River Action challenges Environment Agency for failing to protect rivers from agricultural pollution

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? River Action applies for judicial review against the Environment Agency (EA) for failing to apply the Farming Rules for Water on the River Wye
? River Action believes that consequently the EA is failing to protect the River Wye from phosphorus pollution, which is causing algal blooms that have led to the loss of 90% of the river's famous and protected Ranunculus bed
? 60-70% per cent of total phosphorus load on the River Wye now comes from agriculture
? Phosphorus on the River Wye is accumulating at a rate equivalent to 17kg per hectare compared to the national average of just 7kg per hectare.

River Action, a charity campaigning to stop pollution across UK rivers, has today issued a legal claim in the High Court against the Environment Agency (EA) for failing to prevent the spreading of excess organic manure.

The charity claims that the EA is complicit in allowing destructive levels of nutrients to leach into the River Wye causing significant widespread ecological damage to the river.

In applying for a judicial review, River Action accuse the EA of failing to apply the Farming Rules for Water (FRfW), that prohibit applications of "organic manure or manufactured

fertiliser" to farmland in a way that would raise nutrient levels above what is "needed by the crop and the soil".

Statutory guidance from the Department of Environment Food and Rural Affairs (DEFRA) states that land managers should plan to avoid applying organic manures that raise the Soil Phosphorus Index above target levels for soil and crop on land over a crop rotation, unless they can demonstrate that:

> **It is not reasonably practicable to do so.**
> **They have taken all appropriate reasonable precautions to help mitigate the risk of diffuse agricultural pollution.**

However, as crop rotation can take place over several years, this approach fails to protect the River Wye from phosphorus pollution. The Environment Agency is slavishly following the statutory DEFRA guidance at the expense of enforcing the Farming Rules for Water.

In addition, the EA is not applying the rules in a way that fulfils the Habitats Directive, and therefore is also in breach of the Habitats Regulations. The River Wye catchment is inundated with poultry units, with over 20 million chickens being reared for meat and eggs at any one time, equating to around 25% of total UK poultry production. The rapid growth in the region's intensive poultry industry over the last decade has resulted in huge volumes of manure being spread on agricultural land. This has led to substantial surplus of phosphorus in the soils of the river catchment. These contaminants subsequently leach into the river, resulting in prolonged algal blooms that turn the river an opaque green, suffocating plants and wildlife.

The Wye was designated a Special Area of Conservation (SAC) to protect the river's once-famous extensive Ranunculus river weed beds. However over 90% of the river's Ranunculus has now been lost, smothered by the algal blooms. Consequently, the river is not meeting the SAC conservation status specified by the Habitats Directive. In June 2020, an unprecedented thick algal bloom extended for over 140 miles, almost the entire length of the river.

A study published in May 2022 by the University of Lancaster, Re-focusing Phosphorus use in the Wye Catchment (RePhoKUs Study) concluded that 60-70% of the river's total phosphorus load now comes from agriculture. An excess load of 3,000 tonnes of phosphorus is still being added to the river catchment area each year. This is accumulating at a rate equivalent to 17kg of phosphorus per hectare compared to a national average of just 7kg per hectare.

Charles Watson Chairman and Founder of River Action said:

"The severe ecological collapse of the iconic River Wye is one of the great environmental scandals of our times. The sickening tragedy is that this could have been seriously mitigated had the Environment Agency enforced existing environmental regulations to prevent the excess application of animal waste on land that was already oversaturated with nutrients. The irony is that the same government that introduced these regulations is giving the EA

explicit guidance not to enforce them. This unlawful conduct of the EA has to stop now."

River Action is represented by Leigh Day environment team solicitor Ricardo Gama, who said:

"The Farming Rules for Water were introduced in 2018 specifically to deal with the issue of agricultural pollution in rivers like the Wye but from documents we've seen it's clear that the Environment Agency is choosing to apply the rules in a way that is inconsistent with their own interpretation of how the rules are supposed to work. This means that manure–essentially an industrial waste product from meat and dairy production – is allowed to flow into our waterways with impunity. Our client hopes this claim will force the EA to reassess their approach and start applying the rules properly."

For enquiries, comment or further information, please contact:

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Notes to Editors
1. The Farming Rules for Water is the colloquial term used for the Reduction and Prevention of Agricultural Diffuse Pollution (England) Regulations 2018
2. River Action claim the EA is in breach of regulation 9(3) of The Conservation of Habitats and Species Regulations 2017