

Razor shell dredging in Waterford harbour is closed by High court injunction on Wed 25<sup>th</sup> Sept 2019 until the determination of a challenge by Coastwatch into the process of opening the fishery. The case will next be mentioned in the High Court on 30<sup>th</sup> March 2020 when a date may be set for its hearing.

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During August, Coastwatch became aware of the imminent opening of Waterford estuary razor shell beds to hydraulic dredging. There was no public consultation and the beds extend into the Waterford estuary special area of conservation (SAC) which is home to a range of protected species and habitats including a honeycomb reef which may be the longest of its type in Europe. This is also a case study site chosen by Coastwatch and Irish Wildlife Trust as partners in an international Marine Protected Area Ocean 5 project.

Coastwatch contacted the relevant authorities requesting an Appropriate Assessment study to be carried out in accordance with the EU Habitats Directive and for open public consultation but the fishery opened without these steps. Coastwatch applied to the High Court on an emergency basis seeking leave to challenge the process that led to the decision to open the fishery and requesting an interim injunction to halt the dredging until the judicial review had been decided.

The application was heard over 3 days in the High Court. Coastwatch was represented by Cork based solicitor Brian Harrington and barristers James Devlin SC and Margaret Heavey BL with input from John Wilde Crosbie BL.

The proceedings are against the Sea Fisheries Protection Authority (SFPA) and the Minister for Agriculture, Food and the Marine. After hearing the legal argument and input from the parties, Judge Richard Humphreys granted an injunction on 18<sup>th</sup> September with immediate effect. On 25<sup>th</sup> September when the matter returned to court, Judge Humphreys granted Coastwatch leave to bring a full judicial review against the SFPA and the Minister. The proceedings will not be heard until Spring 2020 and the injunction will remain in place until a judgment has issued from the High Court.

#### Reflection:

1. Coastwatch considers legal action to be a last resort and in this case we first made every effort to try and ensure that the authorities did not open the fishery in the absence of the public consultation and habitats assessments that we believe are necessary under EU law. The success in being granted the interim injunction illustrates the role of the High Court in upholding EU law and the power of the Courts to shut down fisheries in cases where there is a risk to habitats and species protected by the EU.
2. Over the past decade more than 70 boats have been retrofitted to carry out hydraulic dredging of the seafloor, penetrating 25 cm into the sediment and causing destruction of habitats and species that get in the path of dredging. Bottom trawling and razor shell and mussel seed dredging in and around other Marine protected areas (MPAs) is going on right around our coast, damaging fragile seafloor ecosystems which are already grappling with climate change. Unless we make a serious joint effort - all stakeholders - to properly protect enough real MPAs where nature can be safe and be restored - we are going to destroy our own marine base.