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Northern Ireland Environment Agency,
Klondyke Building,
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Gasworks Business Park,
Belfast,
BT7 2JA

Unique ID: CMS 372

Date: 11.01.2024

[REDACTED]

[REDACTED],

Unique Case ID Number: CMS-372

The Office for Environmental Protection (OEP) received a complaint in relation to the Northern Ireland Environment Agency's (NIEA) duties under the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006, as amended (2006 Regulations). The complaint alleges that the NIEA has failed to effectively regulate the abstraction of water from the Crumlin River in accordance with its statutory duty and highlights specific failures to determine a water abstraction application submitted by a fish farm in 2007, or to address issues relating to the over abstraction of water associated with the fish farm.

As the Department responsible for the implementation of water abstraction licensing and enforcement of the 2006 Regulations, we are writing to notify you that we have carried out a full assessment of the complaint to consider whether we can or should take any further action, including commencing an investigation.

Our Assessment

There are two elements to our handling of complaints: firstly, determining if the complaint brings to the OEP's attention information that falls within its role; and secondly, determining if the information indicates that there may have been a serious failure to comply with environmental law that the OEP should prioritise, as set out in our enforcement policy.

In this case, we believe that there is an indication that the NIEA may have failed to comply with environmental law and, based on the evidence available, we consider this failure is potentially serious. However, we have decided not to prioritise this for investigation.

The complaint and our subsequent assessment of relevant available information highlighted inconsistencies with which the law is being applied in this area. We note that a large number of abstraction and impoundment applications were deemed during the initial transitional

arrangements between 2007 and 2008. 87 applications submitted during the original 12-month transitional period, have been deemed for 16 years.

As part of our assessment to determine seriousness and priority, we have taken into account steps already taken by the NIEA to address the deemed licenses of fish farms by drafting a policy document and meeting with industry representatives. However, from the information provided to the OEP, it is clear that this issue applies to other sectors also. We therefore intend to monitor progress on this matter, and to assist us in doing so we request that the NIEA provide us with the information outlined in Schedule 1 (372/1).

During the course of our assessment, the OEP gathered information from a range of sources which highlighted additional concerns with regards to Inland Fisheries approach to enforcing sections of the Fisheries Act (Northern Ireland) 1966, in particular the extent to which Inland Fisheries monitors compliance with conditions of Fish Culture Licenses. Whilst we do not intend to progress this under our enforcement function at this time, we request the information specified in Schedule 1 (372/2) to further inform our assessment of this matter.

Please supply the information requested in Schedule 1 by 12 February 2024. We are requesting this information under the duty to co-operate with the OEP placed on public authorities under section 27, as amended by paragraph 25 of schedule 3, of the Environment Act 2021.

If you have any questions relating to the information above, please use the contact details provided below.

We have notified the complainant that we have written to you in relation to this matter.

Yours sincerely,

[Redacted Signature]

[Redacted Name] | Office for Environmental Protection
Tel: 03300 416581 | Email: complaints@theoep.org.uk | Address: OEP, Worcestershire County Hall, Spetchley Road, Worcester, WR5 2NP

SCHEDULE 1
INFORMATION REQUESTED

REQUEST REFERENCE NUMBER	DESCRIPTION OF INFORMATION	DATE REQUIRED
372/1	<p>Submit an action plan detailing how you plan to fully determine all the outstanding deemed consents that meets the duties in the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006</p> <p>With regards to above, as a minimum this plan should include:</p> <ul style="list-style-type: none"> • A proposed program of works or plan on how to determine outstanding “deemed” applications • Improvements planned, including dates for completion • Any interim improvements made or planned to enable compliance with the regulations 	12.02.2024
372/2	<p>Provide details of the current approach to monitoring compliance with fish culture licenses.</p> <p>Provide details of any regulatory inspection regime currently used to ensure full compliance with the provisions of the Fisheries Act (Northern Ireland) 1966 relating to fish culture licenses.</p> <p>Provide details of annual targets for monitoring compliance and undertaking enforcement action, including the number of instances of non-compliance identified, and the enforcement action taken over the past 5 years.</p>	12.02.2024