

Water Quality
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Robert Latimer
By email



20 February 2012

Dear Mr Latimer

Advocate General's Opinion

Thank you for your email, of 15 February to me and further email, of 16 February, to Chris Ryder. As already stated on previous occasions you should address all correspondence to me but I will only respond to points that I regard as substantively new. I have endeavoured to respond in time for your meeting this evening.

The conditions in the permit are not expressed in terms of Dry Weather Flow but rather litres per second which must be passed forward before discharges to the tunnel are allowed. These are the legal basis for the consent and would be used for assessing compliance. Dry Weather Flow is not relevant. The figure of approximately 4.5 times Dry Weather Flow is the average performance of the system and was clearly stated as such, at paragraph 10.2.1.5, of the Inspector's report of the Public Inquiry published on 25 February 2002. I cannot explain why Dr John Hogger letter in 1999 quoted 6 times Dry Weather Flow. This illustrates the danger of talking in terms of multiples of Dry Weather Flow which is usually an approximation and is why discharge permits tend to be expressed in terms of absolute pass forward flows in litres per second. The average of 4.5 times Dry Weather Flow is used to describe the performance of the system as there is likely to be a range of multiples of Dry Weather Flow at different points in the system. For further details of this particular system you would have to approach the Environment Agency (the Agency).

I can confirm the permit states the tunnel should be of at least 15,661 cubic metres. As you say the 7000 cubic metres figure relates to the capacity exceeded before a discharge is made to sea in normal operating conditions. Your request for disclosure of our pleadings is being assessed separately, but I can confirm that we do ensure our pleadings are accurate and that we agree the capacity of the tunnel already exceeds 14,000 cubic metres. The mistake in the opinion is not material to the conclusion of the Advocate General that expenditure on additional capacity would be excessive given the environmental impact of the spills. Paragraph 48 of the Advocate General's opinion shows that the 20 spill figure originated with the Commission and recognises that it has limitations and that a case by case assessment is necessary.



I have copied this letter to recipients of your emails.

Yours sincerely

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