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Don Staniford
Scottish Salmon Watch

Our ref: 202100207142

25 June 2021

Dear Mr Staniford

Thank you for your request dated 26 May 2021 under the Environmental Information (Scotland) Regulations 2004 (the EIRs).

Your request

You asked for Scottish Government to provide information on Whiteshore Cockles in North Uist since 7 August 2018. This was to include information on disposal of mortalities, correspondence with European Commission, any other documents and information relating to the derogation, including copies of any correspondence and emails discussions relating to the October 2019 'confirmation' by the Scottish Government's Animal Health and Welfare Division that "burial activity could continue".

Also information relating to any odour complaints, photos, details of site visits, samples, environmental assessments, planning letters, emails, pollution, PPC, compliance, any other information relating to Whiteshore Cockles the disposal system, burial, installation of a fish drier.

Finally, information relating to an application or any discussions relating to a Marine Licence for Whiteshore Cockles and any waste permits required by Marine Scotland.

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.

Other exemptions

Regulation 10(4)(a) – Information not held – Scottish Government does not hold information on environmental assessments or planning letters, this information will be held by the Scottish Environmental Protection Agency (SEPA) and Local Authority respectively.

Regulation 10(4)(e) – internal communications in relation to general policy and decision-making – This relates to ministerial submissions and internal communication in developing the submission between officials and private office.

Response to your request

Scottish Government response:

Please find attached the documents held by Scottish Government on mortalities at Whiteshore Cockles, including correspondence with European Commission and any other documents and information relating to the derogation, disposal system, burial and installation since 1 January 2015.

Under regulation 6(1)(b) of the EIRs, we do not have to provide information which is already publicly available and easily accessible to you in another form or format. If, however, you do not have internet access to obtain this information from the website(s) listed, then please contact me again and I will send you a paper copy.

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/>

No marine licence applications have been received from Whiteshore Cockles Ltd in relation to the activity in question and MS-LOT is not aware of any discussions that have taken place with Whiteshore Cockles Ltd between the dates specified relating to obtaining a marine licence. It should also be noted that the discharge of waste water into the marine environment is not a licensable activity under the Marine (Scotland) 2010 Act and therefore a marine licence would not be required to carry out such an activity.

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:

Sheila Voas
Chief Veterinary Officer
P Spur
Scottish Government
Saughton House
Broomhouse Drive
Edinburgh
EH11 3XD

Email: Sheila.voas@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