

Chronology of events pertaining to the judicial review against the Department's continued failure to prevent unauthorised sand extraction from the bed of Lough Neagh Special Protection Area without planning permission, Environmental Impact Assessment and Appropriate Assessment.

Statement by James Orr, Director – Friends of the Earth, Northern Ireland

Unlawful Sand dredging Lough Neagh – A chronology

Five companies are involved in the unregulated dredging of sand on Lough Neagh SPA. Estimates vary but we can reliably say around 1.5 million tons a year are extracted using large suction pumps from barges that strip the bed of the Lough. This activity takes place without a Habitats Regulations Assessment, an Environmental Impact Assessment or planning permission. The government has confirmed that this is unauthorised activity and is therefore unlawful.

This is likely to be the biggest unlawful mine in Europe that is taking place in a protected habitat, an SPA. It is also the biggest unauthorised development in the history of Northern Ireland

Before initiating legal action Friends of the Earth has written to Departments, requested meetings with senior civil servants (denied), submitted complaints to the EU and lobbied all Members of the Legislative Assembly.

Chronology of Litigation/Enforcement proceedings

February 2014 Department opens an enforcement notice case

5 November 2014 Ministerial written answer to Assembly: *"It is not acceptable that mineral extraction activities be allowed to continue without first having been through relevant assessments and obtained appropriate planning approval"*

8 May 2015 Ministerial interview with BBC supports clearly identifies the need for a precautionary approach

27 May 2015 Department of the Environment issued an enforcement notice in respect of an apparent breach of planning control comprising the *"unauthorised working of minerals"* in the Lough. Each notice required the cessation of minerals working **within one day** of it taking effect on 30th June 2015

24-26 June 2015 Appeals made against each notice by sand traders and Earl of Shaftsbury to the Planning Appeals Commission. The PAC agreed that this is EIA development and required a determination of planning consent and the EIA as part of its determination of the appeal against the enforcement notice

24 June 2015 FoE write to Minister to which the Minister replied on 12 July 2015

15 September 2015 C&J Black Solicitors then wrote, on behalf of Friends of the Earth, to the Minister seeking a reply by 22 September 2015 with a pre action letter. No substantive reply received. Follow up letters issued

9 November 2015 Memo to Minister from officials: *“that you agree to issue the Stop Notice(s) compelling the sand traders to cease”*

20 November 2015 Ministerial decision not to issue a Stop Notice

29 June 2016 Friends of the Earth judicial review hearing against the Department for the failure to issue a Stop Notice

26 November 2016, Mr Justice Maguire in the Northern Ireland High Court dismissed the FoE application for Judicial Review

30 December 2016 Notice of Appeal lodged by FoE to quash the order of Judge Maguire

5 June 2017 Date of Appeal hearing

28 June 2017 Court of appeals rules in favour of FoE quashing the High Court ruling not to issue a Stop Notice and stating the issue required **“immediate attention”** and referred the matter back to the Department for determination **“as soon as possible”**.

“Immediate” has a clear legal meaning : “present; at once; without delay; not deferred by any interval of time”

6 November 2017 FoE issues a letter before action to commence court proceedings on the failure of the government to act in accordance with the Court of Appeal ruling

On four occasions since Court of Appeal decision on 28 June 2017 Friends of the Earth asked in writing of the Department when immediate attention will be given to the judgment

November 2017 Since the ruling in June an estimated 600,000 tons of sand has been and continues to be removed from the bed of the Lough.