obligations under the UNFCCC.
- Retention, preservation and restoration of peatlands such as this one is a highly cost-effective means of mitigating greenhouse gas emissions and will reduce the burden on the rest of the economy.
- The activity has been carried out for a number of years in breach of Irish and EU law; to allow it to continue would be to reward this illegal activity contrary to public policy.

As there has been major damage to the site and considerable work is required to restore the peatland so that it fulfils its ecological functions (in particular its hydrological and carbon sink functions) and to protect the adjacent water systems from further pollution, it is possible that the best option is for EPA to grant a license requiring the immediate ending of the activity and imposing the necessary conditions for closure and restoration.

Environmental impact assessment

This site is adjacent to the River Inny, a once prime salmon angling river, and upstream of Lough Derravaragh, a designated SPA and NHA. Numerous studies

have shown that degraded peat has an environmental impact on aquatic systems through the release of :

- Sediments
- Dissolved organic carbon,
- Heavy metals
- Nutrients

Section 32 of the Natural Habitats Regulations (S.I.No.94/1997: <http://www.irishstatutebook.ie/1997/en/si/0094.html>) states that:

'(1)Where an operation or activity or an established activity to which an application for a licence or a revised licence or a review of a licence or revised licence, as appropriate, under any of the enactments set out in Part II of the Second Schedule applies is neither directly connected with nor necessary to the management of a European site but likely to have a significant effect thereon either individually or in a combination with other operations or activities or established activities a local authority, the Board or the Environmental Protection Agency shall ensure that an appropriate

assessment of the environmental implications for the site in view of the site's conservation objectives is undertaken.

(2) An environmental impact assessment in respect of an operation or activity referred to in paragraph (1) shall be an appropriate assessment for the purposes of paragraph (1).

(3) The local authority, the Board or the Environmental Protection Agency, as the case may be, in carrying out their powers and functions under any of the enactments set out in Part II of the Second Schedule, having regard to the conclusions of the assessment undertaken under paragraph (1), shall grant the licence only after having ascertained that the operation or activity will not adversely affect the integrity of the European site concerned.

The Environmental Protection Agency Act, 1992 is listed in PART II ENACTMENT REFERRED TO IN REGULATION 32

In addition S.I. No. 538/2001 — European Communities (Environmental Impact Assessment) (Amendment) Regulations, 2001 requires an EIA for

“Peat extraction not included in Part I of this Schedule which would involve a new or extended area of 30 hectares or more.”

Reports are available from the Fisheries Board and the National Parks and Wildlife Service which show that this activity, along with others in the area, is having a negative impact on a designated site.

No such assessment has been carried out in particular assessment of any cumulative impact with other activities (e.g. forestry, peat extraction, agricultural improvement, arterial drainage) at a catchment based level.

Therefore we submit that this application is invalid.

And, without prejudice to our primary submission, we also wish to submit that the proposal is inadequate for sediment traps and discharge limits. In addition there is no reference to buffer zones along main drainage channels.

Sediment Traps and Buffer Zones.

Silt ponds - otherwise known as sediment traps - are frequently ineffective, particularly on peat soils and frequently act as sediment sources. Degraded peat is relatively unconsolidated and prone to erosion. The sides of drains and sediment traps frequently collapse. The definition of suspended solids is not given, i.e. particle size, neither is there any reference to dissolved organic carbon (DOC). Fine particles and DOC are not contained by sediment traps and both are pollutants that degrade aquatic ecosystems.

Finally, it must be noted that it is impossible to accurately measure pollutants discharged to waters unless continuous monitoring is carried out.

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