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Mr. François MITTEAULT
Director for Water and Biodiversity
French Ministry of Ecology,
Sustainable Development, Energy
and the Sea
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Subject: restoration of ecological continuity in the Upper Rhine

Dear Mr Mitteault,

I refer to the discussion on the subject we had on 26 October 2015 in Brussels on the occasion of your visit to DG Environment, and the follow-up email of your Deputy Mr. Alby Schmitt of 3 December 2015 (in annex).

I would like to share with you our position as regards a number of points raised in these exchanges, ahead of today's meeting in Koblenz of the ICPR Project Group Upper Rhine (PG ORS), to which unfortunately we will not be able to attend. I copy this letter to the President and Secretariat of the ICPR should they wish to make it available to the other Rhine parties.

Restoring ecological continuity is an essential component of the Water Framework Directive (WFD) objective of good ecological status. In basins where migratory species are naturally present, such as the Rhine, the long-term preservation of sustainable populations of fish relies on the effective restoration of longitudinal continuity. This is recognised explicitly in the WFD by including fish and river continuity as quality elements to be included in the assessment of ecological status.

Therefore, the WFD binding objective of good ecological status by 2015 includes as an essential element the restoration of continuity. Member States should have taken the necessary measures to restore continuity by December 2015. Any extension of this deadline should be justified in the river basin management plans according to the requirements in the WFD.

In international basins such as the Rhine, the WFD requires Member States to cooperate in order to effectively implement the obligations of the Directive and achieve its environmental objectives. Restoring the river continuity is a challenge that requires the cooperation of all riparian countries.

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The EU Member States in the Rhine basin have chosen to implement the WFD obligations of cooperation through the ICPR, as the obvious existing and well-functioning mechanism for transboundary cooperation. The Rhine 2020 programme and the Master Plan on Migratory Fish are tools that the ICPR parties have agreed and are intimately linked to the objectives of the Convention and of the obligations of WFD for EU parties. This close link has been explicitly recognised in many occasions including when the Rhine 2020 plan was agreed in 2001 and subsequently in the Ministerial meetings of 2007 and 2013.

It is against this background that your statement that the Rhine 2020 plan is disconnected from the WFD obligations causes deep concern. By endorsing the 2020 deadline the EU Rhine Member States actually agreed jointly an extended deadline to achieve the WFD environmental objectives. This is of course without prejudice to the obligations to justify the extensions of deadlines in the river basin management plans according to the WFD. The fact that the water bodies are heavily modified does not change much in this regard: the default deadline to achieve good ecological potential is also 2015 in the WFD. And restoration of continuity is one of the obvious mitigation measures that should be part of the definition of good ecological potential. You also refer to the lack of consistency between the French and German assessment of status in the Rhine. In our view, this disappointing gap in the cooperation in the Rhine should be solved as soon as possible and by no means should be used as an excuse for inaction.

As regards the solution to restore continuity in the Upper Rhine, we should recall the definition of "ecological status" in the WFD, which is an expression of the quality of the structure and functioning of aquatic ecosystems.

We believe that a transport option, as proposed, does not provide a long-term ecological meaningful and functional solution. In fact, the logic of the proposed approach is contrary to the need to fulfil the obligations for restoration under the WFD: only if the construction of an efficient permanent fish pass (as has been done in other parts of the Rhine) proves impossible due to technical infeasibility and disproportionate costs, this option could be discarded for other alternatives. Such assessment, essential to inform decision making, is not yet available and we are concerned about the long timetable proposed.

Examples given of the transport option from the United States are not relevant as the legal context is very different. In the EU there is a precise and binding environmental objective to achieve good status of all water bodies, including a comprehensive consideration of the ecological components and functions of the aquatic ecosystem.

Finally, let me make an observation as regards the involvement of different stakeholders in the discussions as regards this issue. We value the direct participation of EDF in the technical discussions as regards this issue. The opinion and the position of the operator are important and should be considered, as well as its technical expertise. However, the responsibilities and obligations of the WFD and the Convention lie with the French authorities.

Restoring the ecological status of the Rhine is an important challenge that needs a determined contribution from all parties. Important investments have been done so far and are already planned and agreed for the coming years. The success of such endeavour depends on the strong commitment from all parties to take responsibility for their respective parts.

I hope these comments are useful to clarify our position and will serve as a basis for reconsideration of the French approach to this issue. I remain at your disposal for further exchanges on this important matter.

(SIGNED)
Marianne Wenning

C.c.: Gustaaf Borchardt, ICPR President (sekretariat@iksr.de)
Emmanuelle Gay, Head of the French Delegation to ICPR
(emmanuelle.gay@developpement-durable.gouv.fr)
P. Misiga, J. Rodríguez Romero (ENV)

Annex: email from Mr Alby Schmitt of 3 December 2016

From: SCHMITT Alby (Adjoint au directeur) - DGALN/DEB [mailto:alby.schmitt@developpement-durable.gouv.fr]
Sent: Thursday, December 03, 2015 4:37 PM
To: WENNING Marianne (ENV)
Cc: "MITTEAULT François (Directeur de l'eau et de la biodiversité) - DGALN/DEB"; claire-cecile.garnier@developpement-durable.gouv.fr; GAY Emmanuelle (Directrice) - DREAL Lorraine/Direction
Subject: ICPR/ Plan Salmon 2020 : French answer to Gus Borchardt

Dear Marianne,

1/ Here's copy of our answer to Gus Borchardt, President of the ICPR, about the French commitment in the restoration of the ecological continuity of the Rhine.

2/ We insist: there is no clear technical reason to exclude a priori the solution by barge. You will find below some examples of fish transport systems used in the world and the comments of our pole of expertise in ONEMA : our pole of expertise has no knowledge of dropout of this type of system because of unsufficiant efficiency. In return, we are interested in your information on examples of dropout of such devices.

3/ I would also insist on another issue not addressed in our answer to Gus Birchardt but often put forward to criticize the action of France on the Rhine: the restoration of the ecological continuity of the Rhine is a commitment of Plan "Salmon 2020" and its timetable. It has nothing to do with the WFD deadlines. In addition, the Rhine between Iffezheim and Basel is classified HMWB on which the objective is not the good status but the good potential. It is also not yet well defined and requires a Franco-German intercalibration. It is therefore not possible to reproach France not to apply the WFD or not to meet its deadlines on this part of the Rhine.
The capture-transport solution, as explained above, will ensure further improvement of biological attendance at various sections of the Rhine by the transport of other species as salmon,

Best regards
Alby SCHMITT
Deputy Director for Water and Biodiversity
French Ministry for Ecology

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Comments from our pole of expertise in ONEMA on capture and transport devices and on Rhinau project

Examples of capture and transport devices :

- In France there is a capture and transport site for upstram migration on the Garonne at the hydroelectric plant EDF called Carbonne, 400 km from the ocean. It's been operated since September 1999. It avoids spawning salmons have to cross many thresholds and dams between Carbonne and Montréjeau. They can access more easily to spawning grounds on the upper basin of the River (trucking). Thus it prevents the accumulation of delays and lossesat each crossing device as well as it reduces the costs associated with

the equipment. Depending on the years, it enables the capture of a few or tens of salmons, tens to hundreds of eels and hundreds to thousands of cyprinids (particularly bleak, bream, gudgeon, roach, sofie).

- In the United States, for thirty years on the Columbia and its tributary the Snake (West Coast), Pacific salmon juveniles are captured and transported downstream by barge to prevent its passage downstream migration in hydroelectric plants, with the aim of limiting the passage of fishes through turbines and their predation and disorientation in reservoirs. These operations also reduce migration time, strongly influenced by the succession of dams located on these rivers (4-7 dams to cross).

- Also in the United States, a capture and transport device is operated on the Baker (West Coast), allowing to truck fish upstream two large dams (Shannon Lake and Baker Lake).

- On the East Coast of the United States on the Susquehanna at the Conowingo Dam, a capture and transport device for the American shad had been operated in mid 1990 to pass upstream three dams and then was abandoned in favor of elevators and fishways set up at each dam. Recently, the sharp decline of American shad lifts could lead to reactivate the capture-transport system to truck the spawners upstream of three dams and overcome the limited efficiency of the fishways and elevators.

Rhinau capture and transport project : disruption of migration and selectivity:

- The project proposed by EDF for Rhinau plant is close to Carbonne's device. It is based on a capture system located upstream of a multi-pass fish species. It consists of a concentration of fish pond which then guide them to a catch basin and lift (elevator type). All these devices can be used by a wide range of species, not just highly migratory salmonids (Carbonne's feedback experience).

- It provides no physical handling of the fish. The sorting of fish species and sizes is done by gravity through a series of ponds system. The different categories of fish are then transferred by gravity in one or more barges (undefined at this stage), fed by water from the Rhine (renewal rate based on thermal conditions and the rate of oxygen including). Then, the fishes are released at the desired locations by gravity.

Preliminary remarks on the Rhinau project:

- Focus points: the likely quantity of fish caught must be well anticipated, in order to appropriately sizing the sorting and transport devices. For this, data counts performed at fishways Iffezheim and Gambsheim enable to assess the orders of magnitude the number of crossings depending on the period. EDF has taken account of this information.

-Elements remaining to clarify: released fish sites by species. As such, the first EDF scenarios allow to engage reflections. For migratory salmonids, they are systematically released into the old Rhine. For holobiotic species, where there is no highly migratory, they could be released alternately in the three bays situated upstream from Rhinau. The case of the eel is particularly: in fact, the relevance of its transport upstream is questionable, in the sense that its downstream migration through the hydroelectric plants and their turbines is likely to generate an accumulation of significant losses.

- More broadly, the solution proposed by EDF, even though there is still a number of technical points to be clarified, appears interesting for the salmon reconquest strategy on the Upper Rhine, in the sense that it would allow the passage of 3 Dams (Rhinau,

Marckolsheim, Breisach or Vogelgrün), thus avoiding the accumulation of delays and losses met at each crossing device and which can reduce quite significantly the overall efficiency of salmon restoration on the axis. Indeed, the design of fishways at the Rhine remains complex, in terms of attractiveness (number and positioning of the inputs) and function (injection of attractive flows, length of the device).

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