



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Reservoirs Bill: Creggan Country Park

1 April 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Thomas Buchanan
Mrs Jo-Anne Dobson
Mr William Irwin
Mr Declan McAleer
Miss Michelle McIlveen
Mr Oliver McMullan
Mr Robin Swann

Witnesses:

Ms Emmalene Edgar	Creggan Country Park
Mr Gerry Quinn	Creggan Country Park

The Chairperson: I welcome Gerry Quinn, the manager, and Emmalene Edgar, the administrator. You are very welcome to the Committee to talk about this important issue as part of our scrutiny of the Reservoirs Bill. I ask you to take no more than 10 minutes to address the Committee, and then we will go into questions, if that is OK. Gerry, are you starting off?

Mr Gerry Quinn (Creggan Country Park): Yes, I will indeed. We are glad to be here. We are a company limited by guarantee with charitable status. We operate on a non-profit-taking basis. Our turnover is somewhere in the region of £200,000 to £250,000 per year. Over the long run, we break even. This year, we might spend our surplus and then not have a surplus next year. That is the way life is in the sector in which we operate.

We took on three reservoirs from Derry City Council on a 99-year lease in 2002. Previously, we had occupied a reservoir on an understanding with Derry City Council and operated that as a trout fishery. The reservoirs were built in the 1840s as an unemployed assistance scheme. Documentation from the Water Service, when we were negotiating the whole plan, indicated that they were essentially sound, which we believe to be the case still.

The council, I suppose, in theory, owns, as our landlord, the whole site. It is a 100-acre complex, with three bodies of water, one of which is partially drained. The dam breached in the early 1970s. We have a larger dam below it and a larger dam again below that, so they seem to have been built in a series of three, first for filtering out detritus from the water but also, I suppose, as a fail-safe so that you have one filling the other, filling the other.

We have a Reservoirs Bill coming down the road at us, and we own three reservoirs on a 99-year lease, so we find ourselves managers of three high-risk reservoirs. If this Bill is brought in, as seems will be the case, I suppose, first, there is a wish to deliver conformity with the situation across the water. Secondly, you are faced with the concept of the precautionary principle, so if somebody raises a public safety issue, people might feel remiss that they did not take it seriously. That is not to say that, in the absence of a Reservoirs Bill, people do not, because we look after the reservoirs. We inspect them and do bits and pieces of ongoing maintenance, albeit on a low scale. When we took this site from Derry City Council, it was with the idea of providing recreation, which would create opportunities for training, employment and an income stream. We spend that income stream basically surviving.

The Bill has implications for resources also. Although those who are writing up the Bill do so in one sphere, those who own reservoirs inhabit a completely different sphere, where they will possibly have to adapt to a new regime that will cost money. If it costs money, my role at Creggan Country Park will be to find that money. If the Bill were to be brought in tomorrow, we would not have the money. That is the reality.

I read some of the presentations from Jim Haughey, Marcus Malley and others. People are talking about breaching dams to release the water so that they are no longer impoundments. We can artificially lower the level of our reservoirs. We do so already using a hydro scheme, so we can drop it by two metres. It would probably be impossible for us ever to get all the water down in all the impoundments so that they would be outside the remit of the Bill, so that is not an option anyway. The implications of that would be that we would not exist any more anyway, because without these bodies we would have no purpose. It would no longer be possible to provide the service that we provide, so it is fairly obvious that if we had to get rid of the reservoirs, that would do away with us as well. But that is for another day.

So, to go back to where we started, we own three high-risk reservoirs: what to do? We contacted Derry City Council and asked it to consider discussing the implications of this with us; it has yet to respond. We contacted the Department for Regional Development (DRD), which owns a path on top of the lower dam, which might imply that it owns something of that dam. It suggested that its input might be negligible. Water Service owns a pumping station on the toe of the bottom dam. It has yet to respond about its view of its responsibilities, if any.

We are stuck in the middle, so we are the responsible manager de facto. The council may have responsibilities. When we took the dams off it at the time, I told it that all we needed was the water and that if it wanted to keep the dams, that was OK. That was a non-flyer, obviously.

You cannot bring in a Bill without resource implications for those it affects. We understand that the Bill is likely to come in in one form or fashion anyway. However, if you present us with a bill tomorrow for remedial works to one or two dams, we would not have the wherewithal to pay. In a bad year, we might not even have the wherewithal to engage a panel engineer. That is the world we live in, and that is the real world, and I am sure you all know that. We all live in the real world and have our own households, so we know that we have only so much money to spend and we cannot spend it twice.

Having said all that, we do approach the managing and ownership of the reservoirs responsibly. We have kept them safe for years — I have been there for 22 years. We have spent more time keeping people out and the public safe from self-harm by, for example, swimming at night. We are not always successful, unfortunately. I suppose that the regime has taken precedence over the whole concept of what happens if a dam fails. We are at the dam every day, walk beside it every day and are familiar with it.

The Water Service told us and a representative of the Department of Agriculture that the sites that it has left are in a good state and are intact. Reservoirs do not deteriorate quickly, and it expects them to remain in a good state. We also believe that to be the case, but we are not engineers.

I suppose that that is the short version. I could go on and on, but you probably would not want to hear it.

The Chairperson: Thank you very much, Gerry. I thank you for being succinct and to the point. We will glean more information through the questioning, which is just as effective. Again, thank you very much for that.

Mrs Dobson: Thank you for your briefing. Gerry, in your submission you say that the upper reservoir was breached by a one-in-500-year flood in the early 1970s and that the damage was never repaired. Did that breach cause any risk to life or property?

Mr Quinn: That was long before my time, but we do not believe that it did. From what we have been able to find out, the water flow was contained in the overall reservoir site. There is a perimeter wall around the whole thing, and one reservoir falls into another, which falls into another. The regime seems to be predicated on a one-in-200-year flood. It could be a one-in-500-year flood, but it is more likely to be a one-in-200-year flood.

I would probably have to go back and look through old newspaper records. I was not up there in 1975, so I am not really sure. However, perhaps the best way of describing it was that it did not seem to make the news; there is nothing that I can find anyway.

Mrs Dobson: OK. So, you are not aware of any short- or long-term damage —

Mr Quinn: No.

Mrs Dobson: — being caused to wildlife or natural habitats?

Mr Quinn: Well, I suppose that if you had a dam breach, the impact on wildlife would be incalculable. There probably was not any great conservation lobby or many conservationists on site then. The other thing is that Creggan was a very different place in 1975. There were not a lot of statutory agencies in the area at that time.

Mrs Dobson: Finally, you have outlined your thoughts about the Bill. Do you feel that the inspections and the duties that will be placed on landlords will prevent flooding from one-in-500-year or one-in-200-year breaches?

Mr Quinn: I do not know. I suppose that an engineer looks at the best case scenario and then tries to compensate for extreme events that might happen. It could happen tomorrow. That said, it seems that the dams were built to last. They have been there since 1840. It also seems that the Water Service built systems to contain one-in-200-year floods, if not one-in-500-year floods.

The top dam failed, but the Water Service did not use it at that time, and it may have failed because there had been no investment in or appraisal of it. I do not know. I am only conjecturing really. What I do know, from having been on site for 22 years and from having talked to representatives from Water Service, is that the top reservoir was essentially redundant for a very long time. The middle of the three reservoirs was used as a service reservoir and the bottom reservoir was used as an impoundment in case of overflow.

I suppose that does not answer your question, but my best answer is that I really do not know.

Mrs Dobson: Thank you.

The Chairperson: You talked about one-in-200-year and one-in-500-year floods. Surely, when it comes to reservoirs, we are not talking about weather cycles or the probability of flooding over a period of time. There may be a lot of cases in which a pool of water overflows due to floodwater; that would pose a risk. However, it is more to do with the structure of the dam being breached.

Mr Quinn: Yes, it is about the integrity of the dam.

The Chairperson: That would not depend on weather cycles. What do you mean by a one-in-200-year flood?

Mr Quinn: Basically, they dammed the valley in 1840s, built three dams across the valley and impounded the water. The top dam was breached.

I cannot tell you what was there in 1975, but the system that is there now will cope with an inordinate amount of water, and much more than is prevalent. Therefore, they have done their calculations and their projections, and they have worked out the normal pattern and the extreme. We had an extreme event in 2003, and the whole thing coped. The whole of Derry city centre was flooded. Despite an

inordinate amount of water landing on top of us, the middle reservoir rose only by about an inch, whereas the whole city was flooded. So, it copes. I do not know whether that was the one-in-200- or one-in-500-year flood or the lowest flood, but an inordinate amount of water fell on the catchment, and you would not even have noticed it.

The Chairperson: Who produced that study?

Mr Quinn: Which study?

The Chairperson: The 200 —

Mr Quinn: Water Service engineers.

The Chairperson: So, they proposed what would happen to the reservoir if there was a flood condition.

Mr Quinn: They designed the dams to take a one-in-200- or a one-in-500-year flood — I forget which now, to be honest. The design of the system is to allow the escape of enough water but also to hold back enough water so that it does not all go at once. The system is there to impound but to release gradually.

The Chairperson: There has never been any report or work done on the surveying of the structure of the dam?

Mr Quinn: There was work done in the 1980s and 1990s. The bottom dam was reinforced with steel piling and a concrete cap. So, the bottom one is the critical one. That is the end of the whole system. It was reinforced with steel piling and capped in concrete. You would imagine that it is quite robust.

The middle one is an earth dam. We are on site all the time. We watch for evidence of water escaping, and that gives you an indication that there might be a leak, and a small leak could become a big failure. We have not had any evidence. We have had bits and pieces of wave damage to the inner face of the dam, which we have repaired, but they seem quite robust. They are not flimsy structures. They are built in clay and are then stone faced. Whoever did it did a good job, because it is hand-built stone. They were built to stay, and they do stay.

Mr McMullan: You leased the dam from the Water Service. Is that correct?

Mr Quinn: We lobbied Derry City Council in the late-1980s —

Mr McMullan: Sorry, the council.

Mr Quinn: It took it off Water Service and gave it back to us.

Mr McMullan: Was any paperwork given to you on the state of the reservoirs?

Mr Quinn: Not then, no. There was not what you might call a handover. Water Service, at that time, just walked away. It was working there one day, and the next day it was not.

Mr McMullan: When you say it walked away, do you lease those reservoirs off the council?

Mr Quinn: We lease them off the council now.

Mr McMullan: Was there a contract drawn up?

Mr Quinn: There is a lease.

Mr McMullan: Does it tell you the state of the reservoirs or who is responsible for them?

Mr Quinn: Essentially, we are responsible, as the tenant. So, we look after the place.

Mr McMullan: Are you responsible for the complete thing?

Mr Quinn: We are left with the whole shebang at the minute, except for the fact that, like a tenant in a house, if there were a major structural repair, you would go back to your landlord. So, we look after day-to-day maintenance. If the worst case scenario happened and there was an indication of a likely failure or a major problem, I suppose that we would go back to the council, because it has a whole city engineers' department with people who have a competency that we do not. Basically, I am just a layperson.

Mr McMullan: Yes, but what I am asking you, Gerry, is this: did you, at any time, see a report on the situation in the reservoirs at the time of the lease?

Mr Quinn: No. At the time of the lease, we took on the site as seen. There has been some work done since, and, out of that, we were advised to keep an eye out for an egression of water from the reservoirs.

Mr McMullan: Who did the work?

Mr Quinn: The council did some work. We had a concern when we went in to develop the reservoirs for public access and recreation that there was no mechanism to lower the water level. The council engaged with Water Service on our behalf, and it came back and did some work. We now have a facility that was not there before so that the water can be reduced.

Mr McMullan: Can you empty the reservoirs?

Mr Quinn: Both the reservoirs have been pretty much emptied. It was a long task. You can never get them fully dry, but we have them pretty much below a level where it would be a concern to anybody in DARD or Rivers Agency. Effectively, we can empty them, but it is not easily done. You can take them down so far and then you have to bring in pumps and drain them. Like anything else, if you spend enough money, it can be done.

Mr McMullan: I find it strange that you were told nothing.

Mr Quinn: I suppose, in fairness, it never came up. Perhaps it would have if we had done our own due diligence. The whole idea of Derry City Council acquiring the reservoirs was our idea. It acquired them on our behalf. I suppose that we got what we asked for. We take our responsibilities seriously. If we were a council, with all those budgets and engineers, it would be a lot easier, but we are not.

Mr McMullan: Have you inquired about the cost of the maintenance?

Mr Quinn: There is no indication that there would need to be remedial works. I read the report about Camlough, and we do not have any reason to believe that anything like that is sitting there. We do the maintenance work ourselves. It might take a bit longer than it would if the council were to do it because of resources, personnel and time, but we generally get round to everything. However, in a small organisation, there is always something that needs done. There is a list of things to be done. Having said all that, I do not believe that the dams in Creggan are in the situation that the dam in Camlough appears to be, although I have never been to the dam in Camlough, so I do not know.

Mr McMullan: Thank you.

The Chairperson: You talked about maintenance. What sort of maintenance do you mean? Is it ground works?

Mr Quinn: Essentially, it is ground works. We have a 100-acre site, and there are parts that we rarely visit because they are outlying. We do not do a lot with those sites, but people can walk their dogs, and we let those sites grow naturally, so it is unimproved grassland. We have high-amenity areas that are maintained in and around buildings where activities take place and where there is more public access. As we are there all the time, we keep them tidy. We have been out cutting grass on one site in the past few weeks. Someone mentioned that you might only have to cut the grass. The bottom dam has an angle of about 60 degrees, and it is a seriously interesting job cutting the grass on it. That

is the reality. That is life. If you are going out with a big Scag mower to cut that, you need to know what you are doing. Cutting grass at the face of a dam is a good day's work.

The Chairperson: But there is no actual maintenance work on the structure of the dam itself.

Mr Quinn: First, to go near a dam, you would need an engineer's report. Even I know that you do not go near dams.

The Chairperson: Or engineers. *[Laughter.]*

Mr Quinn: I have relatives and friends who are engineers, but engineers are expensive. My experience is that there is sometimes over-engineering, but that is their job and they cannot afford a dam to fail. They are always going to err on the side of caution, which is important. We have done bits and pieces. As I mentioned earlier, we noticed some years ago that there was a bit of wear and tear on the inner face of the middle dam. Some of the stonework had become uncovered and there was a bit of wash. We reinforced that and capped the whole thing with concrete, and it held. We did not get an engineer or a report. Back then, in the 1990s, we did not even have a lease. We were there and we fixed it. If we are there and we can fix it, we do. If it is something bigger —

The Chairperson: So you actually went ahead with that work, even though you were not responsible for the dam.

Mr Quinn: Well, we were there. If you live in a house that someone else owns and there is something wrong, you are probably better fixing it if you can, and that is what we did.

The Chairperson: You talked about concrete. Did you concrete the bit that was suspect or did you concrete the whole thing?

Mr Quinn: What we did was belt and braces. It is still there and has been there for maybe 15 years now. We did not concrete the whole dam, of course. We are talking about an area that is maybe about the size of a tabletop.

Mr Byrne: I appreciate the presentation by Gerry and his colleague. It is probably the most interesting presentation we have had so far in relation to the voluntary and community sector. Gerry, what happened to the upper reservoir in the 1970s to cause a breach?

Mr Quinn: As far as I know, it was just that an inordinate amount of rain came down, Joe. As I said, there is not a lot of documentation about it. You will find a reference if you dig very hard among Water Service records, but I have not read any reports about why it failed. There may be reports, but I have never seen them or been made aware of them. I spoke to a guy who fished there and lived close by, and he said there was a wall of water that came down, but it stayed within the overall reservoir site and did not affect any property downstream, so I assume that the structure there held the excess. The structures below contained what came out of that. It was quite small compared with others.

Mr Byrne: It seems to me that you are, essentially, a voluntary and community organisation company limited by guarantee, providing for the recreation and sporting needs of Derry city. Are you caught in a catch-22 situation? You are not really the outright owners. You have a tenancy agreement and there is a fairly loose arrangement as regards the obligations that you have.

Mr Quinn: Well, I suppose. We have a written lease, so, if the council wanted, it could walk away and just say, "There is the lease. Sort it out." There was a time when property was at a premium and there was a building boom in the country, and the council got a bus and brought all the councillors up to see its land bank in Creggan. You cannot have your cake and eat it. If they thought that was their land bank, they might come back and have a wee look at it. What I have tried to do with the council is ask John Kelpie to talk to me about it; not to say, "Give me all your money and fix these dams", but to talk, because we believe that a partnership arrangement might work best. We have an interest. They are not disinterested — that might be the best way of describing it. At the moment, I think their position is that they are being cautious to see just how far it is going to take them.

Mr Byrne: When did you last have an engineering inspection done on the dams?

Mr Quinn: We have not had an inspection done on the dams ourselves.

Mr Byrne: Has the council carried out any inspections?

Mr Quinn: The council did have a guy up some time ago. We have done quite a bit of engineering work up there with the council. Between us, we did a hydro scheme, so a good bit of engineering work has been done up there. We have spent millions up there over the last couple of years, investing heavily in infrastructure. With hindsight, we might have spent a little bit of that looking at the dams, if they needed investment, but there was never any indication that investment was necessary. The water service told DARD quite recently — one of the officials was on the phone — that it believes that the reservoirs are in good order. It left them in good nick and expects them to still be like that. We would not really expect it to walk away and hand them over to the council if they were not like that.

Mr Byrne: Lastly, does NI Water take any water from your reservoirs at the moment?

Mr Quinn: It used to. It was a service reservoir until 1992, when it went offline. Apparently, the water's iron content exceeds an EC directive. It is safe to drink but it exceeds the directive. It came back in 1993-94, when there was a problem with its Carnmoney water treatment plant, and used it as an emergency source of water. NI Water maintains the option, I suppose, to come back if it needs to, but both it and Rivers Agency, at the time we occupied the site, said that they really had no further interest in the reservoir sites. The Rivers Agency does not need it for its flood management systems. So, I suppose it is a moot point, if it does not need it for flood management purposes.

Mr Byrne: That is fine. Chairman, I think Creggan park might be a good location and operation for the Committee to visit, because we would see at first hand the dilemma that some of the voluntary and community organisations are left with, given the operation's extent and proximity to a big urban population.

Mr Buchanan: Who is the manager of the reservoir? Is it the Creggan Community Association?

Mr Quinn: It is us. We are on site every day, so, in effect, we are the manager.

Mr Buchanan: If the new Bill came in, you would still be the manager; it would not fall back on the likes of a club, for instance, that is using it?

Mr Quinn: No. Essentially, it is us.

Mr McMullan: I was going to ask the same thing. It is signed up in your name, Creggan Country Park Enterprises. The council's name is not on it anywhere.

Mr Quinn: The council is on the lease. The council leases it to us on a 99-year lease.

Mr McMullan: It has the whole shooting match leased out to you in your name. Have you read the lease?

Mr Quinn: Of course.

Mr McMullan: You are responsible for everything?

Mr Quinn: Essentially, we are.

Mr McMullan: Does it say anywhere in the lease that the council is responsible for anything?

Mr Quinn: I do not think that I saw that part, no.

Mr McMullan: OK, that is grand.

Mr Quinn: That said, it took the site off the Water Service at our behest. We lobbied for that. Water Service could not give it to us, but it gave it to the council, which let us in to use it.

Mr McMullan: You used it as —

Mr Quinn: We used it as a fishery.

Mr McMullan: When the Water Service had it?

Mr Quinn: No. The lease was not written until 2002, but we have been there since 1992.

Mr McMullan: The council had it up until 2002?

Mr Quinn: Yes.

Mr McMullan: And it was maintaining it up until then.

Mr Quinn: No. It never spent a penny on it.

Mr McMullan: But it was in its name?

Mr Quinn: Yes.

Mr McMullan: Do you have it insured now?

Mr Quinn: Yes.

Mr McMullan: So, you are, in fact, the total owner of it.

Mr Quinn: We insure it and do everything else. We have fenced three bodies of water as well for public safety; we have spent a lot of time maintaining fences. In the summer, because it is an urban area, we have a lot of young people out at night drinking, cutting fences and going in to swim. That has really been our preoccupation: trying to keep people from swimming. On 12 July 2012, a young man drowned. That was probably the worst night of my life. I was there all night waiting for his body to be recovered. Again, that was our responsibility; it was our job. You try to stop them, but you cannot always do that.

Mr McMullan: What is below it? I am trying to picture it.

Mr Quinn: There is a big field; it is called Tinney's field.

Mr McMullan: And what is below that?

Mr Quinn: There is a big field below it. I think it belongs to an MP or a Minister; I am not sure which. It is a big open field. The stream that comes out of the reservoir system runs down through the middle of that field in a culvert. It used to be an open stream. I imagine that that would stop anybody developing there. Below that, you have the Glen estate and housing the whole way down towards the Foyle.

Mr McMullan: Does that pipe —

Mr Quinn: That pipe discharges at Pennyburn. It was probably piped in the 1970s or 1980s. I can remember it as an open stream, but Emmalene would not remember it.

Mr McMullan: That is interesting. Thank you very much.

Mr McAleer: Thank you. I am taking a wee look at the draft legislation. Clause 6(5) states:

"Any person who manages or operates the reservoir or any part of it, but is not the owner of the reservoir (or the part), is the reservoir manager of the reservoir".

I presume that that ties you into being the manager.

Mr Quinn: We will be the manager, yes.

Mr McAleer: Presumably, that is something that we as a Committee can look at to see if it is appropriate to get that amended.

The Chairperson: Yes, we can do that. We can do anything.

Mr Quinn: I am not saying that we shirk our responsibilities in managing reservoirs; we do not. I have been managing a reservoir, or reservoirs, since 1992. The regime that we implement is probably not one that Rivers Agency would implement, but we do our best within the resources that are available to us. We do what is reasonable. Let me repeat that the dams have been there since the 1840s. Obviously, they have been improved in that time. We do not expect that anyone will come along with a big bill, telling us to do this or that, but we do not know. So far, the dams seem all right. I suppose that, since it is a matter of public safety, and there is property — houses and even a school — downstream, according to the precautionary principle, we must look at the worst-case scenario rather than the best. So, we are caught by this but we cannot do much about it.

Mr McAleer: I am just thinking out loud. I do not know what is possible or desirable. You manage and operate the facility and provide all those opportunities for the people of Derry —

Mr Quinn: And Tyrone.

Mr McAleer: And Tyrone, sorry, and Donegal as well. Certainly, if the legislation made it clear that, in no circumstances would the owner be considered the manager in so far as meeting its requirements, that would take you out of the equation, would it not?

Mr Quinn: Let us project this situation forward 90 years, to the end of the lease. Then, the council, or rather the super-council, would be back in the hot seat. I believe that there is a role here for Derry City Council. I think that it may be afraid that it is getting roped into something that it had not seen coming.

Mr McAleer: Derry City Council owns it, and you are providing the facilities. You are maximising the use of it.

Mr Quinn: I suppose that, in a sense, we have the benefit of it. However, it is a matter of teasing it out with the council, and maybe revisiting the lease as well.

Mr McAleer: In fairness, if it were not for you, the reservoirs would be a huge burden and liability for the council. You have taken them off the council's hands and are making use of them.

Mr Quinn: We took on the liability and we insure them. We bring people on site. We have people there at night, trying to stop people going into it. We fenced it; when Water Service owned it, it was not fenced. Our regime of management is different to that which Water Service operated. Water Service did not have people there at night watching, or people there during the day doing anything except providing water, or provide fencing. We have done things differently. Without the backup of engineers, we have probably managed the reservoirs in a way that is different to the way the council or the Rivers Agency would have.

Mr Irwin: If, for instance, an inspection were made by engineers and there was a need to spend x thousands of pounds — £20,000, £30,000 or £40,000 — what position would that leave you in? Would you be able to finance it?

Mr Quinn: We would not be able to find it tomorrow. The question would be: where would we go for it? We could take out a loan but we would have to pay it back.

Basically, we have two sources of income. About 50% of our income at the moment comes from DSD under the neighbourhood renewal budget. The other 50% is earned. We rent an office to Groundwork Northern Ireland. Most of the money comes from providing activities for the public — fishing, canoeing, paintballing and raft building — for which people pay us. That 50% is the money that we use to pay for staff, insurance, heating, lighting, maintenance, replacement of equipment and stuff like that. That is the money that we live on. If a bill comes in tomorrow for £10,000 or £20,000, we might

pay it but the lights might go off, the oil would run out or something like that. We have finite resources, so a big bill, arriving unexpectedly, could close us down.

Mr Irwin: Your reservoirs are designated as high-risk.

Mr Quinn: Partly.

Mr Irwin: Do you see them that way?

Mr Quinn: If you have been working there for 22 years and they are part of your life almost, you do not and nor, probably, do the people who live around them. I am quite sure that people who live downstream from them would be alarmed if somebody told them the reservoirs are high-risk. Nobody in Derry, or even closer to them on the likes of Glen Road, would think that they were at high risk. As some people have said, if you were trying to sell a house, would you tell everybody that you lived in a high-risk area?

I suppose that the general public probably do not yet know a lot about the Reservoirs Bill. They probably do not know that there are reservoirs of high, medium or low risk, or even think about it.

Mr Irwin: Something has just come to mind: do you think that engineers should have looked at reservoirs before designation? To say that something is "high risk" puts the thought in your mind that that reservoir is a risk when it may not be.

Mr Quinn: It comes down to what Jim Haughey said to the Committee about the difference between risk and hazard. The hazard is that a wall of water may come down, but the risk is what might make that happen. We do a risk assessment every day before anybody goes on the water in canoes. You do that to mitigate the risk. That is appropriate to all reservoirs. For example, in the 1980s the Water Service put steel piling with a concrete cap in the bottom reservoir, because it probably thought that it would last maybe another 100 years.

As I said, we do not underestimate our responsibility in this. The fact that we are familiar with the reservoirs — I have been there 22 years; Emmalene not quite so long — gives us a degree of confidence in their integrity. I am stoic enough to accept that, if legislation is mooted and comes to the Agriculture and Rural Development Committee, you cannot just throw it out and say, "We are not doing that." You have to consider the risk. However, every risk can be managed. You can mitigate risk. It may cost a bit of money or you may have to change how you do things. Sometimes, you can mitigate risk without spending money; it is about being practical and sensible.

The Chairperson: I have a question that is, again, around the operating requirements that William asked you about — the operating costs. What would happen if this legislation were passed and you get in a supervising engineer, which will cost you between £1,000 and £2,000 a year, and that engineer reckons that you need an inspecting engineer, which puts about £2,000 on top of that? A report is then produced stating that you need to spend around £4,000 a year on a maintenance regime, and you will have to find £100,000 a year in capital spend. What would your response be to that?

Mr Quinn: I might go up the nearest hill and shout for a while. I will put it like this: we got a letter from the Revenue at Christmas telling us that we owed £23,000 in VAT. I looked at it and rang the chairman to say that the VAT man said we owed him £23,000. He replied, "Jeepers". I said that it did not really matter and he asked why. I said that we did not have £23,000, so it was a moot point. It was a way to catch our attention and get us to put in a VAT return on time. The point is that were we to get a bill for £100,000 tomorrow, it would not be paid. So, we would be going round Departments and statutory agencies saying that we had a bill for £100,000 and asking them who will help us to pay it.

The Chairperson: I have not plucked those figures out of the air —

Mr Quinn: Of course not.

The Chairperson: We asked NI Water to produce a report for us. It did that for six reservoirs, took four weeks to complete, and those are the figures that NI Water cited as its spending, and the capital works were for 2011-12. That gives you some indication of what NI Water has —

Mr Quinn: Did you get a breakdown of what that was spent on? Was it for remedial works or maintenance works?

The Chairperson: Just capital works, basically. Maintenance works were separate and averaged £4,000 a year, but in some cases the cost is £8,000 a year. I am not just bandying figures about.

Mr Quinn: Our income could be £250,000 this year and our expenditure could be somewhere in and around that. Our expenditure could be a bit less or a bit more, and next year it could go the other way, but if you add a bill for £100,000, it will not be covered. It is as simple as that. If somebody comes up with a bill, somebody will have to pay it, but that might not necessarily be Creggan Country Park Enterprises. If the bill is for something that is in the public interest and it is presented to us and we cannot pay it, somebody is going to have to pay it.

The Chairperson: As the reservoir manager, the onus and responsibility could well lie with you.

Mr Quinn: It is not Gerry Quinn who is the reservoir manager; the reservoir manager is the corporate body: Creggan Country Park Enterprises. I suppose that if they heap it on Creggan Country Park Enterprises, the company might be forced to wind up and hand the whole thing back to the council and say, "You fix that now." In the worst case scenario, that is probably what would happen.

The Chairperson: Obviously, there is classification risk. Even if you spend £100,000 on investment in your compound, you will still be deemed as high-risk because of the population centre that is below you, and no other reason. What are your views on that? You have spent so much money, or you could spend so much money, to bring it up to a standard and yet you have no repercussion or any less of a burden on you other than the fact that you know you have invested the money and can boast that you have the safest or costliest dam in Northern Ireland. What is your view on that?

Mr Quinn: If somebody devises a regime that must be applied somewhere, it is not always appropriate to turn around and say to the person that you hand it to, "You must adhere to those regulations from now on", and say that they have to pay for everything. It may sound a wee bit strange, but the whole administration, licensing and registration of this will be a resource burden on people anyway.

I am not convinced that the public or ourselves should have to pay for somebody else's system, even if it is for the public safety. If somebody devises a system, it cannot always be self-financing by passing the buck. If there is a public safety issue, all of the houses were built long after the reservoirs were built. In 1840, the whole place would have been agricultural land, but people, including the councils, have allowed things to happen for decades. Planners have allowed people to build on a floodplain. You might have to look at planning policy and all sorts of stuff if you are talking about high risk. Going back to who pays for it, we cannot pay for it at this point.

The Chairperson: What are your thoughts on a grant-aid scheme? What percentage should that be set at? Would it make a difference to you if somebody said to you, "We will give you 50% or 80% of the £100,000"?

Mr Quinn: It would not really matter. If the bill is £100,000, and someone says, "We will give you half", we would not have the other half. If we had spent that half this year or last year, we would not have been able to pay for the insurance, the oil, the electricity and the rest of our bills. It is simple as that.

The Chairperson: Have you looked at the mechanics of the Bill and the logistics around the disputes appeals mechanism?

Mr Quinn: No. To be honest, I have looked at the main thrust of the Bill, the purpose of it and its implications. You can get lost in the detail, and I do not really want to get into the detail of dispute mechanisms, resolutions or anything else. We recognise that people believe that they need a Bill. We do not think that the implications of that have been thought through, and that possibly may not happen until every reservoir is affected. In our case, we own three reservoirs that might come under the Bill's purview. Our situation has obviously not been factored in. As the owner of most dams, the water service has obviously had the most input, and probably did so before this became public. It has deep pockets, and sometimes we do not have a pocket. It is as simple as that.

The Chairperson: Do you have a flood plan?

Mr Quinn: The term "flood plan" has never come across my desk. No; that is not true, of course — I have heard of flood plans, but we do not have a flood plan for up there. I know where the water comes from, where it is impounded and where it goes naturally, so I know the floodplain, which follows the Glen Road. It is a glen, because it was all a natural valley at one time.

The Chairperson: That sounds like an inundation map, on which you would see where the flood would go.

Mr Quinn: Yes, you would see where it has to go.

The Chairperson: Would you have —

Mr Quinn: No.

The Chairperson: — standard operating procedures in the event of a flood? Do you have an alarm going off, people going to a focal point or phoning 999? Do you have a standard operating procedure for your staff?

Mr Quinn: No. As I said, we had a flood in 2003, and the water in the middle reservoir rose by a couple of inches. It flooded the whole of Derry city, and the town came to a standstill. Businesses had cellars flooded, and downstairs bars were —

The Chairperson: I am sorry; when was that?

Mr Quinn: It was in 2003. We believe that the system was built to accommodate an inordinate amount of rain falling in a very short period. We have never even considered it; it was never something that came to mind. I actually do not know anybody that would have one. Perhaps we should, but I have never heard of it before, and we have been there for 22 years. We try to manage the place responsibly and so forth. We are on a hill, and if you ever came up, you would see why the people in the building are never going to be affected by a flood. The reservoir system can probably cope; that is why it was built the way that it was. I suppose that engineers in those days knew how to build a dam too.

Mr Irwin: You said that you have three reservoirs. Under the proposed legislation, it looks as though you will have to get three separate engineers' reports.

Mr Quinn: I would like to think that one would do the whole lot.

Mr Irwin: I am not so sure, if there are three reservoirs.

Mr Quinn: I am not quite sure either. The person from DARD who I was talking to suggested that even the dam that is breached might still come under the purview of the Bill, because it might have the potential to contain water. The breach is at least the height of the wall in this room. It is quite high, and a natural stream flows down through it. If you did not know that it was a breach in a dam, you would not know it was a dam, if you know what I mean.

Mr McMullan: My advice to you, Gerry, is to go away and look at the lease again. Under the lease, and even if you step out of the lease, you can still be responsible. However, I can be corrected on that.

Mr Quinn: I suppose that may matter for solicitors, Oliver.

Where the lease is concerned —

Mr McMullan: Yes, but if the Bill comes in, it could leave you in an awful position. I have not said this to anybody else yet, so I will say that you are doing a really good job, but, unfortunately, you are caught up in the issues in this Bill. I think that there is something in this Bill that means that, if you walk away from the lease, you can still be held responsible as the reservoir manager. I think that that should be pointed out to you. I would certainly look at this again, because, although I am reluctant to

say it, councils are lucky to get people to lease these reservoirs from them. The Chair alluded to some of the costings, and he is quite right. Some could be low, and some could be higher — we have a ballpark figure, depending on how bad they are. In reality, I would go away today and check all that out, or get your people in Creggan Enterprises to check it all out, set up a meeting with the council and ask what would happen if you walked away from the lease.

The Chairperson: On that point, I propose that the Committee writes to Derry City Council to ask it to ascertain what it sees as its responsibilities for the lease under the Reservoirs Bill and see what comes back. We could send that response to you.

Mr Quinn: From the limited discussions that I have had with councils, some officers are assuming that they are going to have to spend money one way or the other. However, I would prefer to have the conversation with them first, although they have not responded to the communication yet. As with everything with resource implications, they may also be doing their homework before it comes back just to see what the implications are.

Mr McMullan: We have had some councils here that did not know what the costs to each council would be. One thing that councils can do is get together and share the costs. That is the whole idea of RPA. They admitted that they were talking about that before they came into the meeting. Councils can get together and hire the two or three types of engineers that, according to the Bill, are needed. One engineer cannot do the other man's job; it is unbelievable. I would certainly back writing to the council. From my point of view, I would hate to see a good group such as yours get into trouble, Gerry. I am not saying that you will, but you would be as well to cover your back.

Mr Quinn: The worst-case scenario is that we are forced to wind up and the thing reverts to council, which then becomes responsible.

Mr McMullan: Make sure that it does; that is what I am saying to you. I understand what you are saying, but watch your back on this, because groups such as yours that do that type of work are one in a million. You are doing work that would cost a private enterprise or councils a lot more money to implement.

Mr Quinn: We have a wee bit of faith that there might be some good will with councils, even though I suppose nobody wants to spend money.

Mr McMullan: I was on a council for 22 years, so believe you me —

Mr Quinn: I have been working with Derry City Council since 1987, so I know the good and the bad too. However, we have a bit of faith in the new man.

The Chairperson: Councils have to weigh up the public amenity and justify every pound that is spent, which is the ratepayer's pound, on whatever they spend it on. We will write to the council and ascertain an answer. Under our scrutiny of the Bill, we have the right to write to it and ask what the reservoir means to it, how the lease is and how that qualifies and brings it into it. If nothing else, it will force the council to look at and consider the implications for the council.

Mr Quinn: The council took back a path along the middle dam, so it owns that now. Apart from leasing out the whole site to us on a 99-year lease, it also owns a path that is a public right of way on the middle dam.

The Chairperson: Is that on top of the dam structure?

Mr Quinn: It is on top of the dam structure. I imagine that it might have implications for the council.

Mr McMullan: It could close it up in the morning; it is only a right of way.

Mr Quinn: The council adopted it only around four years ago.

The Chairperson: I do not want to get into a debate on rights of way.

Mr Quinn: DRD owns another path on top of the bottom dam.

The Chairperson: I think that we should write to DRD and to NI Water to ask what their interests are in the reservoirs and how they see the Reservoirs Bill applying to them on those specific courses. OK? There are no further questions, Gerry and Emmalene. Thank you for your time. It has been very useful.

Mr Quinn: It has been very useful for us too. If you come up, I will make sure that you have a cup of tea.

The Chairperson: OK, you have sold us.