

Department of the Environment,  
Community and Local Governmnet  
Custom House, Dublin 1

waterq@environ.ie

15.05.14

**Re: Pre-consultation Significant Water Management Issues (SWMI) Report 2015**

Dear Sir/Madam,

An Taisce would like to make the following comments on the Pre-consultation Significant Water Management Issues (SWMI) Report which we request the Department and the Environmental Protection Agency to take into consideration.

Yours sincerely,

**Fintan Kelly**  
**Natural Environment Research Officer**  
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**Submission on the  
Pre-consultation Significant Water Management Issues  
(SWMI) Report 2015**

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The purpose of the SWMI report is to lay out the main issues that Ireland is facing in implementing the River Basin Management Plans under the Water Framework Directive. Having read the document it is unclear what the actual significant water management issues and major sources of pressures are. Given that the whole purpose of this document is to identify the main issues the failure to do so clearly within this draft report is considered as a major shortcoming by An Taisce. This draft is in stark contrast to the Scottish SWMI Report the pressures and key sectors are clearly identified. The accumulated experience and research that has been invested over the years within Ireland, in identifying the main issues threatening the aquatic environment is clearly not reflected within this report.

Many of the significant water management issues which Ireland is facing are barely mentioned and apparently it is deemed appropriate to briefly mention major issues under the heading Nutrient Enrichment. This is not an acceptable approach in An Taisce's opinion. This approach is far too vague. Nutrient Enrichment of Waters is clearly the result of a range of pressures/issues. The issues that cause nutrient enrichment need to be addressed in dedicated sections within the SWMI report. The various causes of nutrient enrichment within each sector need to be identified. What efforts have been made to address these issues? What issues are the most recalcitrant moving forward? Have best practice examples to address these issues been identified and how can they be adopted on a national level? The Scottish SWMI Report is a prime example of how to draft a SWMI report. An Taisce believe that this report needs to be fully re-written and modelled on the Scottish RBD SWMI.

This current draft SWMI lacks any context in terms of the first Water Framework Directive (WFD) river basin planning cycle. For example what significant water management issues were identified in the first cycle? What measures were implemented to address these and how successful or otherwise have they been? What progress was made? Given that less money will be invested in this cycle than the last it is of paramount importance that we build on previous efforts and do not shy away from identified issues. For example one of the major failings of the first cycle was the lack of implementation as a result of dysfunctional governance. This issue needs to be addressed in the full SWMI. A dedicated 'implementation' section is advisable.

The reader is told on the one hand that our waters are among the best in Europe while on the other hand we are expected to accept that Ireland having failed to meet our 2015 WFD targets will now six years out fail to meet our 2021 targets, or even aim to try to meet them. The ambition level throughout the report is disgracefully low. Within the report there is a totally inappropriate discussion of affordability and prioritisation from early on under 'Issue 1'. The report states effectively that we have no intention of meeting our legal obligations by 2021 and that we should simply prioritise what we think is most important and then do enough to keep the European Commission off our backs. An Taisce would like to know what indication the EPA have been given that such an approach is acceptable from the Commission? An SWMI report is not the time or the place for such a debate. The issue of exemptions from meeting WFD targets is a matter that should only be debated after the significant pressures / issues have been identified. This is the purpose of the SWMI. At a later date should we have to have that discussion then there must be a strict justification process (set out in Article 4 of the directive) i.e. that all measures are disproportionately costly or technically unfeasible. This process needs to be done for each water

body. Prioritisation then can only be undertaken for each waterbody, after strict exemption criteria have been applied! According to the SWMI “we will therefore have to prioritise our efforts and decide what is most important to us. It will be important however in making such decisions, in particular decisions to defer or to postpone efforts to achieve water quality improvements to a later date, that we ensure that the reasons behind our decisions are based on good evidence and are fully transparent and are subject to public consultation.” Despite the fact that any statement about prioritisation is wholly inappropriate at this juncture the fact that it is mentioned so early and so prominently in the report is frankly depressing.

This is compounded by the lack of reference to the mandatory economic analysis required by the WFD. When will such an analysis be carried out? The pros, cons and trade-offs of the different issues need to be highlighted so that they can be debated. Where it is clear that there will be environmental and health issues associated with a decision to renege on our obligations then this needs to be put forward in an open and transparent manner for debate. The debate around prioritisation and affordability is moving forward a major issue in terms of the WFD and national water policy – “affordability, how we prioritise measures and who pays for what and when in order to protect what is good and to improve what is less than good, within the constraints of available resources.” The costs, conflicts and available resources need to be put forward if there is to be a proper debate on this issue. In any debate around who pays for what it will invariably be the Irish public who will have to foot the majority of the bill. If the Irish taxpayer must pay for someone else’s pollution then they deserve to know who’s pollution they are cleaning up and what are the benefits for society at large that will accrue from this investment.

The economic implications of achieving our WFD obligations are mentioned numerous times throughout the document. The economic constraints or conflicts need to be identified for comment. If economic constraints are an issue preventing us achieving our WFD obligations then this needs to be identified as an issue and the main economic conflicts need to be set out as sub-issues. As has been said such an economic analysis is a mandatory under the WFD. An SWMI is not the place to roll back on what are supposed to be legally binding obligations. If that is an outcome of this consultation process then so be it. Let there be a debate about the conflicting issues preventing us from improving water quality. If certain measures are adjudged to be “unfair, unaffordable, economically inefficient and financially unsustainable” then they need to be identified. It also needs to be identified precisely who is being treated unfairly.

Throughout the document the progress that has been made in improving Ireland’s aquatic environment is over-emphasised. This gives the reader a misleadingly positive opinion of the issues facing the aquatic environment which is in stark contrast to the reality of the situation. This positive spin is evident in every report on Ireland’s aquatic environment emanating from the EPA and it is ultimately unbeneficial to the ongoing effort to raise awareness of the multiple issues facing Ireland’s aquatic environment. Given that this process is the first step in the second WFD cycle these issues need to be addressed and nipped in the bud. It is unclear at this juncture whether these efforts to underplay the pressures presented by key sectors is in order to emphasise the positive aspects of the EPA’s ongoing efforts, whether it is an attempt to avoid the controversy surrounding Irish Water or most likely it is an effort to appease the current government and groups such as the IFA.

According to the EPA “the rate of improvement is modest and the ultimate challenge of achieving good status for all bodies of water as required by the Water Framework Directive (WFD) is an extremely challenging one.” Why is it extremely challenging and what are the main issues that are the most recalcitrant?

Initial improvements have been made in most parts of the country compared to the poor situation in the 1990s. However in many parts in the country improvements in water quality aka levels of Nitrogen, orthophosphates and ecology are stagnating and even deteriorating. Long term biological water quality monitoring since 1987 has shown a decline in unpolluted rivers from 77% in 1987-1990 to 73% of river channel unpolluted in 2010-2012. There has been an overall declining trend in high status rivers since monitoring began in 1987 from 30% of monitored waters down to 18% between 2010 and 2012. The improvement in nitrogen and phosphorus levels in waters has stagnated since 2007. There have been pronounced downward trends for nitrogen in the east of the country. While this is obviously positive the east of the country is traditionally highly polluted and so inevitably this is the part of the country which has the greatest room for improvement. In contrast most of the rest of the country has shown no improvement or at least only a marginal improvement. The way that nitrogen and orthophosphate levels are reported i.e. demonstrating trends is not sufficient in itself. While it is useful it does not indicate the scale of the task at hand in achieving our WFD objectives and seems biased towards emphasising the positive. In a document which is supposed to be addressing issues this is far from ideal.

The current water status should be presented against an absolute baseline of WFD compliance rather than as a relative trend. It is almost irrelevant whether P levels have ‘stabilised’. What is relevant in terms of assessing progress towards WFD targets is whether absolute P levels are consistent with Good Status or better. Trends are mostly relevant in terms of ensuring water body status is not deteriorating (the ‘no deterioration’ clause).

The levels of orthophosphates in the vast majority of the country have not improved over the 2007 to 2012 period. Given the improvement in agricultural practices and waste water treatment why is this? The fact that we are failing to improve water quality despite increased level nationally to do so is deeply concerning and calls into question whether we will be capable of achieving our WFD obligations post 2021. The situation in regard to Nitrogen levels is a bit more positive with improvements being observed in many parts of the country over the period 2007-2012. The lack of improvement in some of the Western and North Western counties is concerning as these areas contain many of the countries high status water bodies and their associated biodiversity. Again much of the observed improvements are positive however they are probably an indication of historically elevated levels of nitrogen and do not give a fair indication of how far off our WFD obligations many parts of the country are.

One of the most startling aspects of this draft SWMI is the fact that Ecological status of Ireland’s aquatic environment is so poorly developed. Without stating the obvious omitting to properly address the ecological status is not acceptable. The ecological status of Ireland’s aquatic environment is probably the most important variable within the WFD as the one out all out nature of the directive means that it is the ecological status of a waterbody which is most likely to bring its rating below good status.

Agriculture has been identified as the most significant pressure on water quality in the SERBD, the NWIRBD and NBIRBD. Nationally there is a significant ongoing trend is the increase in slight pollution (Class B) from 12 per cent in the 1987-1990 period to over 20 per cent at present. More than half of the cases of slight pollution (which typically corresponds to moderate ecological status under the Water Framework Directive assessments) was attributed to agriculture – primarily diffuse agricultural pollution causing eutrophication. Agriculture is second to Municipal Waste Treatment and Urban Activities when it comes to Moderate Pollution. Within the SWMI report itself the matrix of links between sectors and water issues reveals that the agricultural sector is linked to Nutrient Enrichment, Health, Abstraction, Physical Modifications, and Sediment. Invasive species is the only pressure that Agriculture has not been linked to meaning that in total it is linked to 5/6 of the pressures compared to an average of 1.57 pressures for the other 7 sectors.

Given the scale of the task at hand in dealing with water quality issues relating to Agriculture it is An Taisces belief that all of the issues should be highlighted in this report so that they can be commented on individually. Given the strides that are being made in point source pollution one would expect that diffuse pollution sources particularly agriculture are getting worse in certain parts of the country. What appears blindingly obvious is that the on-going intensification of the dairy sector under Food Harvest 2020 is not compatible with us achieving our legal obligations under the WFD. According to the EPAs Integrated Water Quality Assessments for the SE the NWIRBD and the NBIRBD River Basin Districts 2013 “the targets set by Food Harvest 2020, to increase agricultural output, will provide welcome economic development, but will also pose significant challenges in meeting the requirements of the WFD. Food Harvest 2020 aims to increase output in the dairy sector in the region by up to 50%. Building this capacity while maintaining environmental sustainability is a significant challenge for the agriculture sector and a cohesive plan incorporating all stakeholders is essential.” According to a recent analysis of the situation by the EPA Ireland faces enormous challenges to bring water bodies to the "good status" required under the Water Framework Directive and to prevent further deterioration of quality. Agriculture will have a "large influence" on Ireland's success in meeting water quality targets. "Expanding production capacity may be a challenge for the agri-food processing companies operating existing licensed sites over which the agency has a role in licensing and enforcement." "The location of some existing processing sites could reach a limit where the assimilative capacity of receiving water is at or near capacity". "Intensification and expansion will increase the use of fertilising nutrients. It is therefore essential that the loss of nutrients to water is minimised." Much of the increase in nitrogen generation will be in Limerick, Cork, Tipperary and Waterford, it adds. There is already a "significant problem" and expansion of the national dairy herd could "compound this issue". Indeed despite the fact that Food Harvest is not expanded upon as an issue the following statement is made towards the end of the SWMI “Future risks which may threaten the modest improvements seen in recent years include the planned expansion in the agricultural sector under Food Harvest 2020 and increased nutrient loadings to waters from municipal sources due to population growth.” This is a major national issue and it needs to be addressed in detail in Irelands SWMI. It has been stated a number of times by the EPA that Food Harvest 2020 possess a serious challenge to Ireland achieving our 2021 targets yet bizarrely this is all downplayed in this preliminary report. It is scandalous that the biggest issue facing water quality in this country up to 2020 in the guise of Food Harvest 2020 and beyond in Ireland Agri Food 2025 programme is not being identified as an issue at all.

There are a number of issues within the following statement that need to be elaborated upon - “the ultimate objective of river basin management plans should be to achieve beneficial outcomes for the environment and for society in a manner that is consistent with long-term environmental goals and that is fair and cost-effective for society as a whole.” Surely having water bodies that are unpolluted is in line with our long-term environmental goals and is good for society at large. If there are sectors of society that are somehow in conflict with achieving our WFD obligations then this document is the place to identify them. If there is a trade-off that needs to be made between achieving growth in the agricultural sector and reducing Ireland’s environmental footprint then it should be stated. It is impossible to comment on issues or have a coherent debate about issues if they are not highlighted or worse if they are purposefully kept from the public in an attempt to quell any objection to government policy. An Taisce would like to see greater emphasis given to the polluter pays principle when addressing water quality issues whether they originate from point or diffuse sources.

In relation to stakeholders the SWMI reads “stakeholders must therefore be engaged with the process so that solutions can be found to deal with these areas of conflicting interest.” If stakeholder engagement is a serious issue in regards to meeting our WFD obligations then those stakeholders should be identified. If the relevant stakeholders are unknown than how can they be engaged? Getting better public engagement has been identified as a major issue. This needs to be elaborated on. What issues have the public sector had in engaging wider society and key stakeholders to protect waters? What have we learned? Who are the main stakeholders we need to engage and why have we failed to engage them in the past?

Coordination of plan implementation has been identified as an issue. “There are a number of national, regional and local plans and programmes that can impact on the effectiveness of water management actions. Each of these plans and programmes have their own timelines. In many cases these will be different from the timeframe for the new river basin management plans that will operate until the end of 2021. These include the Rural Development Programme 2014-2020, Food Harvest 2020 and Agri Food 2025, Irish Water’s Capital investment programme, Flood Risk management plans, county level development plans and local area plans, forestry strategies and plans, biodiversity management plans, persistent organic pollutant management plans to name but a few.” What aspects of these various plans mentioned are in conflict with our obligations under the WFD? Have these conflicts been identified in an SEA? What is the cost benefit of these plans for society at large and how does this weigh up against any potential negative impact on water quality, the Irish environment and Health? Can these plans be modified or adapted to avoid or reduce conflicts with or WFD obligations? Given that these programmes may be partly responsible for Ireland renegeing on our 2021 WFD obligations what prospect is there post 2021 to resolve existing conflicts with the WFD? For example is the ongoing intensification of the dairy sector incompatible with the WFD and if so how can this be resolved post 2021 when further intensification is being planned under Agri Food 2025? Have the SEAs for these plans considered the in combination and accumulative impact of the other plans on water quality or has they only considered their impact on water quality in isolation?

It is stated that “Agri-food businesses are working with farmers to increase the sustainability of their farming practices”. This is too broad and too vague a statement to be accepted on face

value. What specifically is being done to help us to meet or WFD targets? It is not the responsibility of the EPA to run a greenwashing campaign for the DAFM, IFA, or Bord Bia. This SWMI is about identifying issues in achieving our WFD obligations not an opportunity to placate the agri-food sector.

While there are a number of good initiatives ongoing around the country IRD Dunhallow. Mulklear Life etc it is not acceptable that these cases be trotted out tokenistically as if these cases are somehow reflective of a national trend. What best practice examples can we take from these projects and how can the outcomes of these projects be expanded to a national level. What are the main issues that require cross societal effort and who are the main stakeholders that need to be addressed? What conflicts exist between these stakeholders and achieving our WFD objectives?

In relation to the following statement biodiversity is a policy issue which is missing from the list “the water sector has many external links and is affected by, amongst others, policies related to energy, agriculture, land-use, economic development and public finance. Coherence in policy goals can be undermined by conflicting objectives and co-ordination across water-related sectors is essential if strategic goals are to be met.”

What is being done nationally in relation to ‘Biodiversity Management and Water’? It is mentioned that our Greening requirements under CAP are somehow contributing to biodiversity management “.. now includes greening requirements in respect of Pillar I.” This needs to be explained. It is AN Taisces opinion that Greening will have virtually no impact in Ireland due to our ‘permanent pasture’ exemption. In the small number of cases where greening actions are required on arable land the benefit this will have on the aquatic environment needs to be elaborated upon. The uncertainty regarding the benefits of these requirements are not reflected and this is misleading.

Floods and water has been identified as an issue yet there is no mention of increased likelihood of flooding as the result of climate change is not mentioned?

Coastal/transitional water issues are barely mentioned. Aquaculture is barely mentioned. Issues with aquaculture need to be identified in the full SWMI public consultation. How are water quality issues relating to aquaculture going to be addressed? Does a conflict exist between or obligation to improve water quality and the ambition to expand aquaculture.

Issues around forestry are poorly developed. It is known that forestry can be a serious issue in some parts of the country. Has an evaluation been carried out of compliance with the Forestry & Water Quality Guidelines? For example are set backs being adhered to? Has there been an evaluation of the effectiveness of the measures? Is there a conflict of interest between the Forestry Programmes objective of increasing national tree cover to 18% and the WFD? How can any conflicts be resolved?

Issues around peat harvesting bot industrial and domestic need to be expanded upon within the SWMI? The harvesting of peat in this country is virtually unregulated and in the midlands in

particular there must be serious amounts of pollution and sedimentation resulting from decades of peat extraction. These issues need to be highlighted and addressed.

There is no mention of quarrying in the current SWMI. Again this needs to be highlighted and addressed.

There is only one mention of industrial discharges (as a legacy issue) and it is not listed as a SWMI. DWWTs (septic tanks) are not identified as a SWMI and are only mentioned in the human health section. There is no mention of their environmental impact.

This report lacks any legal context and does not set out the basic legal requirements of the WFD and other extremely relevant legislation e.g. Urban Waste Water Treatment Directive, Nitrates Directive, and Habitats Directive. There is no mention of the fact that Ireland is 2-years overdue on our WFD legal requirement to put in place a system of prior authorisation for abstraction and physical modifications under the relevant section. According to the WFD (Art 11. (i)) member states require a system of 'prior authorisation' for physical modifications of water bodies: ("....measures to ensure that the hydromorphological conditions of the bodies of water are consistent with the achievement of the required ecological status or good ecological potential for bodies of water designated as artificial or heavily modified. Controls for this purpose may take the form of a requirement for prior authorisation or registration based on general binding rules where such a requirement is not otherwise provided for under Community legislation." ) this should have been in place since December 2012. ("The programmes of measures shall be established at the latest nine years after the date of entry into force of this Directive and all the measures shall be made operational at the latest 12 years after that date".)

The RBM Plans stated that proposed authorisation regulations for these were "under preparation" but these have not been introduced and the status is unknown. This is significant because, in its absence, there is limited integration between WFD implementation and land use planning. The current paucity of knowledge around the finer detail ecological impacts of physical modifications has been highlighted in the draft SWMI, however the ecological impacts on the other hand of engineered solutions to flood control and canalisation are recognised. The recent works carried out as part of the Bandon flood scheme indicate that outdated heavy engineering solutions to issues such as flood relief have not been phased out. Encasing the shoreline of the Bandon river in stone is not in line with the WFD, the Habitats and Birds Directives or the best practice examples highlighted in the SWMI pre-consultation document e.g. IRD Dunhallow LIFE. Our obligations in regards to physical modifications under the WFD have not been met and best practice ecologically sensitive policies have not been adopted. These issues should be highlighted in the SWMI Draft Doc. Given the predicted increase in climate change related flooding and the ongoing process of drafting Flood Risk Management Plans under the WFD it is of paramount importance that issues surrounding the physical modifications of watercourses are addressed.

An Taisce appreciate the opportunity to feed into the development of Ireland's SWMI at this pre-consultation phase. We recognise the pre-consultations are not a legal requirement under the WFD. Having said that An Taisce must reiterate that this current draft of the SWMI is not acceptable and we believe that this report needs to be fully re-written and modelled on the Scottish RBD SWMI.