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Mr Don Staniford  
Scottish Salmon Watch  
[salmonfarmingkills@gmail.com](mailto:salmonfarmingkills@gmail.com)

Our ref: FOI/202200320862

17 October 2021

Dear Mr Staniford

## **REQUEST UNDER THE ENVIRONMENTAL INFORMATION (SCOTLAND) REGULATIONS 2004 (EIRs)**

Thank you for your request dated 17 September 2022 under the Environmental Information (Scotland) Regulations 2004 (EIRs).

### Your request

You asked for information on Whiteshore Cockles in North Uist - including photos, videos, Cabinet Briefings, letters, emails, correspondence with SEPA, Salmon Scotland, Mowi, Loch Duart, Bakkafrost Scotland/The Scottish Salmon Company, CalMac, Western Isles Council, APHA and any other information since 12 November 2021.

Also to include any discussions and information on the legality of dumping diseased salmon in Scotland with respect to EU, Scottish and UK law.

Also to include any discussion and information in relation to the dumping, ensiling, burning and transport of dead/diseased Scottish salmon.

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.



This exemption 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 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

I enclose a copy most of the information you requested.

While our aim is to provide information whenever possible, in this instance we are unable to provide some of the information you have requested because an exception under regulation 10(4)(e) - internal communications, 10(5)(f) and 11(2) - personal data of the EIRs applies to that information. The reasons why that exception applies are explained in Annex A to this letter.

We may hold some information of relevance to your request, obtained through the Scottish Government's surveillance activities associated within aquatic animal health. The outcomes of that surveillance, including any information of relevance where such exists, is subject to active publication through the Scottish Government website:

<https://www.gov.scot/collections/publication-of-fish-health-inspectorate-information/>

We do not hold any information for your request for any discussion or information on the legality of dumping diseased salmon in Scotland with respect to EU, Scottish and UK law as no discussions have taken place since 12 November 2021.

Information on the on the disposal, ensiling, burning and transport of dead fish and aquatic animal by-products can be found on the Scottish Government website:

<https://www.gov.scot/publications/animal-by-products-disposal-guidance/pages/disposal-of-aquaculture-animal-by-products/>

### 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 of the response, by writing to:

George Burgess  
Director of Agriculture and Rural Economy  
Scottish Government  
Saughton House  
Broomhouse Drive  
Edinburgh  
EH11 3XD

Email: [DirectorARE@gov.scot](mailto:DirectorARE@gov.scot)

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely

Ian Murdoch  
Animal Health – Disease Prevention Team

**An exception applies:**

An exception under regulation 10(4)(e) of the EIRs applies to some of the information you have requested. Regulation 10(4)(e) of the EIRs allows a Scottish public authority to withhold internal communications. In this case internal Scottish Government discussions in relation to general policy and decision making, including ministerial correspondence and legal advice for formulating official responses.

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, there is a greater public interest in high quality policy and decision-making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether the discussions on aquatic animal by-product disposal will be disclosed in the near future, when it may undermine or constrain the Government's view on that policy while it is still under discussion and development.

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.

