



Don Staniford  
salmonfarmingkills@gmail.com

Our Reference: 202200317900

8 November 2022

Dear Mr. Staniford,

Further to my letter of 29 September 2022, I have now completed my review of our response to your request under the Environmental Information (Scotland) Regulations 2004 (EIRs) for information on an incident regarding a sunken barge operated by Bakkafrost Scotland (formerly The Scottish Salmon Company) at a location near Portree on the Isle of Skye.

### **Background information;**

A salmon feed-barge owned by Bakkafrost Scotland reportedly sank at its moorings in November 2021 near Portree on the Isle of Skye. Initial works by the owners to retrieve plastics and fuel containers were successful. As part of those works to stabilise the situation, the stocks of fish feed were sealed to prevent release into the natural environment. In 2022, preparations were made for the recovery of the barge. During these preparations it was identified that there had been a build-up of gases within the barge which might pose a hazard if released in an uncontrolled manner. The owners put in place safety measures to protect the public and environment from this potential hazard and have dealt with the build-up of gases.

Marine Scotland has continued to work with the owners and key partner organisations to identify sensitivities, helping to ensure that should there be any pollution event as a result of the barge sinking, mitigation is in place to minimise potential impacts.

### **Response to your review request**

Having reviewed our initial response, I have concluded that a new decision should be substituted. The original request was not handled correctly under the EIRs and that we should have considered what recorded information was held by us on the incident to which your request refers, and provided you with this information where possible. I apologise that we did not do this, and have fed back my review findings to the business area that handled the initial request in order to improve future handling of

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requests.

I have now reviewed the recorded information held that falls within the scope of your request, and I enclose a copy of most of the information you requested. This primarily comprises correspondence between the relevant areas of Marine Scotland which provided support to the on-going salvage operation and partner organisations involved in the response.

While we aim to provide information wherever possible, exceptions apply to some of the information that you have requested. An exception under regulation 11(2) of the EIRs (personal information) applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exception.

A further exception under regulation 10(5)(b) of the EIRs (substantial prejudice to course of justice) applies to a limited amount of the information you have requested because the information was produced by a company (Briggs Marine Limited) contracted by Bakkafrost Scotland Ltd. to salvage the feed barge. This company is currently involved in legal proceedings with Bakkafrost Scotland Ltd. To release the documents is likely to substantially prejudice this legal action, even though the information is considered to be within scope of the EIR enquiry.

This exception is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have 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. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, this is outweighed by the strong public interest in allowing the courts space to make judgements and not release information that would prejudice this process.

If you are unhappy with the outcome of this review you have the right to appeal to the Scottish Information Commissioner about our decision within 6 months of receiving this letter. Information on how to make an appeal, along with an application form, is available on the Commissioner's website at: <http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>. You can also contact the Commissioner at:

The Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS  
E-mail: [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)  
Telephone: 01334 464610

Should you then wish to appeal against the Commissioner's decision, there is a right of appeal to the Court of Session on a point of law only.

Yours sincerely

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