

Citizens' Assembly

From: paul murphy [REDACTED]
Sent: Tuesday 18 October 2022 11:12
To: Citizens' Assembly
Subject: Re: Biodiversity Loss Ireland
Attachments: Factual Summary.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Categories: Biodiversity Loss

This message originated from an external source. Be very cautious with any links or attachments that it contains.

Dear Cathal

Further to my previous email and our subsequent telephone conversation, I write to provide you with some additional information on this issue.

My information and related evidence is, I feel, highly relevant to the Assembly's examination of the biodiversity loss in Ireland as it relates directly to the matter of the serious (unlawful) harmful pollution of the freshwater rivers, lakes and loughs of Ireland.

A recent story by RTE concerning the warning issued by the EPA that Ireland will fail to meet its water quality goal was very aptly timed and helps convey the relevance and significance of my information.

The link to that story is: <https://www.rte.ie/news/environment/2022/1014/1329164-epa-water-quality/>

I don't want to smother you under an avalanche of legal jargon and data etc. so, at this juncture, I think it's sufficient to confirm that the facts and evidence supports all parts of the summary I have provided (see the attachment) and I'm happy to meet with you and/or assembly members to brief you/them fully and provide the relevant evidence.

Please read and consider the attached summary and that RTE story and contact me with any queries. Please also confirm the safe receipt of this email and attachment.

Regards
JP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Factual Summary

1. To protect natural watercourses (streams, rivers, lakes and lough's) of member states from harmful "surface run-off" pollution caused by bad farming practices, the EU issued a directive (the Nitrates Directive) that prohibited farmers from spreading animal manure/slurry and effluent on their saturated land during wet winter months (October to February) to prevent it being "washed", by the heavy rainfall, into the natural watercourses, polluting same.
2. No longer permitted to spread animal manure/slurry and effluent on their lands during those wet winter months, farmers were required to either reduce their livestock numbers (i.e. reduce the slurry/manure produced) or construct additional facilities to store that extra manure/slurry through the winter months.
3. In 2003, to comply with the Nitrates Directive (i.e. to reduce/prevent pollution from livestock based farming), the **Northern Ireland** (NI) Environment Agency introduced new legislation for the construction of new farm slurry/effluent/dirty water storage facilities in NI.
4. That 2003 legislation included the mandatory legal requirement that every new slurry/effluent storage tank constructed in NI had to be leak-proof (by law).
5. The primary (common-sense) requirement that **every** new slurry/effluent storage tanks **MUST** be leak-proof is/was to prevent extremely harmful pollutants leaking from them and causing the same (or perhaps even more) harmful pollution as that which they were intended to prevent.
6. The NI Department of Agriculture introduced a government grant scheme to encourage farmers to construct additional manure and slurry/effluent storage facilities on their farms, so farmers could maintain the same livestock numbers and thereby preserve the NI farming industry.
7. To comply with the 2003 mandatory (common sense) legal requirement that all new slurry /effluent/dirty water tanks must be leak-proof, the NI Department of Agriculture demanded that every new reinforced concrete slurry/effluent storage tank constructed under that grant scheme must be designed and constructed in accordance with the stringent requirements for leak-proof structures. Something that added greatly to the cost of their construction.
8. To guarantee that every new slurry/effluent/dirty water tank constructed under that grant scheme was leak-proof (as required by the 2003 legislation), the NI Department of Agriculture demanded that **every** new slurry/effluent/dirty water tank constructed in NI under that grant scheme **must** be tested for leaks **after** it had been constructed (i.e. proven to be leak-proof) and independently certified as being leak-proof **before** it could be brought into use by the farmer/owner (by law).

9. The leak-test involved filling the new tank with clean water and checking the outsides of its walls and base for leaks while also monitoring the stored water level, to measure the amount of water loss. If/when leaks were identified the test-water would then be removed and the leaks repaired and the water test procedure repeated (as many times as was necessary).
10. The first leak-test could not be undertaken until 28-days **after** a new tank had been constructed, to allow the new/fresh concrete to harden/strengthen and reach its full strength. I.e. a new tank couldn't be subjected to a leak-test until after it had reached its full structural strength.
11. In addition, when repairs were carried out to fix leaks the repair works undertaken also required time to achieve their optimum strength before they could be subjected to a test. Meaning the re-testing (the re-filling of the tank with water) had to be delayed to allow the repairs sufficient time to reach their required strength. Thereby adding further delay to the testing procedure and to the overall construction time of that particular tank.
12. With problematic leaks, the testing and attempts to identify and locate their exact location and cause, the repeated attempts to repair them and the repeated re-testing of the tank would easily take many months to complete before the problem would be properly resolved and the tank could be certified as "leak-proof". All of which proved extremely time consuming and costly.
13. A typical (average sized) reinforced concrete slurry/effluent storage tank (excluding the ancillary works) could be built/constructed in 2-3 weeks.
14. One such slurry/effluent tank having a capacity of 230,000 litres, that was properly designed and constructed in accordance with the relevant specifications and standards for leak-proof structures, leaked approximately 6000 litres in the first 7-days under leak test (860 litres/day).
15. That particular tank had both obvious/visible leaks and leaks that were difficult to identify and repair/cure. It took many months, required considerable man-hours and cost a small fortune to carry out all of the required remedial works to stop/cure all of the leaks in that one tank. In addition, that tank had to be re-tested several times (after each attempted leak-repair was undertaken) before it passed the "leak test" and could be formally certified as leak-proof.
16. The EU would impose infraction fines against any Member States that failed to comply with the Nitrates Directive (i.e. that failed to act to stop that pollution from taking place). For the UK, the infraction fines were fixed at Stg.£50million/year.
17. The NI Government gave the EU an undertaking that thousands of new (**leak-proof**) slurry/effluent & dirty water tanks, and thousands of new middens, would be constructed in NI to store the additional farm slurry/effluent and manure during the wet winter months to prevent it being spread on the (saturated) land. Thereby complying with the Nitrates Directive's requirements.

18. The NI Government, in agreement with the EU, undertook to financially assist farmers to help them construct those thousands of new storage facilities (tanks and middens) on their farms.
19. On the advice and encouragement of the NI Department of Agriculture, between 2005 and 2008 almost 4000 NI farmers borrowed/spent Stg.£212million (€310m) on the construction of approximately 5000 new (**leak-proof**) reinforced concrete slurry/effluent & dirty water storage tanks and thousands of middens (sheds), to store slurry/effluent/dirty water and “dry” manure, on their farm holdings.
20. Those 4000 farmers received Stg.£123million (€180m) in grant funding. Those grant payments were conditional and were issued specifically for the construction of certified “**leak-proof**” structures that satisfied both the 2003 legislation, the specific conditions of the grant scheme and hence the EU Nitrates Directive.
21. Like the rest of the UK, Northern Ireland was slow to act in response to the Nitrates directive.
22. Then, to avoid the UK (the relevant member state) incurring huge infraction fines (imposed by the EU) the NI government were forced to apply to the European Commission for an extension of time to comply with the Nitrates Directive [i.e. time to complete the construction of those thousands of new leak-proof storage facilities (tanks and middens)].
23. At the time those new grant-funded farm structures were built (between 2005 and 2008), Ireland (N & S) was in the midst of a construction boom. Contractors had an abundance of work.
24. With thousands of new storage tanks and middens to construct (to comply with the Nitrates Directive and avoid the UK incurring huge infraction fines), just a short time-window to get them all completed and the need to keep the costs of their construction low, the relevant NI authorities needed as many contractors as possible to get involved, and stay involved, in the construction of those new structures.
25. The relevant authorities in NI did not demand that contractors who undertook the construction of those grant-funded tanks and middens must be experienced, skilled or reputable. That led to many opportunistic amateur “contractors”, who possessed little or no relevant experience or skill (but who were cheap) undertaking the construction of those new grant-funded structures.
26. The NI authorities:
 - (i) had to ensure that thousands of new tanks and middens were constructed, to comply with the Nitrates Directive, and
 - (ii) had to ensure they were constructed within a relatively short time-window, to avoid the UK attracting massive infraction fines, and

- (iii) had to keep the construction costs down to ensure the grant continued to provide a sufficient incentive for the farmers to construct those new facilities, and
- (iv) were unable to attract experienced, skilled contractors to undertake the construction work, and
- (v) were forced to rely on “amateur” contractors, who had little or no relevant experience or skill, to complete their construction, and
- (vi) needed those “amateur” contractors to continue to work on those new structures to avoid a few contractors monopolising the scheme and increasing the costs, and

27. Those NI authorities realised that the mandatory testing of each new slurry/effluent storage tank for leaks (tanks that had been badly constructed by inexperienced and poorly skilled contractors) and the extensive and very time consuming work that would be required to repair all leaks and conduct the necessary re-testing etc. would take many months, would prove expensive and problematic and, most importantly, would deter those contractors from completing more new slurry tanks and middens under that grant scheme and/or cause them to significantly increase their prices.

28. So, acting unilaterally and in secret (without informing the European Commissions or the Public of NI and the UK) the NI authorities unlawfully removed the mandatory legal requirement for **every** new slurry/effluent and dirty water tank to be tested for leaks and confirmed leak-proof before being brought into use. Thereby significantly speeding up the contractor’s “completion time” for every new tank, meaning they could increase the number of tanks completed.

29. I.e. the relevant NI authorities deliberately acted in breach of the law in order to get as many as tanks and middens as possible completed by the deadline.

30. Paragraph 14 above noted the leaks measured from **one** new (properly designed and constructed and tested) tank. In the absence of any other available data, it’s reasonable to suggest that all of the other tanks that were similarly designed and constructed, would experience similar leaks.

31. There were approximately 5000 new tanks constructed under that scheme in NI. When asked, the relevant NI Authorities confirmed they did not know and had no records confirm which or how many of those tanks (if any) were tested and confirmed leak-proof, as demanded by the law, as demanded by the official construction specification which they themselves had issued for those tanks and as demanded by the European Commission (i.e. the Nitrated Directive).

32. Some years after their completion, the relevant NI authorities compiled reports examining the effects (benefits) of that scheme. Despite supposedly removing the cause of the pollution (the winter spreading of harmful slurry and effluent), the report found there was no absolutely improvement in the water quality of the freshwater streams, rivers, lakes and loughs of NI.

33. The report denounced the scheme (the construction of thousands of new slurry/effluent and dirty water tanks and thousands of new middens), which cost Stg.£212m (€310m), as a total waste.
34. What that report didn't note, was that the NI Authorities had deliberately unlawfully removed the mandatory legal requirement that every one of the 5000 new tanks must be tested for leaks and proved leak-proof before being brought into use and were therefore the most likely **cause** of the high levels of pollution of the freshwater streams, rivers, lakes and lough's of NI.
35. Of the 5000 new slurry/effluent and dirty water tanks constructed in NI, several thousands of them were constructed in the border counties of Derry, Fermanagh, Tyrone and Armagh.
36. The harmful contents escaping/leaking from those thousands of slurry/effluent and dirty water tanks constructed in NI flow into local rivulets, rivers, streams and lakes which, in turn, flow across the 310mile border causing and/or contributing to the pollution of the natural freshwaters of the Republic of Ireland.
37. I.e. the people of Ireland (North and South) are drinking water that's been deliberately unlawfully polluted by animal slurry and effluent that emanates from animals in Northern Ireland (the UK).
38. All of which is the direct result of the deliberate unlawful (criminal) actions of the relevant authorities of Northern Ireland.