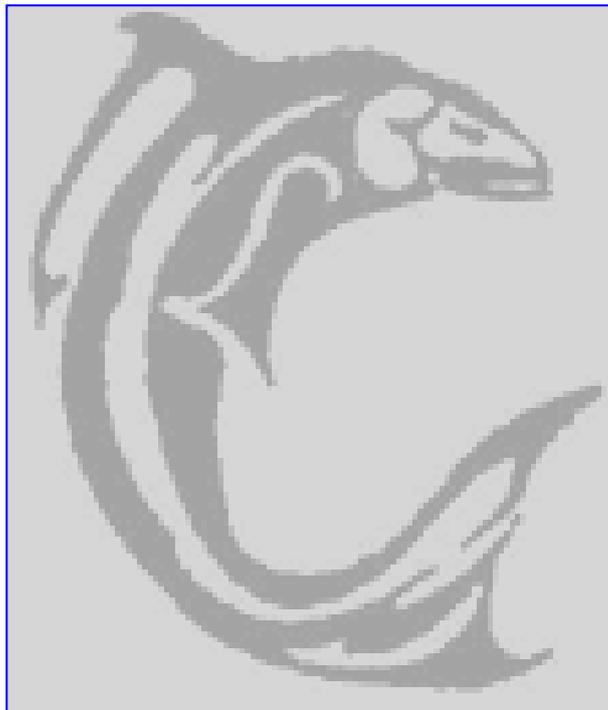


**Submission on Consultation Call regarding
“Draft European Communities Environmental Objectives
(Freshwater Pearl Mussel) Regulations 2008”**



**Coomhola Salmon Trust, ltd.
Coomhola Lodge
Bantry, County Cork**

streamscapes@eircom.net

027 50453

Background

Coomhola Salmon Trust, ltd., of Bantry, County Cork, founded in 1989, is engaged in aquatic environmental assessment, research, enhancement, and education actions (CST is the developer of the “*StreamScapes*” Aquatic Education Programme). In addition, Coomhola Salmon Trust;

- Is a member of the Irish Environmental Network (IEN);
- Chairs the Sustainable Water Network (SWAN);
- Contributes a Councillor to the South Western River Basin District Advisory Council;
- Hosts Freshwater Pearl Mussel (*Margaritifera margaritifera* and *Margaritifera durrovensis*) gene bank/Ark and breeding trials at their research facility;
- Routinely monitors the interpretation and implementation of the Water Framework Directive in Ireland and Europe;
- Generates submissions and opinions on Consultation Calls, including all WFD matters, Dangerous Substances, etc., and;
- Has contributed to the evolving philosophy of Public Participation and Awareness in the development and implementation of environmental law.

Executive Summary

Coomhola Salmon Trust, ltd., welcomes the publication of the Draft European Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations 2008. In this regard, CST notes:

- The perilous state of FPM populations is indeed a cause of huge concern. The current draft regulations must be viewed, in the light of the inclusion of Freshwater Pearl Mussels (FPM) within “red list” at-risk species, as extreme emergency measures to stave off FPM extinction.
- We found it useful to consider these Draft Regulations in tandem with recently published Draft FPM Sub-Basin management plans, as together they portray the sum total of efforts to rescue these populations.
- There is a very welcome, generally robust approach to the problem as set out in the Draft Regulations, conveying an urgency to secure survival of FPM in the 27 SAC-designated areas.
- Between the Draft Regulations and the Draft FPM Sub-basin management plans, there is a worrying under-emphasis upon the Public Relations aspects of the initiatives, and we see proper addressing of PR issues as imperative to the success of these objectives.
- There is concern over water chemistry parameters not being addressed, together with the stated ecological parameters, in assessing progress towards objectives.
- It is an oversight that Coillte Teoranta, with its large land-holdings in affected SAC FPM Sub-basins, and the huge capacity for forestry practice to contribute to FPM demise, is not listed within the context of prescribed bodies specified in Third Schedule (Relevant Public Authorities).

Comments by Draft Regulations Section / Paragraph

Introduction:

The suite of European legislative initiatives conceived to protect habitats and species since the 1970's have been produced with immense foresight, and with a great concern for conservation. Findings by the European Court of Justice over Ireland's inadequate response to these instruments, together with EU Commission direction as to how Ireland must redress this failure (as cited in the Introductory section of the current FPM Draft Regulations and elsewhere), are a terrible indictment upon the lack of commitment which Ireland has demonstrated with regard to their implementation. That the status of *Margaritifera margaritifera* and *Margaritifera durrovensis* has come to the current state, in 2009, is due to decades of poor and unconscious governance with regard to the safeguarding of environmental capital, and an inability to assume an achievable, responsible stewardship towards several habitats and species in the course of securing economic expansion. It need not have been the case; other nations, having suffered environmentally because of similar concentration upon development, have rectified this situation and have embraced the importance of buffering (and imposing 'best-practice' upon) those activities which have the capacity to limit environmental potential. These lessons were clear for us all to see, but we ignored them, perceiving mistakenly that they would impede economic growth. Therefore the current regulations, in the light of "red list" status for FPM, must be viewed in the context of being extreme emergency measures to stave off FPM extinction.

Commentary:

Paragraph 3, "Interpretation":

- The interpretation/definition of "favourable" "conservation status herein is to be lauded.

Paragraph 4:

- We are concerned that the requirement for "monitoring and assessment" of FPM "at least once every six years" is too vague and lax of a requirement to address the 'eleventh-hour' nature of the problem. Given that the response to FPM status is limited to a very few

(SAC) catchments across its former (and existing range), we recommend that annual (and on-going) assessment be accorded the highest priority.

Paragraph 5:

- Though Coomhola Salmon Trust appreciates the rationale behind the correction of status regarding designated FPM catchments, there is considerable disquiet amongst certain stakeholders (chiefly tourism) over the proposal to “downgrade” FPM rivers to “less than good ecological status” (see South West River Basin District Meeting Minutes for 18 November, 2008, and previous). The example is presented (by stakeholders) that, for instance, foreign tourists (and most particularly those seeking angling or water-sport activities), assessing a holiday in an area designated as FPM SAC, may decide *not* to visit an area where local water quality has been downgraded from “high” or “good” to “moderate”, perceiving that there may be health and safety or other issues to be avoided. Though this step is fitting and required to trigger appropriate responses at WFD and Habitats Directive levels, the full participation of stakeholders within the high objectives of the regulations is not alone desirable but absolutely essential. Perhaps these areas should receive a different *appellation*, such as “Special Heritage Area” or some such which may even assist in driving tourism (for example) in these areas...*e.g., turn the designation into something proactive and confer elevated status upon these local/ regional efforts*; this may assist in stakeholder ‘buy-in’ to the objectives. Furthermore, the conferring of a special, positive description of the designated area may promote greater local pride in the FPM conservation efforts.
- Moreover, SWRBD councillors complained that they felt that they were not adequately consulted upon this designation, that no one had explained its basis or its importance. Therefore the flow of information, together with the manner in which it is presented, is of paramount importance in achieving these goals.

Paragraphs 8, 9, & 10 (regarding development of sub-basin plans for FPM catchments):

- Similarly (as to the public relations point made regarding Paragraph 5 above); early, meaningful, and creative engagement of stakeholders and sectors (within designated FPM areas) which will be affected by these measures must be achieved. There is ongoing widespread resentment of ‘top-down’ determination of measures and, though “public

consultation” initiatives are improving, it must be realised that the psychology underlying development, implementation, and enforcement of statute is crucial. It is therefore suggested that these actions should be prefaced by awareness-raising campaigns (which instil pride and promote voluntary participation), hinted at but not elucidated upon in the Draft FPM Sub-basin management plans, and that the value of restored habitats and species is quantified and communicated to the communities upon whom the success of these measures depends.

Paragraph 14:

- Part B of this paragraph is considered important; provision of assistance/incentive for stakeholders thus affected by these regulations (beyond basic systemic measures such as REPS and etc.) is an important tool in addressing core problems. Many of the sources of FPM deterioration are due to long-engrained habits and practices which may involve considerable investment to rectify. If it may be taken as read that this paragraph provides for “assistance and support” then this will ease the burden on often marginalised enterprises in these catchments and will promote uptake of the spirit of the regulations.

First Schedule (Designated Freshwater Pearl Mussel Populations):

- We are resigned to, but not satisfied with, the designation of only 27 FPM stocks (out of a total of a minimum of 145 distinct stocks) across the State. It is appreciated that economic development in both rural and urban developments was necessary. What is not understood is how, in the light of lessons learned in other countries about ecological devastation over the past century, that good governance did not apply here in setting down, at an early stage, efforts to buffer these activities and to acquaint citizens with knowledge of ‘best-practice’ which would have ameliorated the impacts which have led to the present state. Hence our resignation; yet we look forward to the day when the wider water quality objectives of the Water Framework Directive will enable the restoration of freshwater pearl mussels (and other sensitive organisms) across all former habitat, and this needs to be the long-term aspiration.

Second Schedule (Criteria for Assessment of Freshwater Pearl Mussel Populations):

- These criteria represent a succinct combination of good science and good governance.

Third Schedule (Relevant Public Authorities):

- We note that Coillte Teoranta is omitted from this schedule of relevant public authorities. Given that the ministries/departments which comprise the shareholding of Coillte are named, this would also apply to the Electricity Supply Board, and yet the latter (semi-) State body is specified beyond the competent Minister within this schedule. Given that Coillte have within their portfolio large tracts of (primarily) upland holdings within many FPM catchments and furthermore that Coillte land-use practices have an enormous potential capacity to impact upon the successful achievement of these FPM objectives, we therefore feel it judicious that Coillte are included within this schedule to both ‘sit at the table’ of competent bodies charged with the implementation of these regulations, and are furthermore specified as being subject to the sanctions for non-compliance specified in Paragraphs 13-25 of this instrument.

Fourth Schedule (Ecological Quality Objectives for Freshwater Pearl Mussel Sites):

- Here we note that no water chemistry parameters have been included in the draft regulations, which is in contrast with Water Framework Directive policy of examining both Ecological and water chemistry values, with final Quality status being determined by an amalgamation of ecology and chemistry. Hence, why no water chemistry in the Quality Objectives?
- However, beyond this concern we note with approval that the stated ecological indicators (such as macroinvertebrate and macrophyte values) are stringent and that their status may offer circumstantial proof of the attainment of chemical basis.
- Finally, the Guidance Note accompanying the Siltation parameter; “No plumes of silt when substratum is disturbed”, is the height of brevity and clarity and will do much to achieve wide understanding of this important factor in FPM conservation.

References and Bibliography

Northern Ireland Species Action Plan: Freshwater Pearl Mussel *Margaritifera margaritifera* March 2005

Draft European Communities Environmental Objectives (Freshwater Pearl Mussel) Regulations 2008

Freshwater Pearl Mussel (*Draft*) Bandon River Sub-Basin Management Plan for consultation
Produced by NS 2, funded by DEHLG December 2008

Margaritifera durrovensis (the Nore freshwater pearl mussel) conservation assessment
Backing Document, July 2007; Prepared by Evelyn A. Moorkens, Ian J. Killeen and Eugene Ross,
Edited by Áine O Connor; A Report to: The National Parks and Wildlife Service &
Department of Environment Heritage and Local Government

Margaritifera margaritifera (the freshwater pearl mussel) conservation assessment
Backing Document, July 2007; Prepared by Evelyn A. Moorkens, Ian J. Killeen and Eugene Ross,
Edited by Áine O Connor; A Report to: The National Parks and Wildlife Service &
Department of Environment Heritage and Local Government

Lessons from Captive Breeding of *Margaritifera* in the Republic of Ireland; Evelyn Moorkens,
Luxembourg, 2008

Clearfelling: The Environmental Consequences; 2007, Friends of the Irish Environment

Species Action Plan; Freshwater Pearl Mussel (*Margaritifera margaritifera*) Biodiversity: The UK
Steering Group Report - Volume II: Action Plans (December 1995, Tranche 1, Vol 2, p162)

Biodiversity: Department of Agriculture and Food Actions to promote Biodiversity; Biodiversity
Unit, Department of Agriculture & Food, Johnstown Castle Estate, Wexford

Coillte Action Plan; *Freshwater Pearl Mussel* (*Margaritifera margaritifera*), Access to Environmental
Information, Nature Conservation, 2007

Challenge to the Definition of Forests Under UNFCCC/REDD; Global Forest Coalition, 2008

Forest Service Guidelines: Forestry and Water Quality Guidelines, 2000

“Future is Bright for Freshwater Pearl Mussels”, Environment and Heritage Service (EHS), (UK)
Department of Environment, 2006

Draft Guidelines for Forestry in Freshwater Pearl Mussel Habitats; Carra Mask Corrib Water
Protection Group, 2007

WFD Fresh Water Pearl Mussel (*Margaritifera*) Risk Assessment Methodology; Guidance on the
Methodology to be Applied in Ireland’s River Basin Districts; NPWS (IRE), 2005

Current Animal Research Projects; Freshwater Pearl Mussel; NPWS, 2007

Ireland Consultation Paper: Draft European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2008; Department of Environment, Heritage & Local Government & Department of Agriculture, Fisheries and Food, 2008

The Water Framework Directive (2000/60/EC) and the Dangerous Substances Directive (2006/11/EC); Department of Environment, Heritage & Local Government, 2008

Report of the Flood Policy Review Group, Office of Public Works, 2004

The Planning System and Flood Risk Management – Consultation Draft Guidelines for Planning Authorities”; Department of Environment, Heritage, and Local Government, Dublin 2008

Submission on Pre-draft Planning and Flooding Guidelines”; Irish Planning Institute, 2007

The Proactive Role of Appropriate Forestry Plantation”; Research Agency of the Forestry Commission (UK), 2002

Directive 2000/60/EC” (“The Water Framework Directive”); European Parliament and Council, 2000

Total Maximum Daily Load for Sediment and Turbidity (TMDL”); Higgins, 2007

Directive 1992/43/EC” (“European Habitats Directive”); European Parliament, 2000

Furniss, personal correspondence; 2008

Muller, personal correspondence; 2007

Warburton, Evans; 2003

StreamScapes Advanced – A Stakeholder’s Handbook; Coomhola Salmon Trust, 2000