

FOI Request Reference: Request ID: 2009/42 Schedule of Records: Summary of Decision Making

Requesting correspondence between the Department, Fermoy Town Council and Fermoy Rowing Club in relation to proposed works to the weir at Fermoy and any associated or relevant briefing or correspondence.

Record No.	Brief Description & Date of Record	File Ref.	No. of Pages	Relevant facts	Findings/ conclusions (Public Interest Considerations, (If applicable))	Grant/refuse/ part-grant	Basis of Refusal: Section of Act	Record edited/Identify deletions
1	Email from Department dated 5 November 2008 following telephone conversation with Fermoy Rowing Club regarding meeting of engineering advisors.	C17/3/53 Vol IV	1			Grant		
2	Email from Department to Fermoy Town Council dated 6 November 2008 outlining proposals for the scheduled public consultation.	C17/3/53 Vol IV	1			Grant		
3	Emails between Fermoy Rowing Club and Department dated 10 November 2008 regarding meeting with engineering advisors.	C17/3/53 Vol IV	3			Grant		
4	Report of meeting of 11 November 2008 with Engineering advisors, Rowing Club and Department regarding technical aspects of the proposed works to the weir.	C17/3/53 Vol IV	1			Grant		
5	Emails between Fermoy Rowing Club and Department dated 16 November 2008 and 17 November 2008 respectively.	C17/3/53 Vol IV	3			Grant		

6	Email from John O'Keeffe to Department dated 27 November 2008 addressing a number of issues raised at the public meeting.	C17/3/53 Vol IV	2			Grant		
7	Email attaching revised rock ramp fish pass design from Mr. Barry McDonald Department of Agriculture Fisheries and Food to the Department dated 26 November 2008.	C17/3/53 Vol IV	3			Grant		

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**Marion Foley**

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**From:** Marion Foley  
**Sent:** 05 November 2008 14:53  
**To:** 'johnny.okeeffe@agriculture.gov.ie'; Deirdre DeBrun; Barbara Leeson  
**Subject:** Note of Telephone Conversation with Mr. Paul Kavanagh RC  
**Importance:** High

<b>Tracking:</b>	<b>Recipient</b>	<b>Delivery</b>	<b>Read</b>
	'johnny.okeeffe@agriculture.gov.ie'		
	Deirdre DeBrun	Delivered: 05/11/2008 14:53	Read: 05/11/2008 14:54
	Barbara Leeson	Delivered: 05/11/2008 14:53	Read: 05/11/2008 14:56

John Deirdre & Barbara

I phoned Mr. Paul Kavanagh (Rowing Club) regarding an update on the proposed meeting between their Engineer and Mr. O' Keeffe. Mr. Kavanagh said that this meeting has not yet been organised (he was out of the office last week) but he advised that their Engineer has met with members of the Rowing Club and in light of this meeting has consulted another Engineer. I said that Mr. O' Keeffe was anxious to meet with their Engineer as soon as possible. Mr. Kavanagh undertook to contact the Engineer this afternoon and revert with an update.

Regards

Marion

**Marion Foley**

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**From:** Barbara Leeson  
**Sent:** 06 November 2008 17:30  
**To:** 'Ray Owens'  
**Cc:** Deirdre DeBrun; Marion Foley  
**Subject:** Meeting re: Fermoy Weir

Ray

I am writing to you in connection with the upcoming public meeting regarding the proposed remedial works to Fermoy weir and to set out the Department's view as to how it might be conducted. The Town Council's views on the attached proposals would be appreciated.

Given that the meeting is to run from 4 to 7.30 pm, the Department would propose to set up the room with a number of stands which will display pertinent information regarding the proposals and the reasoning behind the necessity for the works. This can be examined by the public at their leisure and officials from the Department, the Southern Regional Fisheries Board and our engineers will be available to answer any questions arising. It is also intended to have handouts on the different issues which will be available to the public.

The Department also proposes to do two short presentations on the matter which could be scheduled for and advertised as taking place at, say, 4.30 and 6.00.

As the Council is organising the meeting, it would be appreciated if you could arrange for a number (5 or 6) of free standing stands to be provided in the room, in order that the information can be displayed. It is envisaged that these would be set up around the perimeter of the room. The Department will also require a projector and screen to display a powerpoint presentation.

The Department is of the view that seats should be made available for the public during the presentation but that sufficient room is available for the public to examine the information on the stands.

I look forward to hearing your views on the foregoing and perhaps you might advise if there are any other matters which should be factored into the meeting. It is presumed that the official or members of the Town Council do not propose to make any presentations or take questions at the meeting.

Regards

Barbara

**Barbara Leeson**  
**Inland Fisheries Division**  
**Department of Communications, Energy and**  
**Natural Resources**  
**29/31 Adelaide Road**  
**Dublin 2**

**Ph: 00353 1 6782276**  
**Fax: 00353 1 6782539**  
**E-mail: [barbara.leeson@dcenr.gov.ie](mailto:barbara.leeson@dcenr.gov.ie)**  
**Web: [www.dcenr.ie](http://www.dcenr.ie)**

**Marion Foley**

**From:** Paul Kavanagh [paulkavanagh@mig.ie]  
**Sent:** 10 November 2008 17:51  
**To:** Deirdre DeBrun  
**Cc:** Marion Foley; Barbara Leeson; Martin Brennan; Frank Sheridan  
**Subject:** RE: Rowing Club

I appreciate that Deirdre, and understand that the meeting will only discuss the engineering points tomorrow, however it must be very clear from the outset that without points 3,4&5 of my email below, then the project will not work and the Fermoy Rowing Club cannot concede the four inches from the outset. The Department must recognise that the Rowing Club are willing to accommodate the new weir, but only subject to all five points being agreed, in the overall plan.

The Engineers will have to talk about points 3 & 4 tomorrow, because the level of the water will drop by four inches making it impossible to launch boats from the current slipways and to pass safely along the low points of the river, as previously outlined. Point 5 can be held for our meeting with the OPW, but the department should be aware that, if as originally proposed – walls are built parallel to the slipways, then you might as well not bother with the other points as the club would not be able to function. We have proposed an agreed a cheaper and more effective barrier to the OPW, subject to our neighbours approval.

We understand a further meeting will have to take place with John O'Keeffe, the OPW and ourselves, at a date to be organised speedily, following tomorrows meeting. Both John and the OPW engineers have stated that they will accommodate us, at recent meetings, however in order to reach a complete agreement, we do need to have all parties together, as soon as possible.

You will appreciate that if both our legal representatives were dealing with this today, that nothing would have happened and the meeting tomorrow would have been cancelled. I have worked on this all day and will travel to Dublin tomorrow to try and resolve the issues. I am trying to progress this to a speedy resolution but at the same time it must be right for the club.

You know and acknowledge that we have been kept in the dark by Fermoy Town Council Executive. As a result our committee and members are deeply suspicious of any works to be carried out on the river and we insist on the type of consultation you have afforded us, since the FTC meeting.

If tomorrow's meeting is fruitful, as I believe it can be, I look forward to an early meeting with the Department John and the OPW.

With Best Regards

***Paul Kavanagh***

PAUL KAVANAGH QFA CIP  
 MANAGING DIRECTOR

**McCARTHY INSURANCE GROUP**

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**From:** Deirdre DeBrun [mailto:Deirdre.DeBrun@dcenr.gov.ie]  
**Sent:** 10 November 2008 17:21  
**To:** Paul Kavanagh  
**Cc:** Frank Sheridan; Martin Brennan; Barbara Leeson; Marion Foley  
**Subject:** RE: Rowing Club

Dear Paul,

The purpose of the meeting tomorrow is for engineers to discuss the proposed works at the Fermoy Weir. As I explained in my previous e-mail the Department will be there as observers only. Your presence as Chairman of the Rowing Club will facilitate you seeking clarification on any of the engineering issues. Any other issues mentioned in your e-mail may be discussed at a later date.

Best wishes,

Deirdre de Brún,  
Inland Fisheries Division.

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**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**Sent:** 10 November 2008 16:36  
**To:** Deirdre DeBrun  
**Subject:** RE: Rowing Club

Hi Deirdre

Fermoy Rowing Club have outlined below the 5 points under which we must receive total clarity. As the contracts for the Flood relief plan are now being sent back out to the contractors, with the inclusion of the weir work, as I understand it, then it is important that all parties know exactly what is going to happen and that all works be carried out diligently and promptly. It will not be good enough to say "Leave that to the OPW and the contractors". Fermoy Rowing Club want a proper verified legal understanding of what is agreed after tomorrow's meeting to guarantee it's survival. I am the outgoing chairperson of the club and I must hand over the club to the Chairperson elect in a proper condition.

**The aim of the meeting is for the Department to allay our fears that:**

1. **The present summer water level does not drop below 4 inches in future summer drought conditions.**
2. **The seven 600mm X 600mm proposed gaps will have no effect on point 1, above.**  
(An agreed marking point would have to be put in place, on the slipways)  
**If they do, Fermoy Rowing Club would have the authority to block the gaps in the new fish pass with sand bags, with the full backing of the Fermoy Town Council and the Department and in turn the Fisheries Board.**
3. **The low points of the river at the Strand, Bend and straight into Castlehyde have sufficient gravel removed, by the OPW, to allow the club to train un-interrupted, up and down to Castlehyde.**
4. **The slipways be replaced (as agreed in discussions already with the OPW, as part of the Flood plan).**
5. **No walls be built by the OPW (as part of the flood plan), parallel to the new slipways, (already discussed with OPW)**

Points 3,4&5 will necessitate a future meeting between the OPW, the appointed contractors and the Rowing Club to ensure that what is agreed tomorrow, is carried out to our satisfaction and with minimum disruption.

If all these five points can be agreed and verified in a Legal document between the department, the OPW and then we will have a deal, which will leave the way open for Fermoy Town Council to agree your proposal.

I trust you appreciate my bone fides in this regard and I look forward to a successful conclusion.

***Paul Kavanagh***

PAUL KAVANAGH QFA CIP  
MANAGING DIRECTOR

**McCARTHY INSURANCE GROUP**

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**From:** Deirdre DeBrun [mailto:Deirdre.DeBrun@dcenr.gov.ie]  
**Sent:** 10 November 2008 15:57  
**To:** Paul Kavanagh  
**Cc:** Marion Foley; Barbara Leeson  
**Subject:** FW: Rowing Club

Hi Paul,

Just to confirm attendance at the meeting in the Mont Clare tomorrow to consider engineering issues concerning the proposed works at Fermoy.

We agreed that you will attend in your capacity as Chairman of the Rowing Club and may seek clarification on issues arising in the course of discussions between the engineers. (Donal Murphy and John O'Keeffe). The Department (myself and Marion Foley) will attend as observers only.

We have booked the Nassau Room for the meeting and have arranged for tea/coffee.

Hope you have a pleasant journey tomorrow morning.

Best wishes,

Deirdre

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**Note of Meeting with Engineers and a member of Fermoy Rowing Club  
Tuesday 11 November 2008 in the Mont Clare Hotel**

In attendance: Deirdre de Brun & Marion Foley (DCENR)  
John O' Keeffe (DAFF)  
Donal Murphy Engineer representing the Rowing Club  
Mr. Paul Kavanagh Chairman of the Rowing Club

This meeting was convened in order to facilitate a discussion between the engineers Mr. John O' Keeffe and Mr. Donal Murphy representing the Department and Rowing Club respectively and the chairman of the Rowing club Mr. Paul Kavanagh. The Department attended as observers only.

At the outset the engineers examined and discussed in detail the technical aspects of the proposed plan specifically the design, water levels/depths and the hydrographic surveys. In the course of the discussion Mr. Murphy advised that the Rowing Club's primary concern is the hydrographic surveys. Mr. O' Keeffe explained that he took the low flow mean as 95% in determining the average drop in water levels during normal weather conditions. Mr. Murphy agreed with this concept and said that it would be virtually impossible to determine the average drop in water levels in an extreme drought situation.

Mr. Kavanagh advised that there is an existing problem of low water levels during the summer months in an area known as the strand. Essentially this problem arises as a result of an accumulation of gravel on the inside wall on a bend in the river together with massive overgrowth and submerged trees in the river. Mr. Kavanagh is concerned that the proposed remedial work will exacerbate the problem. (It should be noted that this problem did not show up in any of the surveys).

Mr. O' Keeffe gave an assurance that the proposed remedial work will not have a negative affect during normal conditions. Mr. O Keeffe also indicated that it would be possible to temporary block off a number of the opes in the event of a lower flow in extreme summer drought conditions, the last extreme drought conditions occurred in 1976. Both the Engineers agreed with this solution in the event of extreme drought conditions. It was also pointed out that these existing issues (slipway, gravel & overgrowth) are not within the Departments remit. The Department understands that the OPW may deal with the slipway in the course of their Flood Relief Programme. The extent of the gravel problem can only be assessed during the summer however, this issue as well as the overgrowth are ultimately the responsibility of the Town Council and landowners respectively. It was agreed that Mr Murphy would contact Mr. O Keeffe directly with any further questions.

Ms. de Brun outlined the arrangements for the forthcoming public presentation and agreed to meet with the Rowing Club at a mutually suitable time to be agreed either before or after the presentation.

**Inland Fisheries Division  
11 November 2008**

(S)

## Marion Foley

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**From:** Deirdre DeBrun  
**Sent:** 17 November 2008 09:42  
**To:** 'Paul Kavanagh'  
**Cc:** Barbara Leeson; Marion Foley; 'O'Keeffe, Johnny (Fisheries)'; 'Brian'  
**Subject:** RE: Rowing Club

Good morning Paul,

Thank you for your e-mail. I am checking availability of colleagues for a meeting on Wed morning. If it can be arranged, perhaps you could also arrange for your engineer to attend. As a minimum the Department will be available to meet the Rowing Club on Wed.

Regards,

Deirdre

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**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**Sent:** 16 November 2008 16:42  
**To:** Deirdre DeBrun  
**Subject:** Rowing Club

Hi Deirdre

Following on from last weeks meeting between John O'Keeffe and Donal Murphy, little or no progress has been made, to alleviate the fears of Fermoy Rowing Club, with the exception of the agreed dredging of the strand and rock areas, plus the pruning of overhanging river tree branches.

**In relation to point 1.** It emerged on Tuesday, in the presence of our engineer, that the water level, in drought conditions, would actually drop 9.7 inches. This is totally unacceptable and not the 4.7 inches that we or the members of Fermoy Town Council were told, by John O'Keeffe, at our recent meetings in Fermoy.

**In relation to point 2.** John O'Keeffe is only willing to reduce the number of gaps from 7 to 5 and not their size.

We are willing to accept 5 gaps, but only if the gaps are reduced to 300mm x 300mm, which is Internationally

recognised as adequate 'fish width' for a fish pass.

Even if that were to be agreed, we would need to have the gaps constructed in such a way as to allow sheets of marine plywood to be slipped into the 5 gaps, once it became apparent that the water was dropping below the agreed 4.7 inches at 95% flow.

Then of course there is the question of who would be authorised to do this job.

Surely your engineer can come up with a more conventional system, similar to sluice gates?

Finally points 4 & 5 need to be tackled now because they both are part of phase 2 of Fermoy Flood Relief Plan and not Phase one, under which the weir is being included. Phase two may never happen and at best is three years away. We need the new slips contained in phase 1.

This needs to be agreed in consultation with the OPW, at a future meeting to agree the timescale and sequence of events.

Please note: We have a regatta in May, so work could not commence on removing the weir, prior to this date.

Have you any update as to whether or not the weir is a protected structure, from Cork County Council.

Can you confirm that you are willing to meet us in the Grand Hotel, next Wednesday morning to discuss our concerns.

Best Regards

Paul Kavanagh

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**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**To:** 'Deirdre DeBrun' [mailto:Deirdre.DeBrun@dcentr.gov.ie]  
**Sent:** Mon, 10 Nov 2008 16:36:08 +0000  
**Subject:** RE: Rowing Club

Hi Deirdre

Fermoy Rowing Club have outlined below the 5 points under which we must receive total clarity. As the contracts for the Flood relief plan are now being sent back out to the contractors, with the inclusion of the weir work, as I understand it, then it is important that all parties know exactly what is going to happen and that all works be carried out diligently and promptly. It will not be good enough to say "Leave that to the OPW and the contractors".

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Trust you appreciate my bone fides in this regard and I look forward to a successful conclusion.

***Paul Kavanagh***

PAUL KAVANAGH QFA CIP  
MANAGING DIRECTOR  
**McCARTHY INSURANCE GROUP**

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**From:** Deirdre DeBrun [mailto:[Deirdre.DeBrun@dcenr.gov.ie](mailto:Deirdre.DeBrun@dcenr.gov.ie)]  
**Sent:** 10 November 2008 15:57  
**To:** Paul Kavanagh  
**Cc:** Marion Foley; Barbara Leeson  
**Subject:** FW: Rowing Club

Hi Paul,

Just to confirm attendance at the meeting in the Mont Clare tomorrow to consider engineering issues concerning the proposed works at Fermoy.

We agreed that you will attend in your capacity as Chairman of the Rowing Club and may seek clarification on issues arising in the course of discussions between the engineers. (Donal Murphy and John O'Keeffe). The Department (myself and Marion Foley) will attend as observers only.

We have booked the Nassau Room for the meeting and have arranged for tea/coffee.

Hope you have a pleasant journey tomorrow morning.

Best wishes,

Deirdre

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(6)

Marion Foley

From: Deirdre DeBrun  
 Sent: 27 November 2008 15:48  
 To: Barbara Leeson; Marion Foley  
 Subject: FW: Fermoy weir fish pass design

-----Original Message-----

From: O'Keeffe, Johnny (Fisheries) [mailto:Johnny.O'Keeffe@agriculture.gov.ie]  
 Sent: 25 November 2008 17:38  
 To: Deirdre DeBrun  
 Cc: Bsheeerin@srfb.ie; Alancullagh@eircom.net  
 Subject: Fermoy weir fish pass design

Deirdre

Following the public meeting last week in Fermoy concerns relating to water levels and safety were voiced. While the present fish pass design will not give rise to water levels that should affect rowing it seems impossible to convince the rowing club of that fact. I have therefore examined the design to see if the drop in water levels during summer flow can be kept higher.

Also at the public meeting the issue of a run-out distance for rowers during regattas was mooted. It is contended that the proposed fish pass might reduce it where the weir at present does not. As the proposed fish pass will not extend above the weir it is hard to see how this could be a major safety issue as one would have thought that approaching the weir even as it stands would not be desirable on safety grounds. Nevertheless I am proposing to reduce the width of the fish pass from 36.5 metres to 30 metres to allow greater river width upstream of the weir to be available as a run-out area. The crest level of the fish pass will still remain set at 300mm below existing average weir crest level and the gradient will not change. I am satisfied that the reduced width will not compromise the efficacy of the pass to attract and allow free and uninterrupted passage for all migratory fish.

This reduction in width will reduce further the level to which upstream water levels will drop below the existing weir crest in low flow periods to 85mm (3.4 inches) in 95 percentile flow (normal flow in a dry summer). In a severe drought period the drop in water levels below existing weir crest will not exceed 175mm (7 inches). As there is deep water upstream of the weir these projected water levels during low flow should not give rise to any interference with the activities of the rowing club. We can still agree a protocol to block the opes in the fish pass during very low flow if in the unlikely event that this was warranted.

Barry McDonald is preparing the revised drawing today and will forward a copy tomorrow to John Kelly, OPW who may wish to forward it to their consulting engineers. Though the fish pass will be reduced somewhat in width it is unlikely to reduce costs significantly. Barry will also arrange to have copies sent to you tomorrow. You mentioned you are sending out drawings following requests from the public. To avoid causing confusion it would be best to send out only the latest version but you may have to advise recipients of the changed fish pass width as this is different from the drawing that was exhibited at the public consultation.

Regards

John

Department of Agriculture, Fisheries and Food

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Roinn Talmhaíochta, Iascaigh agus Bia

Tá an t-eolais san ríomhphost seo, agus in aon ceangláin leis, faoi phribhléid agus faoi rún agus le h-agaigh an seolaí amháin. D'fhéadfadh ábhar an seoladh seo bheith faoi phribhléid profisiúnta nó dlíthiúil. Mura tusa an seolaí a bhí beartaithe leis an ríomhphost seo a fháil, tá cosc air, nó aon chuid de, a úsáid, a chóipeál, nó a scaoileadh. Má tháinig sé chugat de bharr dearmad, téigh i dteagmháil leis an seoltóir agus scrios an t-ábhar ó do ríomhaire le do thoil.

Marion Foley

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From: Deirdre DeBrun  
Sent: 26 November 2008 16:46  
To: Marion Foley; Barbara Leeson  
Cc: Aoife McQuillan; Susan Lowen  
Subject: FW: Latest Rock Ramp Revision

Attachments: Fermoy Rock Ramp Revision D.pdf



Fermoy Rock Ramp  
Revision D.pd...

FYI

-----Original Message-----

From: McDonald, Barry [mailto:Barry.McDonald@agriculture.gov.ie]  
Sent: 26 November 2008 16:45  
To: Deirdre DeBrun  
Subject: RE: Latest Rock Ramp Revision

Sorry Deirdre

Please find attached the correct drawing please delete previous one as it contains an error  
Working on getting those paper copies but we're running in to a few problems

Barry

-----Original Message-----

From: Deirdre DeBrun [mailto:Deirdre.DeBrun@dcenr.gov.ie]  
Sent: 26 November 2008 14:57  
To: McDonald, Barry  
Subject: RE: Latest Rock Ramp Revision

Many thanks Barry

-----Original Message-----

From: McDonald, Barry [mailto:Barry.McDonald@agriculture.gov.ie]  
Sent: 26 November 2008 14:55  
To: Deirdre DeBrun  
Subject: Latest Rock Ramp Revision

Deirdre

Please find attached latest revision of the proposed rock ramp at Fermoy. Following public Consultation the Ramp has been narrowed to increase upstream water levels and increase the cool down area downstream of the racing finish line.  
I'm arranging for full size printed versions to be left at the front desk in Adelaide Road for you this evening.

Barry

<<Fermoy Rock Ramp Revision D.pdf>>

Department of Agriculture, Fisheries and Food

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Roinn Talmhaíochta, Iascaigh agus Bia

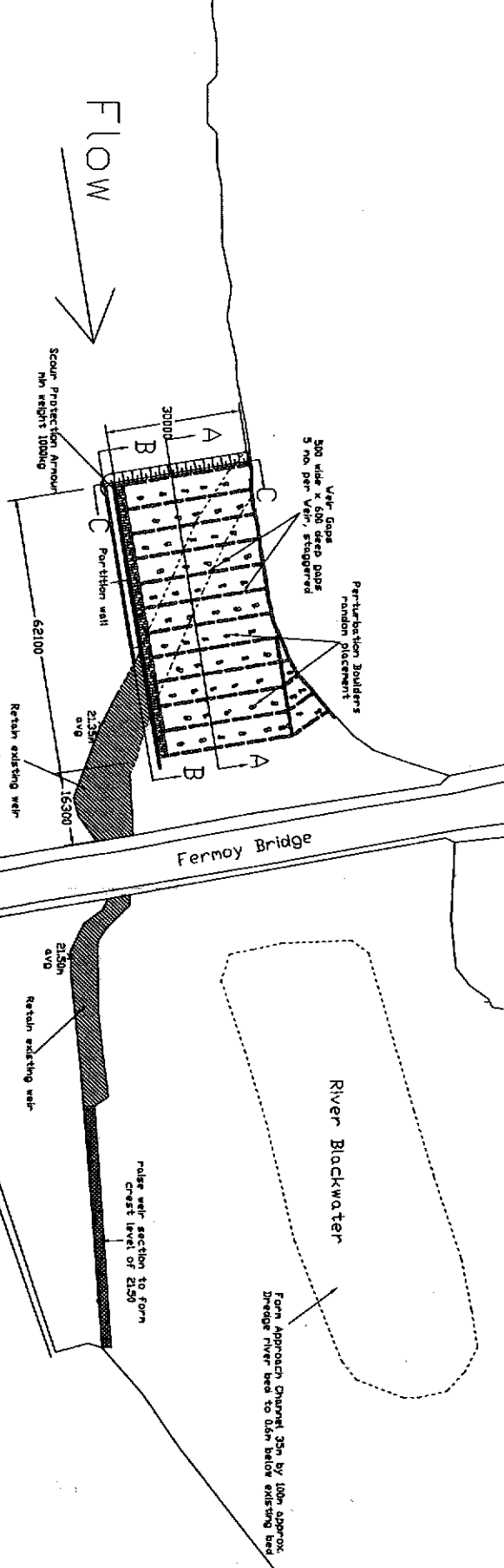
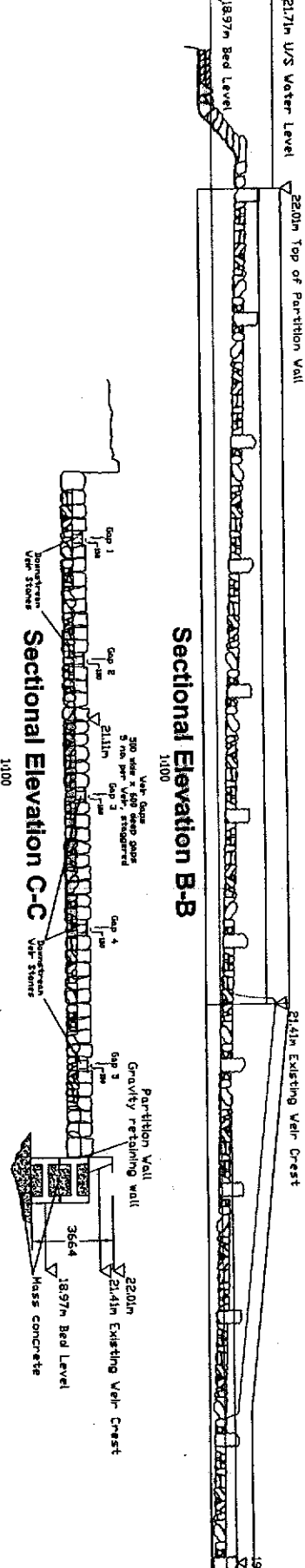
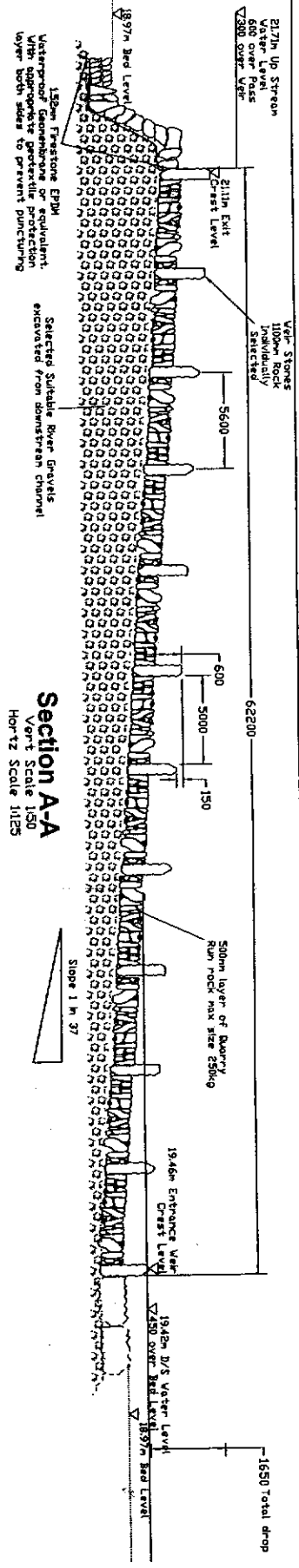
Tá an t-eolais san ríomhphost seo, agus in aon ceangláin leis, faoi phribhléid agus faoi rún agus le h-agaigh an seolaí amháin. D'fhéadfadh ábhar an seoladh seo bheith faoi phribhléid profisiúnta nó dlíthiúil. Mura tusa an seolaí a bhí beartaithe leis an ríomhphost seo a fháil, tá cosc air, nó aon chuid de, a úsáid, a chóipeál, nó a scaoileadh. Má tháinig sé chugat de bharr dearmad, téigh i dteagmháil leis an seoltóir agus scrios an t-ábhar ó do ríomhaire le do thoil.

Department of Agriculture, Fisheries and Food

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An Roinn Talmhaíochta, Iascaigh agus Bia

Tá an t-eolais san ríomhphost seo, agus in aon ceangláin leis, faoi phribhléid agus faoi rún agus le h-agaigh an seolaí amháin. D'fhéadfadh ábhar an seoladh seo bheith faoi phribhléid profisiúnta nó dlíthiúil. Mura tusa an seolaí a bhí beartaithe leis an ríomhphost seo a fháil, tá cosc air, nó aon chuid de, a úsáid, a chóipeál, nó a scaoileadh. Má tháinig sé chugat de bharr dearmad, téigh i dteagmháil leis an seoltóir agus scrios an t-ábhar ó do ríomhaire le do thoil.



No.	Description	Quantity	Unit
1	Concrete	1000	m <sup>3</sup>
2	Reinforcement	1000	m <sup>3</sup>
3	Gravel	1000	m <sup>3</sup>
4	Quarry Run Rock	1000	m <sup>3</sup>
5	Mass Concrete	1000	m <sup>3</sup>
6	Waterproof Membrane	1000	m <sup>2</sup>
7	Protection Layer	1000	m <sup>2</sup>
8	1000mm Rock Piers	1000	m <sup>3</sup>
9	500mm x 600mm Gaps	1000	m <sup>3</sup>
10	300mm x 1.60m Gaps	1000	m <sup>3</sup>
11	62100m Weir	1000	m <sup>3</sup>
12	1500m Rock Ramp	1000	m <sup>3</sup>

Prepared by: [Name]  
 Checked by: [Name]  
 Date: [Date]

FOI Request Reference: Request ID: 2009/42

Schedule of Records: Summary of Decision Making

Requesting correspondence between the Department, Fermoy Town Council and Fermoy Rowing Club in relation to proposed works to the weir at Fermoy and any associated or relevant briefing or correspondence.

Record No.	Brief Description & Date of Record	File Ref.	No. of Pages	Relevant facts	Findings/ conclusions (Public Interest Considerations, (If applicable))	Grant/refuse/ part-grant	Basis of Refusal: Section of Act	Record edited/Identify deletions
1	Email from Fermoy Rowing Club to Department dated 1 December 2008 with Rowing Club's engineering advisor's submission.	C17/3/53 Vol V	3			Grant		
2	Email from Department to Rowing Club dated 2 December 2008 seeking clarification on part of the Fermoy Rowing Club's engineers submission.	C17/3/53 Vol V	1			Grant		
3	Email from Department to Rowing Club dated 2 December 2008.	C17/3/53 Vol V	1			Grant		
4	Letter from the former Minister of State Sean Power T.D. to Deputy Michael Aherm dated 2 December 2008 in relation to a request to meet with the Rowing Club.	C17/3/53 Vol V	4			Grant		
5	Letter seeking a meeting with members of Fermoy Town Council from the former Minister of State Sean Power T.D. to Mr. Ray Owens Fermoy Town Council dated 4 December 2008.	C17/3/53 Vol V	4			Grant		

6	Email from Fermoy Rowing Club dated 7 December 2009 in response to Departments email of 2 December seeking clarification on engineering submissions.	C17/3/53 Vol V	2					Grant	
7	Note for information on Fermoy Weir and proposed fish pass dated 5 December 2008.	C17/3/53 Vol V	2					Grant	
8	Email from Department to Fermoy Rowing Club dated 8 December 2008 in response to Rowing Clubs email of 7 December 2008.	C17/3/53 Vol V	4					Grant	
9	Email from Rowing Club dated 8 December to the former Minister of State Sean Power T.D. and Minister Eamon Ryan T.D.	C17/3/53 Vol V	6					Grant	
10	Letter to Fermoy Town Council from former Minister of State, Mr. Sean Power T.D. dated 16 December 2008.	C17/3/53 Vol V	2					Grant	

(1)

**Marion Foley**

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**From:** Deirdre DeBrun  
**Sent:** 02 December 2008 10:06  
**To:** 'O'Keefe, Johnny (Fisheries)'; 'Brian'; Barbara Leeson; Marion Foley; Frank Sheridan; Martin Brennan  
**Subject:** FW: Fermoy Weir  
**Attachments:** AMT112A.TIF

FYI

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**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**Sent:** 01 December 2008 18:15  
**To:** Deirdre DeBrun  
**Subject:** Fermoy Weir

Dear Deirdre

Following on from our meeting in Fermoy and your public meeting on 18<sup>th</sup> November, The Trustees and Officers of Fermoy Rowing Club directed that I contact Donal Murphy and ask him to prepare a document that should be examined with a view to resolving the existing conflict between the Department, OPW, Fisheries Board and the Rowing Club.

I now attach Donal's two page report which is an alternative to John O'Keefe's plan.

We are due to meet some Ministers and TD's in the Dail next week and therefore it is only right that you are aware of our alternative plan, in advance.

With Best Regards

***Paul Kavanagh***

2008-11-25 17:16

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P2/3

**Donal F. Murphy BE FIEI MIFM Chartered Engineer**  
**13 Briar Wood, Bray, Co. Wicklow. Phone 01 2860218**

**Proposed Rock Ramp Fish-pass and Related Works at Fermoy Weir.**

**Supplement to my recommendations of 17 Nov. 2008**

This submission is in response to a request dated 25 Nov 2008 from the Rowing Club to indicate what options should be examined with a view to resolving the existing conflict between the Fisheries requirements and the requirements of the Rowing Club.

In my recommendations of 17 Nov, in par 2 of the section headed "Purpose and Nature of the Scheme", I gave it as my opinion that the rock-ramp option put forward by Mr. John O'Keeffe was an "ideal choice" to meet the fisheries objectives and the other considerations and constraints which he had to take into account.

However, in view of the facts that the Rowing Club has serious reservations about the scheme as proposed, and that the Department does not see its way to entering into the commitments which I proposed, I now put forward some alternative proposals which, in my opinion, should serve the fisheries interests and address the Club's concerns.

My proposal can be outlined as follows:

1. To reconstruct the existing Pool Pass to modern design standards.
2. To construct two new pool passes, one at each side of the "Island" / Gravel Banks below the spillway
3. ( One of these three passes could be of the Vertical Slot type.)
4. To replace the existing Groyne pass with one or more groyne passes designed to modern standards.
5. To provide elver passes at appropriate locations on the weir.

It is my opinion that these provisions would serve adequately for the passage of salmon, trout, elvers, lamprey and shad.

I believe that the flow requirements of these five passes could be met by the estimated minimum flow of 2.7 cumecs, which would mean that the upstream water-level should never drop below the weir-crest.

I now turn to the final paragraph of my section headed "Effects of the Scheme on Rowing" in which I asked if the existing relatively low level of the spillway section had ever caused problems for rowing in the past. This may not seem to be an important issue, but I still think it should be addressed.

First, I would need to know what the level of this section is, and what the volume of flow was on the day the photograph was taken. This information may be enough to answer my question, at least in part.

However, I still think we must address the question of the effects of past droughts on rowing activities – especially at the Strand and the Rock. Towards this end I think we should ask Mr. O'Keeffe to give us more historical flow data, presented as follows:

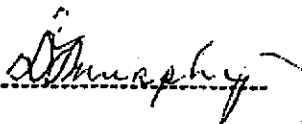
1. A histogram ( bar chart) or tabulation showing for each month of the year the Minimum, Mean and Maximum volumes of river flow. This will give us a picture of critical times of the year.
2. Flow data for severe past droughts derived from the gauging station at Mallow and adjusted for Fermoy. This data should be processed to derive water levels at Fermoy weir, in the same way as Mr. O'Keeffe has done for the 95%ile and Estimated lowest flows of 5.6 and 2.7 cumecs.

These charts and figures would give us a simple picture of how the water levels at the weir dropped as the river-flow fell during past droughts. The results could then be related to conditions and times when rowing problems arose in the past.

Finally, the Club should follow through on my "Suggested action to be taken by the Club" as set out in my report of 17 Nov. Items 1 to 5 should be dealt with by the club,. As for the hydrographic drawings, I think the onus is on the Department to deal with these. In addition to showing what would happen at critical sections at flows of 5.6 and 2.7 cumecs under the proposed scheme, they should also show.

1. Conditions at flows of 5.6 and 2.7 cumecs if my proposals were adopted.
2. Conditions which prevailed during past severe droughts.

In conclusion, I suggest that the Department should arrange to have a staff gauge and an automatic flow recorder installed just above Fermoy weir asap.

  
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2

**Marion Foley**

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**From:** Deirdre DeBrun  
**Sent:** 02 December 2008 10:18  
**To:** 'Paul Kavanagh'  
**Cc:** 'O'Keefe, Johnny (Fisheries)'; Barbara Leeson; 'Brian'; Marion Foley; Martin Brennan; 'john.kelly@opw.ie'; Aoife McQuillan; Susan Lowen  
**Subject:** RE: Fermoy Weir

Dear Mr Kavanagh,

I wish to acknowledge receipt of your e-mail.

The Department would appreciate clarification on what is meant by the contents of the third paragraph on page 1 of the document. The relevant part of the paragraph reads as follows:

"However, in view of the facts that the Rowing Club has serious reservations about the scheme as proposed, and that the Department does not see its way into entering the commitment which I proposed..."

It would be appreciated if you would advise the Department what commitments Mr Murphy suggested the Department should give to the Rowing Club as we do not have this information.

Yours sincerely,

Deirdre de Brún,  
Inland Fisheries Division.

---

**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**Sent:** 01 December 2008 18:15  
**To:** Deirdre DeBrun  
**Subject:** Fermoy Weir

Dear Deirdre

Following on from our meeting in Fermoy and your public meeting on 18<sup>th</sup> November, The Trustees and Officers of Fermoy Rowing Club directed that I contact Donal Murphy and ask him to prepare a document that should be examined with a view to resolving the existing conflict between the Department, OPW, Fisheries Board and the Rowing Club.

I now attach Donal's two page report which is an alternative to John O'Keefe's plan.

We are due to meet some Ministers and TD's in the Dail next week and therefore it is only right that you are aware of our alternative plan, in advance.

With Best Regards

*Paul Kavanagh*

3

**Marion Foley**

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**From:** Deirdre DeBrun  
**Sent:** 02 December 2008 10:25  
**To:** 'Paul Kavanagh'  
**Cc:** Martin Brennan; Marion Foley; 'O'Keeffe, Johnny (Fisheries)'; 'john.kelly@opw.ie'; Barbara Leeson; 'Brian'; Susan Lowen; Aoife McQuillan  
**Subject:** RE: Fermoy Weir

Dear Mr Kavanagh,

Further to my earlier e-mail perhaps you could advise the Department whether the Rowing Club proposes to make Mr Murphy's original report to the Rowing Club available to the Department.

Yours sincerely,

Deirdre de Brún,  
Inland Fisheries Division.

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**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**Sent:** 01 December 2008 18:15  
**To:** Deirdre DeBrun  
**Subject:** Fermoy Weir

Dear Deirdre

Following on from our meeting in Fermoy and your public meeting on 18<sup>th</sup> November, The Trustees and Officers of Fermoy Rowing Club directed that I contact Donal Murphy and ask him to prepare a document that should be examined with a view to resolving the existing conflict between the Department, OPW, Fisheries Board and the Rowing Club.

I now attach Donal's two page report which is an alternative to John O'Keeffe's plan.

We are due to meet some Ministers and TD's in the Dail next week and therefore it is only right that you are aware of our alternative plan, in advance.

With Best Regards

***Paul Kavanagh***



Department of Communications, Energy and Natural Resources  
*Minister Cumarsáide, Fuinnimh agus Acmhainní Náúúrtha*

Office of the Minister of State  
*Oifig an Aire Stáit*

29-31 Adelaide Road  
Dublin 2

29-31 Bóthar Adelaide  
Baile Átha Cliath 2

4

December 2008

Deputy Michael Ahern,  
Dáil Éireann,  
Dublin 2.

**Re: Fermoy Weir**

Dear Michael,

I refer to your recent request that I should meet a delegation from the Fermoy Rowing Club led by you. I wish to advise you that, of course, I will be happy to meet the delegation. My staff will follow up on the arrangements and a suitable date.

It would be very helpful to me if the Rowing Club would provide me with a copy of their engineer's first report and an indication of their specific concerns in advance of the meeting so as to make most use of the time available for the meeting. Perhaps you might convey my thoughts in this regard to the Club.

I thought that you might find it helpful if I set out the background to the problem concerning Fermoy Weir for your information in advance of our meeting.

A complaint was made to the EU Commission alleging that the weir at Fermoy is acting as a barrier to migrating salmon which are being injured and delayed in their attempts to migrate for spawning purposes. This is in breach of the EU Habitats Directive and the Commission has indicated that failure to rectify the position will result in infringement proceedings being initiated against Ireland with, as I am sure you are aware, the potential for very significant fines being imposed on the State.

On foot of the complaint the engineering section of the Department was requested to investigate the matter. A report by the engineering section on the impact of the Fermoy and Clondulane weirs on the fisheries of the Munster Blackwater was presented to the Department in July 2006. The report found that the weir acts as a barrier to not only salmon but also to other protected species, namely lamprey and allis shad. Furthermore, the report found that the combined weir impoundment constitutes a significant loss of productive habitat for salmon, lamprey and trout.

The area in question is a special area of conservation under the Habitats Directive. Salmon are in decline, the Munster Blackwater had a quota of 7,787 salmon in 2008. The quota for 2009 is estimated at 4,433 salmon.

A copy of the engineer's report is attached for you information. I am also enclosing a DVD which contains footage of the problems experienced by salmon in 2003. (This DVD works on TV DVD players) I should add that while these were extreme conditions, this problem is happening almost all the time and salmon are being delayed, injured and losing eggs as they try to navigate these weirs. Each weir is approximately 2.4 metres high.

Tel: +353 1 678 2000

LoCall: 1890 44 99 00

Fax +353 1 661 0061

minister.power@dcenr.gov.ie

Main Street, Newbridge, Co Kildare.

*An tSráid Mhór, Droichead Nua, Cill Dara.*

One of the particular concerns the Department has is that the Court of Justice has already ruled on Ireland's responsibilities in relation to the taking of necessary measures for protected species in special areas of conservation. That case dealt with most of the problems impacting on protected species in special areas of conservation that the Department are trying to deal with on the River Blackwater.

In light of the findings of the engineer's report and the complaint to the EU Commission, the then Minister of State, issued a direction under section 116 of the Fisheries (Consolidation) Act 1959 to the Fermoy Town Council, as owners of the weir, to take measures necessary to allow the passage of migratory fish subject to retaining sufficient depth of water for the Fermoy Rowing Club to continue its activities. At no time was the removal of the Fermoy weir suggested. I am advised that the proposed works at the weir will lead to a drop of 4 inches of normal flow in dry summer conditions.

In severe droughts, which develop over a period of time, the water level could drop by 8 to possibly 9 inches. These conditions occurred for example in the severe drought of 1976. Following the public consultation and a number of meetings with the Club the Engineers have examined the design and have determined that the above drawdown in water levels can be reduced further. I am attaching a note for information in this regard.


While Fermoy TC maintained that it did not have sufficient funds for the work, a real opportunity has arisen to have the works completed alongside the works to be carried out under the OPW flood relief scheme for the area. The Department has come to an arrangement with OPW and has agreed to provide the funding to complete the works. This addresses concerns that infringement proceedings are likely to issue. It has been argued that the weir is a protected structure. I can confirm on the advice of the Attorney General that this is not the case.

The Department's engineer met the Rowing Club's engineer and Chairman of the Rowing Club together with officials from the Department. My officials also presented the factual position of what is proposed at a public consultation meeting last week. I am advised that a number of concerns were raised and the Department has offered to do some additional remediation works to facilitate these concerns as set out in the attached note.

The most cost effective way to comply with the Habitats Directive is for the proposed fish pass to be put to tender in a fixed price contract for the first phase of the flood relief project. Work would not commence until next year and my Department is available for further consultations with local interests, including the rowing club.

I trust the foregoing explains the position. I look forward to meeting you and the representatives of the Fermoy Rowing Club. In the meantime if you have any further queries please do not hesitate to contact me.

Yours sincerely,

  
Séan Power,  
Minister of State

**Note for Information**  
**Fermoy Weir and proposed Fish Pass**

**Changes in the design and depths in the River Blackwater**

The engineer advising the Department was given two figures by members of Fermoy Rowing Club for oar blade depth requirement. One person volunteered a depth of 14 inches (0.36 metres) while another mentioned a depth of 21 inches (0.53 metres). The engineer advises that the boats themselves will require even less depth so it is the oar blade depth that is important. For the purpose of the revising the design the higher figure of 0.53 metres is used as the critical depth required.

For the 2000 metres length upstream from the weir as far as the rock outcrop the depths vary from 1.8 metres (6ft) to 4 metres (13ft) with the exception of one spot at the upper end of the channel which has a depth of about 1.2 metres (4ft). Lowering the water levels in the maximum extreme drought situation by 0.175 metres (7 inches in the new proposal) will have no impact on rowing in even the lowest depths mentioned. Within that stretch there is area of shallows adjoining the south bank called the strand. From an examination of the hydrographic survey these shallows extend about 5 metres out from the bank. The engineer has advised that there would appear to be adequate river width for rowing according to the survey data but the Department has nonetheless assured the rowing club that problems connected with any shallows or foliage overhangs will be addressed to increase rowing width where necessary.

The existing rock outcrop is in a shallow area, about 0.5 metres under water, but has a deeper channel flowing through it and is capable of allowing one boat through. Even in its present formation it presents something of a hazard for boats. Lowering the typical summer low flow water level by about 3.5 inches (new proposal) will not exacerbate the situation greatly as the existing deeper channel will remain. Offers were made to carry out some rock removal which the Department thought would be desirable but the Rowing Club does not seem interested in having that particular problem remediated to date.

The stretch upstream of the rock outcrop as far as Castle Hyde House is used for training only. The present depths vary from 3.7 metres to 0.9 metres at the uppermost end. Lowering the water level will have only a miniscule effect over that stretch.

It is important to bear in mind that the design must accommodate the OPW Flood Relief Programme and maintain the integrity of the fish pass. The purpose of re-examining the design was to see if the drop in water levels during summer flow can be kept higher.

The Rowing Club also has concerns about the issue of a run-out distance for rowers during regattas. People are concerned that the proposed fish pass might reduce the run-out distance where the weir at present does not. As the proposed fish pass will not extend above the weir the Department considers that this should not be a major safety issue. Approaching the weir, even as it stands, is not desirable on safety grounds.

(According to the Rowing Club one of their boats with 7 children and one adult got stuck on the weir recently).

Nevertheless, it is proposed to reduce the width of the fish pass from 36.5 metres to 18 metres to allow greater river width upstream of the weir to be available as a run-out area. The crest level of the fish pass will still remain set at 300mm below existing average weir crest level and the gradient will not change. The engineer has advised that the reduced width will not compromise the efficacy of the pass to attract and allow free and uninterrupted passage for all migratory fish.

This reduction in width will reduce further the level to which upstream water levels will drop below the existing weir crest in low flow periods to 85mm (3.4 inches) in 95 percentile flow (normal flow in a dry summer). In a severe drought period the drop in water levels below existing weir crest will not exceed 175mm (7 inches). As there is deep water upstream of the weir these projected water levels during low flow should not give rise to any interference with the activities of the rowing club.

#### **Opes in Fish Pass and Protocol for Closure**

The number of opes has been reduced from 7 to 5 and it is proposed to establish a protocol to block the opes in the fish pass during very low flow if, in the unlikely event, that this is warranted. It is proposed that the protocol should be agreed between the Southern Regional Fisheries Board, Fermoy Town Council and the Rowing Club. Fermoy Town Council, as the owners of the weir, should have responsibility for implementing the protocol.

#### **Additional proposals include:**

- the installation of a pontoon slipway pending the building of a new slipway by OPW as part of phase two of their flood relief programme;
- the removal of gravel from the river bed where it has naturally silted and limits rowing (i.e. the strand area); and
- cutting back weeds and foliage (with the consent of the owner) which limit the width of the river available for rowing.
- These works to be carried out by the Southern Regional Fisheries Board.

**Inland Fisheries Division,  
2 December 2008.**

(S)

**Marion Foley**

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**From:** Deirdre DeBrun  
**Sent:** 04 December 2008 16:27  
**To:** Aoife McQuillan  
**Cc:** Susan Lowen; Colm Ó Conaill; Martin Brennan; Marion Foley; Barbara Leeson  
**Subject:** Fermoy  
**Importance:** High  
**Attachments:** MoS to FTC ddeb 4-1208.doc

Aoife,

Please see attached letter of invitation to members of Fermoy Town Council for Minister of State's signature. We are sending the drawings mentioned in the letter over by hand. The letter has been cleared by Frank.

Regards,

D

Mr Sheridan,  
Runáí Aire Stáit,

**Re: Fermoy Weir**

Further to our meeting with the Minister of State this morning I attach a draft letter to the Town Clerk inviting the Town Councillors to a meeting in Leinster House on Thursday 11 December at 10.30.

Deirdre de Brún,  
Inland Fisheries Division,  
4 December.

4 December

Mr Ray Owens,  
Town Clerk,  
Fermoy Town Council,  
Fermoy Court House,  
Fermoy,  
Co. Cork.

**Re: Fermoy Weir**

Dear Mr Owens,

You will recall my predecessor in office issued a direction under section 116 of the Fisheries (Consolidation) Act 1959 requiring the Town Council, as owners of the weir, to lower part of the weir to the maximum extent consistent with retaining sufficient depth for rowing and to install a rock ramp fish pass to enable the free passage of all migratory fish. This direction issued following a complaint to the European Commission that the weir was acting as a barrier to protected migratory species in a special area of conservation under the Habitats Directive. An investigation showed the complaint was well founded and the direction issued to ensure compliance with domestic and European law.

You will be aware that an opportunity has now arisen to facilitate the carrying out of these works as part of the tender process for Phase 1 of the OPW's Flood Relief Project for the area. I am advised that it is possible for the Town Council to act under section 179(6) of the Planning and Development Act 2000 to install the fish pass in accordance with my direction under section 116 of the 1959 Act. Alternatively, I am in a position to act under section 116 to ensure the free passage of migratory fish.

My officials have held a public consultation process as requested by the Council and have made a number of recommendations to me on foot of the outcome of the consultation process and their meetings with the Fermoy Rowing Club and the Rowing Club's engineer.

The measures proposed to alleviate the concerns expressed are as follows:

**Changes in the design and depths in the River Blackwater**

The engineer advising the Department was given two figures by members of Fermoy Rowing Club for oar blade depth requirement. For the purpose of revising the design the higher figure of 0.53 metres was used as the critical depth required.

The revised proposal reducing the width of the fish pass will reduce further the extent to which upstream water levels will drop below the existing weir crest in low flow periods to 85mm (3.4 inches) in the normal flow in a dry summer. In a severe drought

period the drop in water levels below existing weir crest will not exceed 175mm (7 inches). A copy of the drawings for the revised proposal is attached for information.

I am advised that as there is deep water upstream of the weir these projected water levels during low flow should not give rise to any interference with the activities of the Rowing Club. I am further advised that this reduction in width will allow greater river width upstream of the weir to be available as a run-out area.

**Opes in Fish Pass and Protocol for Closure**

The number of opes has been reduced from 7 to 5 and it is proposed to establish a protocol to block the opes in the fish pass during very low flow if, in the unlikely event, that this is warranted. It is proposed that the protocol should be agreed between the Southern Regional Fisheries Board, Fermoy Town Council and the Rowing Club. Fermoy Town Council, as owners of the weir, should have responsibility for implementing the protocol.

**Additional proposals include:**

- the installation of a pontoon slipway pending the building of a new slipway by OPW as part of phase two of their flood relief programme;
- the removal of gravel from the river bed where it has naturally silted and may limit rowing (i.e. the strand area); and
- cutting back weeds and foliage (with the consent of the owner) which limit the width of the river available for rowing.

These additional works will be carried out by the Southern Regional Fisheries Board.

It now falls to me to decide on the best way to proceed in relation to the proposed works. I wish therefore to give the members of Fermoy Town Council a further opportunity to express any concerns the Council may have.

Given the short timeframe available for making decisions I think the most helpful way to proceed is if the members of the Town Council would be kind enough to meet me in my office in Leinster House next Thursday, 11 December, at 10.30. My apologies for the short notice but the time constraints are very real. I would be grateful if you would bring this invitation to the attention of the Town Council at the earliest opportunity.

It would greatly facilitate discussions if the Town Council would set out any remaining specific concerns to me in writing in advance of our meeting. Any correspondence detailing the issues the Town Council wish to address may be e-mailed to my private secretary at [aoife.mcquillan@dcenr.gov.ie](mailto:aoife.mcquillan@dcenr.gov.ie)

Your assistance in this matter would be very much appreciated.

Yours sincerely,

Séan Power,  
Minister of State at the Department of Communications, Energy and Natural Resources.  
cc Mr Stritch, Town Manager.

6

**Marion Foley**

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**From:** Deirdre DeBrun  
**Sent:** 08 December 2008 13:39  
**To:** Susan Lowen; Barbara Leeson; Marion Foley; Frank Sheridan; Colm Ó Conaill; Aoife McQuillan; Martin Brennan; 'OKeeffe, Johnny (Fisheries)'; 'Brian'  
**Subject:** FW: Fermoy Weir

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**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**Sent:** 07 December 2008 23:36  
**To:** Deirdre DeBrun  
**Subject:** RE: Fermoy Weir

Donal Murphy had discussed various measures with John O'Keeffe [Engineer to Engineer] on various measures that might help the Rowing Club accept a binding commitment from the Department on the proposed Rock Ramp Pass.

That was on 17th November, the day before our meeting in the Grand hotel and your so called "Public Consultation" with the citizens of Fermoy. Thankfully for the Rowing Club, we anticipated the departments tactics

of trying to 'rail road' through this proposal and it was clear within minutes that Mr O'Keeffe had no interest in accomodating us and that the OPW engineer was rolled in to try and give your plan the 'seal of approval'

Your tactics had the reverse effect on our members, who voted unanimously to reject Mr O'Keeffe's plan. The plan got a complete 'thumbs down' from the 300 citizens who visited the Grand Hotel that evening. 298 of the 300 signed our petition and that has since grown to 2000. This is no longer just the rowing club you are dealing with, it is the citizens and voters of Fermoy.

All the clubs on the river have rejected your plan and do not want the current weir removed. They include Rowers, Canoeists, Triathletes, Swimmers, Anglers and Walkers alike. They accept Donal Murphy's proposal, as sent to you on december 1, as being a fair and good solution. A number of them have put their comments on [www.savefermoyweir.com](http://www.savefermoyweir.com)

How can the Minister go against the wishes of the people of Fermoy?  
 We have put forward an excellent alternative plan, from the former head engineer of the department. We earnestly hope this plan will be considered seriously before our meeting with the Minister on Wednesday.

With Best Regards

Paul Kavanagh

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**From:** Deirdre DeBrun [mailto:Deirdre.DeBrun@dcentr.gov.ie]  
**To:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**Cc:** OKeeffe, Johnny (Fisheries) [mailto:Johnny.OKeeffe@agriculture.gov.ie], Barbara Leeson [mailto:Barbara.Leeson@dcentr.gov.ie], Brian [mailto:BSheerin@srfb.ie], Marion Foley [mailto:Marion.Foley@dcentr.gov.ie], Martin Brennan [mailto:Martin.Brennan@dcentr.gov.ie], john.kelly@opw.ie, Aoife McQuillan [mailto:Aoife.McQuillan@dcentr.gov.ie], Susan Lowen

[mailto:Susan.Lowen@dceenr.gov.ie ]  
**Sent:** Tue, 02 Dec 2008 10:17:50 +0000  
**Subject:** RE: Fermoy Weir

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Yours sincerely,

Deirdre de Brún,  
Inland Fisheries Division.

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**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]  
**Sent:** 01 December 2008 18:15  
**To:** Deirdre DeBrun  
**Subject:** Fermoy Weir

Dear Deirdre

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With Best Regards

*Paul Kavanagh*

**Note for Information**  
**Fermoy Weir and proposed Fish Pass**

**The proposal**

The weir is approximately 2.4 metre high and about 205 metres in overall length. It is proposed to lower 30 metres of the weir by 0.3metre (1 foot) for the purpose of installing a rock ramp fish pass. At no time was it proposed to remove this weir. The width of the proposed fish pass is now 30 metres. This revision was adopted in order to alleviate concerns of the Rowing Club.

**Changes in the design and depths in the River Blackwater**

It is important to bear in mind that the design must accommodate the OPW Flood Relief Programme and maintain the integrity of the fish pass. The purpose of re-examining the design was to see if the drop in water levels during summer flow could be kept higher.

The engineer advising the Department was given two figures by members of Fermoy Rowing Club for oar blade depth requirement. One person volunteered a depth of 14 inches (0.36 metres) while another mentioned a depth of 21 inches (0.53 metres). The engineer advises that the boats themselves will require even less depth so it is the oar blade depth that is important. For the purpose of the revising the design the higher figure of 0.53 metres (21 inches) was used as the critical depth required.

For the 2000 metres length upstream from the weir as far as the rock outcrop the depths vary from 1.8 metres (6ft) to 4 metres (13ft) with the exception of one spot at the upper end of the channel which has a depth of about 1.2 metres (4ft). Lowering the water levels in the maximum extreme drought situation by 0.175 metres (7 inches) will have no impact on rowing in even the lowest depths mentioned. Within that stretch there is area of shallows adjoining the south bank called the strand. From an examination of the hydrographic survey these shallows extend about 5 metres out from the bank. The engineer has advised that there would appear to be adequate river width for rowing according to the survey data but the Department has nonetheless assured the rowing club that problems connected with any shallows or foliage overhangs will be addressed to increase rowing width where necessary.

This reduction in width will reduce further the level to which upstream water levels will drop below the existing weir crest in low flow periods to 85mm (3.4 inches) in normal flow in a dry summer. In a severe drought period the drop in water levels below existing weir crest will not exceed 175mm (7 inches). As there is deep water upstream of the weir these projected water levels during low flow should not give rise to any interference with the activities of the rowing club.

**Rock outcrop**

The existing rock outcrop is in a shallow area, about 0.5 metres under water, but has a deeper channel flowing through it and is capable of allowing one boat through. Even in its present formation it presents something of a hazard for boats. Lowering the typical summer low flow water level by about 3.5 inches (new proposal) will not exacerbate the situation greatly as the existing deeper channel will remain. Offers were made to carry out some rock removal which the Department thought would be

desirable but the Rowing Club does not seem interested in having that particular problem remediated to date.

#### **Training area**

The stretch upstream of the rock outcrop as far as Castle Hyde House is used for training only. The present depths vary from 3.7 metres to 0.9 metres at the uppermost end. Lowering the water level will have only a miniscule effect over that stretch.

#### **Run out area**

The Rowing Club also has concerns about the issue of a run-out distance for rowers during regattas. People are concerned that the proposed fish pass might reduce the run-out distance where the weir at present does not. As the proposed fish pass will not extend above the weir the Department considers that this should not be a major safety issue. Approaching the weir, even as it stands, is not desirable on safety grounds. (According to the Rowing Club one of their boats with 7 children and one adult got trapped on the weir recently).

Nevertheless, the reduced width of the fish pass, at 30 metres, will allow greater river width upstream of the weir to be available as a run-out area. The crest level of the fish pass will still remain set at 300mm below existing average weir crest level and the gradient will not change. The engineer has advised that the reduced width will not compromise the efficacy of the pass to attract and allow free and uninterrupted passage for all migratory fish.

#### **Opes in Fish Pass and Protocol for Closure**

To further alleviate concerns of the Rowing Club the number of opes in the design of the proposed fish pass is now 5. The Department has proposed that a protocol should be established to determine when to block the opes in the fish pass during very low flow if, in the unlikely event, that this is warranted. It is proposed that the protocol should be agreed between the Southern Regional Fisheries Board, Fermoy Town Council and the Rowing Club. Fermoy Town Council, as the owners of the weir, should have responsibility for implementing the protocol.

#### **Additional proposals include:**

- the installation of a pontoon slipway pending the building of a new slipway by OPW as part of phase two of their flood relief programme;
- the removal of gravel from the river bed where it has naturally silted and limits rowing (i.e. the strand area); and
- cutting back weeds and foliage (with the consent of the owner) which limit the width of the river available for rowing.
- These works to be carried out by the Southern Regional Fisheries Board.

**Inland Fisheries Division,  
Department of Communications, Energy and Natural Resources,  
5 December 2008.**

(8)

**Marion Foley**

**From:** Deirdre DeBrun  
**Sent:** 08 December 2008 17:07  
**To:** Marion Foley; Barbara Leeson; Frank Sheridan  
**Subject:** FW: Fermoy Weir

---

**From:** O'Keeffe, Johnny (Fisheries) [mailto:Johnny.O'Keeffe@agriculture.gov.ie]  
**Sent:** 08 December 2008 17:02  
**To:** Deirdre DeBrun  
**Subject:** RE: Fermoy Weir

Deirdre

I agree with that.

Regards

John

-----Original Message-----

**From:** Deirdre DeBrun [mailto:Deirdre.DeBrun@dcentr.gov.ie]  
**Sent:** 08 December 2008 16:59  
**To:** Paul Kavanagh  
**Cc:** Aoife McQuillan; Susan Lowen; Colm Ó Conaill; Martin Brennan; O'Keeffe, Johnny (Fisheries); Brian; Barbara Leeson; Marion Foley  
**Subject:** RE: Fermoy Weir

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Our engineer did not meet Mr Murphy subsequent to that meeting to discuss the proposed works at Fermoy weir.

Mr Murphy did not make any recommendations to John O'Keeffe in the course of any further contacts. I understand that there was one phone call where Mr Murphy sought clarification on some points but we do not have any information from any source as to the various measures Mr Murphy proposed or his "Report of 17 November" which are referred to in his second proposal dated 25 November, which you provided to me on 1<sup>st</sup> December.

On 17 November Mr Murphy advised our engineer that he would be traveling to Fermoy with Dr O'Farrell on 18 November. I understand that he did not convey any information about recommendations he was proposing or provide any details of his proposals to our engineer.

In the event I understand that neither of the Rowing Club's advisors attended either the meeting between the Department, OPW and the Rowing Club on the morning of 19 November nor the public consultation, organized by the Town Council, later that same day.

I wish to re-iterate that we have never had sight of Mr Murphy's recommendations referred to in the proposal of 25 November nor have they been conveyed to the Department or our engineer either formally or informally either by members of the Rowing Club or Mr Murphy.

It would be appreciated if Fermoy Rowing Club would make available a copy of Mr Murphy's report so that the Department may consider his recommendations.

There is not, nor has there ever been, a proposal to remove the Fermoy weir.

Yours sincerely,

Deirdre de Brún,  
Inland Fisheries Division.

---

**From:** Paul Kavanagh [mailto:paulkavanagh@mig.ie]

**Sent:** 07 December 2008 23:36

**To:** Deirdre DeBrun

**Subject:** RE: Fermoy Weir

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The plan got a complete 'thumbs down' from the 300 citizens who visited the Grand Hotel that evening.

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They include Rowers, Canoeists, Triathletes, Swimmers, Anglers and Walkers alike.

They accept Donal Murphy's proposal, as sent to you on december 1, as being a fair and good solution.

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How can the Minister go against the wishes of the people of Fermoy?

We have put forward an excellent alternative plan, from the former head engineer of the department.

We earnestly hope this plan will be considered seriously before our meeting with the Minister on Wednesday.

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john.kelly@opw.ie, Aoife McQuillan [mailto:Aoife.McQuillan@dcentr.gov.ie], Susan Lowen  
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Department of Agriculture, Fisheries and Food

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An Roinn Talmhaíochta, Iascaigh agus Bia

Tá an t-eolais san ríomhphost seo, agus in aon ceanglán leis, faoi phribhléid agus faoi rún agus le h-agaigh an seolaí amháin. D'fhéadfadh ábhar an seoladh seo bheith faoi phribhléid profisiúnta nó dlíthiúil. Mura tusa an seolaí a bhí beartaithe leis an ríomhphost seo a fháil, tá cosc air, nó aon chuid de, a úsáid, a chóipeál, nó a scaoileadh. Má tháinig sé chugat de bharr dearmad, téigh i dteagmháil leis an seoltóir agus scríos an t-ábhar ó do ríomhaire le do thoil.

9

**Marion Foley**

**From:** Paul Kavanagh [paulkavanagh@mig.ie]  
**Sent:** 08 December 2008 19:41  
**To:** sean.power@oir.ie; Minister Ryan; Deirdre DeBrun  
**Cc:** 'Brian'; Susan Lowen; Martin Brennan; Aoife McQuillan; John O'Keeffe - Agriculture; Colm Ó Conaill; Barbara Leeson; Marion Foley  
**Subject:** Fermoy Weir - A Protected structure  
**Attachments:** AMT112A.TIF

A Chara

Donal Murphy's first report on 17<sup>th</sup> of November was in reply to our concerns as a rowing club only. The club were looking for a way to compromise on removing the gaps in the proposed fish pass. This was when we were looking at a maximum loss of water of 4.7 inches. The remedial work was the dredging, trimming of trees and replacement of slipways in Phase one of the Flood plan.

All that went 'out the window' in our meeting of the morning of the 18<sup>th</sup> November. The loss of water went to 9.7 inches and John O'Keeffe refused to reduce the depth of his gaps. The OPW confirmed that the slipways would not be looked at till Phase Two (It may never happen).

Fermoy Rowing Club realised there and then that the department were not going to negotiate any further and that you were now going to make **YOUR** presentation to the citizens of Fermoy as a done deal at your 'so called' public consultation organised by the Executive of Fermoy Town Council. Well you all called that one wrong, because **YOUR** plan was firmly rejected by the citizens of Fermoy who have now rallied with the club in rejecting John O'Keeffe's plan.

Donal Murphy and Dr Martin O'Farrel were on standby to come down to Fermoy on that day. We decided there was no point in bringing them down, at a huge expense to us, when you had already decided that John O'Keeffe's plan was the **only plan to be presented and discussed**.

We immediately contacted Mr Murphy and Dr O'Farrel and briefed them on our meeting with you. We further briefed them of the public outcry by the citizens of Fermoy, especially the fishermen. We instructed them to present an alternative proposal which would be acceptable to everyone. This they have done and it is an excellent proposal contained in paragraph four, (attached).

At this stage the Rowing Club, with little resources has spent over €20,000 on Engineers and Reports. We do not intend spending another cent. It is not up to us to justify our position, but more so, it is up to you, as public servants, to allay ALL our fears and this you have not done. The Rowing Club does not have a mandate to negotiate on behalf of the citizens of Fermoy. That is a job for our elected representatives.

Fermoy Town Council Executive were to order a full archaeological report on the weir. It never happened. Fermoy Town Council Executive carried out a river survey in December 2007 but never shared its content. The weir is a protected structure with National - Architectural, Historical and Technical value. (Ref CCC 168). The Department and the fisheries board are attempting to override the planning process, by joining on the new fish pass job to the long awaited flood plan. This is 'Muddying the Waters' - pardon the pun. We have never seen the complaint from Europe. we may have to wait two years to get the EU ombudsman to investigate that complaint.

What you plan to do is **NOT** a repair and refurbishment job, as you have glossed it up to the public. It is the removal of the **"PROTECTED"** weir to the western side of the bridge and propose replacing it with "a rock ramp pass measuring 62 metres by 36 metres and at a point 16 metres upstream of the bridge, construct a 46 metre long partition wall", which will run in the river parallel with the river bank. (reference your letter to the club, Appendix 1, of 15<sup>th</sup> August 2008).

If that does not constitute the removal of the protected weir then nothing does.

However we do still have a healthy respect and admiration for our Government and our elected representatives and trust that Ministers Eamonn Ryan and Sean Power will have the foresight and understanding to make the correct decision here and adopt our attached proposal.

Yours Sincerely

*Paul Kavanagh*

---

**From:** Deirdre DeBrun [mailto:Deirdre.DeBrun@dcenr.gov.ie]

**Sent:** 08 December 2008 16:59

**To:** Paul Kavanagh

**Cc:** Aoife McQuillan; Susan Lowen; Colm Ó Conaill; Martin Brennan; O'Keeffe, Johnny (Fisheries); Brian; Barbara Leeson; Marion Foley

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With Best Regards

*Paul Kavanagh*

**Donal F. Murphy BE FIEI MIFM Chartered Engineer**  
**13 Briar Wood, Bray, Co. Wicklow. Phone 01 2860218**

**Proposed Rock Ramp Fish-pass and Related Works at Fermoy Weir.**

**Supplement to my recommendations of 17 Nov. 2008**

This submission is in response to a request dated 25 Nov 2008 from the Rowing Club to indicate what options should be examined with a view to resolving the existing conflict between the Fisheries requirements and the requirements of the Rowing Club.

In my recommendations of 17 Nov, in par 2 of the section headed "Purpose and Nature of the Scheme", I gave it as my opinion that the rock-ramp option put forward by Mr. John O'Keeffe was an "ideal choice" to meet the fisheries objectives and the other considerations and constraints which he had to take into account.

However, in view of the facts that the Rowing Club has serious reservations about the scheme as proposed, and that the Department does not see its way to entering into the commitments which I proposed, I now put forward some alternative proposals which, in my opinion, should serve the fisheries interests and address the Club's concerns.

My proposal can be outlined as follows:

1. To reconstruct the existing Pool Pass to modern design standards.
2. To construct two new pool passes, one at each side of the "Island" / Gravel Banks below the spillway
3. ( One of these three passes could be of the Vertical Slot type.)
4. To replace the existing Groyne pass with one or more groyne passes designed to modern standards.
5. To provide elver passes at appropriate locations on the weir.

It is my opinion that these provisions would serve adequately for the passage of salmon, trout, elvers, lamprey and shad.

I believe that the flow requirements of these five passes could be met by the estimated minimum flow of 2.7 cumecs, which would mean that the upstream water-level should never drop below the weir-crest.

I now turn to the final paragraph of my section headed "Effects of the Scheme on Rowing" in which I asked if the existing relatively low level of the spillway section had ever caused problems for rowing in the past. This may not seem to be an important issue, but I still think it should be addressed.

First, I would need to know what the level of this section is, and what the volume of flow was on the day the photograph was taken. This information may be enough to answer my question, at least in part.

However, I still think we must address the question of the effects of past droughts on rowing activities – especially at the Strand and the Rock. Towards this end I think we should ask Mr. O'Keeffe to give us more historical flow data, presented as follows:

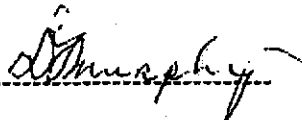
1. A histogram ( bar chart) or tabulation showing for each month of the year the Minimum, Mean and Maximum volumes of river flow. This will give us a picture of critical times of the year.
2. Flow data for severe past droughts derived from the gauging station at Mallow and adjusted for Fermoy. This data should be processed to derive water levels at Fermoy weir, in the same way as Mr. O'Keeffe has done for the 95%ile and Estimated lowest flows of 5.6 and 2.7 cumecs.

These charts and figures would give us a simple picture of how the water levels at the weir dropped as the river-flow fell during past droughts. The results could then be related to conditions and times when rowing problems arose in the past.

Finally, the Club should follow through on my "Suggested action to be taken by the Club" as set out in my report of 17 Nov. Items 1 to 5 should be dealt with by the club. As for the hydrographic drawings, I think the onus is on the Department to deal with these. In addition to showing what would happen at critical sections at flows of 5.6 and 2.7 cumecs under the proposed scheme, they should also show.

1. Conditions at flows of 5.6 and 2.7 cumecs if my proposals were adopted.
2. Conditions which prevailed during past severe droughts.

In conclusion, I suggest that the Department should arrange to have a staff gauge and an automatic flow recorder installed just above Fermoy weir asap.

  
-----



Department of Communications, Energy and Natural Resources  
*Ann Cumarsáide, Fuinnimh agus Ainbhainní Náúúrtha*

Office of the Minister of State  
*Oifig an Aire Stáit*

29-31 Adelaide Road  
Dublin 2

29-31 Bóthar Adelaide  
Baile Átha Cliath 2

PLEASE QUOTE REFERENCE  
NUMBER ON ALL CORRESPONDENCE  
*SP/AMCO/081216*

16 December 2008

Mr. Tadgh O'Donovan  
Mayor  
Fermoy Town Council  
Courthouse  
Fermoy  
Co Cork

Dear Mr. O'Donovan

I refer to our very useful discussion in Leinster House in relation to the necessary works on Fermoy weir on Thursday 11 December last. I would like to thank you and the representatives of the Council for their attendance and the co-operative spirit in which our discussions were held.

I recognise the significant onus on the Town Council, as owners of the weir, to comply with the Fisheries Acts as well as their planning and heritage obligations.

I would reiterate my assurances, given in the course of our meeting that the motivation of the Department in bringing forward proposals for modifications to the weir at Fermoy arises wholly from the obligations on the Irish authorities to comply with the Habitats Directive in facilitating the free passage of migratory fish species on the River Blackwater. Our objective has, from the outset, been to do so while protecting the amenity value enjoyed by the rowing club and the community of Fermoy at large.

As agreed, I understand that the Council representatives will now arrange to obtain, as a matter of urgency, professional advice from suitably qualified experts to evaluate the existing proposals and identify any alternatives designed to achieve the agreed objectives of removal of the barrier to fish passage and retention of the amenity for the rowing club and other users. The engineering advisors of the Department will facilitate this exercise by making all information available that informed the design of the fish pass. As I stressed at the meeting, this exercise must be undertaken as a matter of urgency given the real time constraints faced in achieving our shared objectives.

would urge the Town Council to do everything in its power to allay the fears, many of which are genuine but unfounded, of the local community in regard to the objectives and intentions of the Department's proposals, following inaccurate and unhelpful media coverage.

I look forward to hearing from you in the very near future regarding progress.

Yours sincerely



Seán Power T.D.

Minister of State at the Department of Communication,  
Energy and Natural Resources