

**From:** Don Staniford [mailto:salmonfarmingkills@gmail.com]  
**Sent:** 21 August 2014 12:28  
**To:** 'Director.ofMarineScotland@scotland.gsi.gov.uk'  
**Cc:** 'Ian.Walker@scotland.gsi.gov.uk'; 'Oana.Racu@scotland.gsi.gov.uk';  
'Sam.Baker@scotland.gsi.gov.uk'; 'Jonathan.Nagl@scotland.gsi.gov.uk';  
'Stephen.Bruce@scotland.gsi.gov.uk'; 'Sarah.Walkinshaw@scotland.gsi.gov.uk'  
**Subject:** Review re: FoI/14/01233 - salmon farms killing seals in 2014 - Don Staniford  
**Importance:** High

Please consider this a formal request for a review of FoI/14/01233 - see below for the original FOI request of 24 July 2014 (and 8 April) and the refusal by the Scottish Government today (21 August 2014).

The reasoning for this review request is simple: the decision to refuse disclosure runs counter to previous rulings by the Scottish Information Commissioner.

The [SIC's ruling in November 2012](#) included:

31. However, the Commissioner is not satisfied that the Ministers have demonstrated that disclosure of the information would, or would be likely to, prejudice substantially public safety. During the investigation, the Ministers were asked to detail the harm that would (or would be likely to) be caused to public safety by disclosure of the information. The Ministers were advised that, for this to be accepted by the Commissioner, they should demonstrate that there is a real risk or likelihood that actual harm will occur at some time in the near (certainly foreseeable) future, not simply that the harm is a remote or hypothetical possibility.
  
37. The Commissioner has concluded that the Ministers have failed to demonstrate a real risk or likelihood that the harm they anticipated was likely to occur at some time in the near (certainly foreseeable) future. She is disappointed that the Ministers continue to rely on general arguments to explain why they considered the information to be exempt under regulation 10(5)(a), without providing evidence to support their conclusions in the specific circumstances of this case.

The SIC stated in a [press statement in April 2013](#):

Having considered those submissions, the Commissioner has decided she will enforce [Decision 193/2012](#). She wrote to all parties on 23 April to inform them of this. The Commissioner recognises and appreciates the serious nature of the concerns raised. Although some evidence of risk has been supplied, she does not consider that it provides a sufficiently compelling argument that any threats would be more likely to occur or be acted on as a result of disclosure of the location of where seals have been shot. She therefore requires that the relevant information must be released. The Commissioner also wishes to remind Scottish public authorities that she expects them to consult with appropriate third-parties during her investigations, to avoid similar situations in the future.

The Commissioner requires the Government disclose the requested information by Tuesday 7 May 2013.

The [SIC's ruling on 23 April 2013](#) concluded:

## Conclusions

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19. The Commissioner has considered carefully the arguments put forward by the Scottish Ministers that Decision 193/2012 should not be enforced. On balance, her conclusion is that the supporting arguments about public safety, even in addition to the arguments she originally considered in relation to disclosure, do not demonstrate that disclosure of the information would, or would be likely to, prejudice substantially public safety (regulation 10(5)(a) of the EIRs). She has therefore concluded that the decision should be enforced.
20. This conclusion was not reached lightly. The Commissioner recognises there is a risk but the evidence does not provide a compelling argument that the threats are any more likely to occur or be acted upon because of the information being disclosed. Those that made them are aware of the details of shooting of seals and by whom. There is already considerable information in the public domain about the shooting seals and who holds licences.  

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Retrospective information is unlikely provide sufficient detail for threats to be the result of targeted action. Withholding it will not stop events such as have already been reported.
21. Therefore the Commissioner has decided that the decision will be enforced and orders the Scottish Ministers to disclose the requested information to GAAIA by **Tuesday 7 May 2013**.

Read the SIC's rulings in full via:

26 November 2012: <http://www.itspublicknowledge.info/uploadedFiles/Decision193-2012.pdf>

23 April 2013: <http://www.itspublicknowledge.info/home/News/20130425.aspx> and <http://robedwards.typepad.com/files/sic-decision-to-enforce.pdf>

Read news via:

GAAIA: "[Lethal Scottish Farmed Salmon: Serial Seal Killers Named & Shamed!](#)" (8 May 2013)

The Sunday Herald: "[Scottish government ordered to name seal-shooting salmon farms](#)" (28 April 2013)

The Sunday Herald: "[U-turn on naming fish farms that shoot seals](#)" (13 January 2013)

The Sunday Herald: "[Government ordered to reveal secret seal shooters](#)" (2 December 2012)

GAAIA: "[Scottish Salmon's Seal Killers Named & Shamed!](#)" (December 2012)

Since the SIC's rulings in 2012 and 2013, what evidence does the Scottish Government have that the situation has changed markedly?

Mr Walker's response today claims that:

"disclosure would be likely to substantially prejudice public safety by leading to harassment and threats to company staff and their families. There is also a significant risk of accidental injury to campaigners if they seek to get between licenced seal shooters and seals. We have reached this conclusion because of recent evidence about harassment, intimidation and threats made to company staff and their family members by specific campaigners and evidence that licence information previously released has been used to identify licensees and locations engaged in shooting seals and to target them"

However, no "recent evidence" is presented.

The real reason the Scottish salmon farming industry does not want data on seal killing salmon farms to be disclosed is market success and the future certification of farmed salmon. In December 2012, the SSPO wrote to the Scottish Government claiming that the release of the names of the seal-killing salmon farms would "have a direct impact on the market success of their products" (read the SSPO's letter in full [online here](#)).

Willie Cowan  
Marine Scotland  
Scottish Government  
Victoria Quay 1-B  
Edinburgh EH6 6QQ

December 6<sup>th</sup> 2012

Dear Willie

**Information Commissioner Decision 193/2012**

Following the recent decision by the Information Commissioner to permit the disclosure of locations where seals have been shot at salmon farms, I have been asked to write to you on behalf of SSPO members.

Our membership is extremely dismayed by this decision and believes it will have a direct impact on the safety of their employees and on the market success of their products. Don Staniford stated in this week's media that "the consumer now has the opportunity to boycott salmon from the named farms".

Bearing this additional information in mind, SSPO member companies would expect the Scottish Government automatically to appeal this decision.

Could you please confirm that this is your intention?

Yours sincerely,

A handwritten signature in black ink, appearing to read "Scott Landsburgh".

SCOTT LANDSBURGH  
Chief Executive

Read online via "[Scottish Salmon's Seal Killers Named & Shamed!](#)"

Please also note the fact most Scottish salmon farming industry operators - as represented via the Global Salmon Initiative- have pledged to certify all their salmon farms via the Aquaculture Stewardship Council by 2020.

Read online via <http://www.globalsalmoninitiative.org/areas-of-focus/standards/>

Marine Harvest stated in a press release in May 2013:

"In our existing plans for investment for the next 5-10 years several of the strict criteria in the ASC Standard will be fulfilled. It is our ambition that 100% of our farms will be third party certified by 2020"

Online via <http://www.marineharvest.com/globalassets/products/fact-library/asc-sustainable-growth-towards-2020.pdf>

Read more via

[http://scotland.wwf.org.uk/what\\_we\\_do/about\\_wwf\\_scotland/publications/?6601/Salmon-farming-Scotlands-largest-company-commits-to-reducing-its-environmental-impacts](http://scotland.wwf.org.uk/what_we_do/about_wwf_scotland/publications/?6601/Salmon-farming-Scotlands-largest-company-commits-to-reducing-its-environmental-impacts)

However, the ASC farmed salmon standard only permits the killing of two marine mammals in a two year period - here's Intrafish reporting last month on the implications for Marine Harvest in Canada:

## Marine Harvest Canada farm withdraws from ASC review

Drowned sea lions force salmon farming giant to delay certification process at Shelter Bay for at least 2 years; company still pursuing certification at Marsh Bay site.

 Josh Stitts

Published: 17.07.2014 10:11 Updated: 17.07.2014 09:51

Marine Harvest Canada's bid for Aquaculture Stewardship Council (ASC) certification for its Shelter Bay salmon farming site in British Columbia is facing a two-year delay after six sea lions were trapped inside one of the cages and drowned, Clare Backman the company's director of public affairs, told IntraFish.

An equipment malfunction at the site allowed the sea lions to bypass the predatory exclusion net in one cage, but the animals were unable to escape once in and drowned.

"A rope, part of the rigging system, was chaffing and opened a small hole into the predatory exclusion net underneath the pen," Backman said. "The sea lions were able to get in, but weren't able to escape."

The discovery, made by divers earlier this month at the farm, forces Marine Harvest to withdraw from the ASC certification process, Backman said.

ASC rules stipulate that farms undergoing certification must less than nine total kill incidents in a two year span and no more than two of them can be marine mammals, which prompted Marine Harvest to withdraw its reiew for that site.

In April, Marine Harvest submitted the Shelter Bay and Marsh Bay sites for ASC certification. While the Shelter Bay farm will have to reapply in two years, the Marsh Bay farm is still under review.

Marine Harvest is currently examining all of its 319 other cages at the 40 farming sites in British Columbia to ensure the incident was isolated.

"We never want to harm any of these animals, that's why the predatory exclusion nets were put in," he said.

The incident will not affect Marine Harvest's Canada's bid for ASC certification at a second site in Marsh Bay, and Backman said the company will continue to pursue certification for all of its sites.

### Associated Articles

- Marine Harvest posts highest-ever quarterly earnings
- Marine Harvest, Grieg target 'steady, controlled growth' in Canada
- Monterey Bay flip-flops on farmed salmon sustainability
- Marine Harvest's Canadian farms begin ASC certification process



[Jonathan.Nagl@scotland.gsi.gov.uk](mailto:Jonathan.Nagl@scotland.gsi.gov.uk); [Stephen.Bruce@scotland.gsi.gov.uk](mailto:Stephen.Bruce@scotland.gsi.gov.uk);  
[Sarah.Walkinshaw@scotland.gsi.gov.uk](mailto:Sarah.Walkinshaw@scotland.gsi.gov.uk)

**Subject:** FoI/14/01233 - salmon farms killing seals in 2014 - Don Staniford

Dear Mr Staniford

Thank you for your e-mail request of 24 July 2014 for information under the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

#### Your request

You asked for “a list of salmon farms (please name the site, data, company, species of seal and number of seals killed) killing seals during 2014” and for “copies of all correspondence with the SSPO, Marine Harvest and any other salmon farming companies on the seal killing issue - including returns for 2014 and any other documents”

As the information you have requested is ‘environmental information’ for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

As the exemption is conditional we have applied the ‘public interest test’. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information under FOISA outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

#### Response to Your Request

“a list of salmon farms (please name the site, data, company, species of seal and number of seals killed) killing seals during 2014” and “returns for 2014”

While our aim is to provide information whenever possible, in this instance, we are unable to provide the information you have requested about individual salmon farms where seals were shot under licence during 2014 and for copies of the licence returns for 2014 because an exception under regulation 10(5)(a) (public safety) of the EIRs applies to that information. This exception applies because disclosure would be likely to substantially prejudice public safety by leading to harassment and threats to company staff and their families. There is also a significant risk of accidental injury to campaigners if they seek to get between licenced seal shooters and seals. We have reached this conclusion because of recent evidence about harassment, intimidation and threats made to company staff and their family members by specific campaigners and evidence that licence information previously released has been used to identify licensees and locations engaged in shooting seals and to target them.

This exception is subject to the public interest test. Therefore taking account of all the circumstances of this case, we have considered whether or not the public interest in disclosing this information outweighs the public interest in applying the exception. We have

found that, on balance, the public interest lies in favour of upholding the exception. We recognise there is some public interest in information about the numbers of seals shot under licence around Scotland and this is largely met by the already published information at regional level. However, there is a vital public interest in avoiding risks to the safety of members of the public, company staff or their families or members of protest groups.

With regard to our proactive publication of information about licences and numbers of seals killed at the level of licensee and individual fish farm, we have reviewed this in light of further evidence provided to us about subsequent threats and harassment, as described above, and decided to cease proactively publishing this information from now on.

However, you may be interested to know that we have already published the basic numbers of seals shot in each region during the first quarter:-

<http://www.scotland.gov.uk/Topics/marine/Licensing/SealLicensing>

I should point out that the seal licensing year runs from 1 February 2014 to the following 31 January 2015 and therefore this first quarter runs from 1 February to 30 April 2014, which explains your confusion about the period covered. The information for January 2014 is already available under the licence data for 2013.

“copies of all correspondence with the SSPO, Marine Harvest and any other salmon farming companies on the seal killing issue - including returns for 2014 and any other documents”

While our aim is to provide information whenever possible, under the exception at regulation 10(4)(b) of the EIRs a public authority may refuse a request for information if it is ‘manifestly unreasonable’. The Scottish Information Commissioner’s Guidance on vexatious or repeated requests at: <http://www.itspublicknowledge.info/Law/FOISA-EIRsGuidance/Section14/Section14Overview.asp> says that in deciding whether a request is ‘manifestly unreasonable’, she is likely to take into account the same kinds of considerations as she would in deciding whether a request is vexatious under section 14(1) of the Freedom of Information (Scotland) Act 2002. In relation to section 14(1) this guidance says that “The Commissioner considers the following factors to be relevant to a finding that a request is vexatious:-

- it would impose a significant burden on the public authority;
- it does not have a serious purpose or value;
- it is designed to cause disruption or annoyance to the public authority;
- it has the effect of harassing the public authority;
- it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate.

We consider that two of these factors apply to your request. We consider that a significant burden would be placed on Marine Scotland as dealing with the request would require a disproportionate amount of time, and the diversion of an unreasonable proportion of our financial and human resources away from our core operations. Additionally, it would otherwise, in the opinion of a reasonable person, be considered to be manifestly unreasonable or disproportionate with regard to the time and resources that would be required to process it, and the impact on our core operations. For these reasons, we consider that your request is manifestly unreasonable and so we are refusing it under regulation 10(4)(b).



As the exception is conditional we have applied the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception. While we recognise that there may be some public interest in information about seal killings, this is outweighed by the public interest in ensuring the efficient and effective use of public resources by not complying with information requests which are manifestly unreasonable.

#### Your right to request a review

If you are unhappy with this response to your EIRs request, you may ask us to carry out an internal review, by writing to Linda Rosborough, Director of Marine Scotland, Area 1B-South, Victoria Quay, Edinburgh EH6 6QQ. Your request should explain why you are dissatisfied with this response and should be made within 40 working days of receipt of this e-mail. We will complete the review and tell you the result within 20 working days of receipt of your review request .

If you are not happy with the result of the review, you then have the right to make a formal complaint to the Scottish Information Commissioner. More detailed information can be found on the Commissioners web-site at: [www.itspublicknowledge.info](http://www.itspublicknowledge.info) .

Best wishes

Ian Walker  
Marine Scotland  
Marine Planning & Policy  
Area 1A-South  
Victoria Quay  
Edinburgh  
EH6 6QQ  
0131 244 6568  
0131 244 7613  
[ian.walker@scotland.gsi.gov.uk](mailto:ian.walker@scotland.gsi.gov.uk)

**From:** Don Staniford [<mailto:salmonfarmingkills@gmail.com>]

**Sent:** 24 July 2014 12:21

**To:** Central Enquiry Unit

**Cc:** Walker IW (Ian); Racu O (Oana)

**Subject:** FW: FOI/14/00616 - salmon farms killing seals in 2014 - Don Staniford

Further to FOI/14/00616 (see below for details), could you please provide a list of salmon farms (please name the site, data, company, species of seal and number of seals killed) killing seals during 2014?

I see from your web-site that:

<http://www.scotland.gov.uk/Topics/marine/Licensing/SealLicensing>

## Summary

A full list of licences issued in 2014, by region and company, with the number of seals shot each quarter, by site, will be available to download soon.

I see for 2013 that the data is online via:

<http://www.scotland.gov.uk/Topics/marine/Licensing/SealLicensing/2011/2013> and  
<http://www.scotland.gov.uk/Topics/marine/Licensing/SealLicensing/2011/2013/2013>

The reply to FOI/14/00616 from Ian Walker on 25 April claimed:

"The Marine (Scotland) Act 2010 requires this data to be provided on a quarterly basis only. The first quarter does not end until the end of April 2014 and the data submitted requires to be checked before it is published on the web-site. The information for the first quarter of 2014 will therefore be posted on the web-site in late May 2014 and at quarterly intervals thereafter."

However, as of late July this information is still not publicly available.

Moreover, as my email of 25 April stated:

"I may not have been in the top class for Maths but I understand that the first quarter ended at the end of March not April as you suggest. If the first quarter ended at the end of April then it would be called the first third wouldn't it?"

Hence this new FOI repeating my request for the seal data for 2014.

In addition, please provide copies of all correspondence with the SSPO, Marine Harvest and any other salmon farming companies on the seal killing issue - including returns for 2014 and any other documents.

Please consider this a request for information under the relevant Freedom of Information and Environmental Information Regulations including both the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 (as well as any other new or other regulations which may be appropriate).

Please provide this information electronically.

Please acknowledge receipt of this FOI request.

Many thanks and I look forward to a response shortly.

Best wishes,



If you are unhappy with this response to your request, you may request that we undertake an internal review, by writing to Linda Rosborough, Director of Marine Scotland, Area 1B-South, Victoria Quay, Edinburgh EH6 6QQ. Your request should explain why you wish a review to be carried out, and should be made within 40 working days of receipt of this e-mail, and we will reply within 20 working days of receipt. If you are not happy with the result of the review, you then have the right to make a formal complaint to the Scottish Information Commissioner.

Best wishes

Ian Walker  
Marine Scotland  
Marine Planning & Policy  
Area 1A-South  
Victoria Quay  
Edinburgh  
EH6 6QQ  
0131 244 6568  
0131 244 7613  
[ian.walker@scotland.gsi.gov.uk](mailto:ian.walker@scotland.gsi.gov.uk)

**From:** Central Enquiry Unit  
**Sent:** 08 April 2014 14:27  
**To:** Racu O (Oana)  
**Subject:** FOI - EED - on salmon farms killing seals in 2014 - Don Staniford

Good afternoon Oana,

The email enquiry below was received at the Central Enquiry Unit today.

I would be grateful if you would deal with this or forward it to the appropriate person / area of business.

*You may wish to acknowledge receipt of this email to the enquirer.*

Thank you

Angela G

Central Enquiry Unit  
ISIS Resources and Governance  
Ext 35010  
01397 795010

**Reminder:** If this email contains a request for information please remember that the Scottish Government is required to respond to all requests for information including e-mails,

within 20 working days of receipt in accordance with the Freedom of Information (Scotland) Act. [FOI Guidance](#) A leaflet '[How to Open Government](#)' is available for members of the public, the FOI unit recommend that you send a copy /link with your response.

**All FOI requests received must be registered on the FOI Tracker. Please click [here to access the FOI tracker](#) .**

If this correspondence relates to a complaint as defined in the [Complaints Handling Procedures](#) please remember that it needs to be dealt with in accordance with those procedures. Further advice on the [complaints handling process](#) is available on Saltire.

**P Please consider the environment before printing this e-mail**

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**From:** Don Staniford [<mailto:salmonfarmingkills@gmail.com>]

**Sent:** 08 April 2014 13:20

**To:** Central Enquiry Unit

**Subject:** FOI on salmon farms killing seals in 2014

Could you please provide a list of salmon farms (please name the site, data, company, species of seal and number of seals killed) killing seals during 2014?

I see from your web-site that:

<http://www.scotland.gov.uk/Topics/marine/Licensing/SealLicensing>

#### Summary

A full list of licences issued in 2014, by region and company, with the number of seals shot each quarter, by site, will be available to download soon.

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<http://www.scotland.gov.uk/Topics/marine/Licensing/SealLicensing/2011/2013/2013>

Please consider this a request for information under the relevant Freedom of Information and Environmental Information Regulations including both the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 (as well as any other new or other regulations which may be appropriate).

