Department
for Environment
Food & Rural Affairs

Nobel House
Area 2D
17 Smith Square
London
SW1P 3JR

+44 (0) 207 238 5850
Ahmed.Azam@defra.gsi.gov.uk
www.gov.uk/defra

Ms Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee
UN Economic Commission for Europe
Environment Division
Palais des Nations
CH-1211 Geneva 10
Switzerland

12 December 2014

Dear Ms Marshall

RE: COMMUNICATION 83 (ACCC/C/2013/83)

Dear Ms. Marshall,

We note Mr Latimer's email, of 17 November 2014, to Fiona Marshall entitled 'You ask what do you want from the Aarhus Convention'. Mr Latimer suggests that '…DEFRA are claiming they now hold the requested information…' but that it is being withheld. It is not clear, from the email, precisely what information this might be as the remainder of the letter is about calculations relating to dry weather flow (DWF). Defra has shared all the information it holds on this.

However Defra is currently withholding information, separately requested on 10 April 2014, relating to its update to the European Commission concerning compliance with the judgment in the Court of Justice of the European Union Case C-301/10 [RFI 6512]. Mr Latimer has appealed against Defra's decision and this case is currently with the Information Commissioner's Office. This matter is still therefore subject to domestic proceedings.

The remainder of the e-mail is a discussion of information relating to multiples of DWF. The UK's view of this issue was covered in its response to communication ACCC/C/2013/83. There is little to add to what was stated there or the fact that the Committee closed the case on the ground that the communication had been resolved through domestic remedies.

As Mr Latimer's email shows he has continued to pursue domestic avenues regarding this point such as the reference to the Information Commissioner's Office [FER0494509 decision of 21 10 2013] and First-Tier Tribunal [Decision EA/2013/0252 of 4 April 2014] which both upheld Defra's handling of the matter. He has also continued to approach Defra for underlying calculations to which we have responded [RFI 6306].

Mr Latimer appears to maintain the position that a range of multiples of dry weather flow, such as those he quotes in his email, within the Whitburn system is incompatible with Defra's statement that the overall performance of the system is 4.5*DWF rather

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than 6*DWF. This is not the case and Defra has continued to try and explain this to Mr Latimer [see RFI 6262 letter of 28 February 2014]. Defra has no reason to doubt the validity of the evidence used to support the case or of any future calculations used to support measures to remedy the breach identified in the CJEU judgment of 18 October 2012.

We believe that this letter addresses the main points raised in Mr Latimer's email. Given the closure of communication ACCC/C/2013/83 (confirmed in the Committee's report welcomed by the 5th Meeting of the Parties in decision V/9), it would, of course, be open to Mr Latimer to consider submitting a fresh communication if he so chose.

Yours sincerely

Ahmed Azam

Ahmed Azam
United Kingdom National Focal Point
to the UNECE Aarhus Convention

Department
for Environment
Food & Rural Affairs

T: 03459 335577

www.gov.uk/defra

Robert Latimer
By email: Robert@latimers.com

Your ref:
Our ref: RFI8630
Date: 1 November 2016

Dear Mr Latimer,

Whitburn sewage system - technical design and performance

We have received your email of 4 October 2016 relating to your interest in matters relating to the technical design and performance of the Whitburn sewage system that you sent to Mr Ahmed Azam

With regard to your request for information under the Environmental Information Regulations (point 10 in your email), you were previously informed in Stephen Latham's Internal Review letter of 12 March 2015 (our reference RFI7166) in relation to a request for information relating to the same subject-matter that Defra concluded that your request was manifestly unreasonable under r. 12(4)(b) of the EIRs and in Defra's view it was not in the public interest to respond to it. As you were notified Defra no longer intends to correspond with you on this issue for the reasons we gave at that time

Further to that letter, I wish to inform you that for the same reasons as were given in that letter, Defra considers your current request to be manifestly unreasonable under r. 12(4)(b) and considers that it is not in the public interest to reply.

Yours sincerely,

Nick Teall

Nick Teall
Head of Information Rights
Area 4A, Nobel House, 17 Smith Square, London, SW1P 3JR
InformationRequests@defra.gsi.gov.uk

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Any revision of the electrical system should take into account provision of a connection facility for a standby generator. This would comprise a mains incomer/generator incomer, interlocked changeover switch and generator connection plug or terminals. It should be noted that the use of terminals would require the attendance of an electrician for installation, whereas the use of the NWL standard BICC Marechal Plug, should enable any trained person to make the connection.

5.5.2.2 Seaburn Pumping Station

This site is located in an open car park area with the possibility of expansion if necessary.

The pump capacity of 600 l/s gives a velocity in the rising main of less than 2.2m/s and the maximum recommended capacity is 733 l/s. It would be possible to fit pumps to give this higher flow rate within the existing structure without major modification. However, it has been identified that with the present pumping arrangements the gravity sewer fed by the rising main surcharges and causes flooding. It is therefore proposed that the station overall pumping rate is reduced to 6 DWF which could be achieved by either:-

a) Modifying the pump impeller, or

b) Modifying the pump sequence electrical controls to remove the assist duty function from the third pump and require it to function as standby only. This procedure is relatively simple as it only requires removing the third duty start level.

The present duty on the pumps requires a maximum of 30 hours running per week averaged over 2 years and at this rate the pumps have a residual life of perhaps 10 years. The only possible limitation is the availability of spares and the establishment of a strategic stock of impellers etc. at this time would be a wise precaution.

The electrical equipment is solidly built but may require substantial attention to replace insulation bearing in mind the heat dissipated during starting. Consideration should be given to replacing this panel.

The exact function of the water tank merits further investigation since it is a very unusual feature and it may be possible to eliminate this consumption of water. The method of reducing the maximum pumping rate, as outline above, may be significant in this area.

ENVIRONMENT AGENCY

Our Ref: JEB/AJG/09129/176
Your Ref:

Date: 13 December 1999

Mr R Latimer
Shell Hill
Bents Road
Whitburn
SR6TNT

Dear Mr Latimer

Thank you for your letter dated 20 November addressed to Malcolm Helm. Having considered all of your questions, I have concluded that they have been answered previously with the exception of the points addressed below. The points raised when we spoke on 7 December are also addressed below.

With regard to the first paragraph of your letter, I would like to clarify the situation regarding Richard Cresswell's remarks concerning Malcolm Helm. Malcolm has many responsibilities within the Agency and your continual demands on his time were causing delays in other work that he is required to progress as a matter of urgency.

My comments on the points raised in your letter that have not previously been answered are:

Letter of 7 January1998:

1.& 2. The peak dry weather flow of foul sewage in the foul sewers is in the order of 1.5 times the nominal dry weather flow figure. The nominal dry weather flow figure is calculated to take account of variations in the dry weather flow.

Letter of 28 January1998:

3. The total storage capacity of the interceptor tunnel is 14000 cubic metres.

5. As you may recall, on one of Malcolm Helm's visits to your home he corrected the figures quoted in section (5) of the letter of 28 January1998. Furthermore, Malcolm gave you a note of the amendment and explained that he had mistakenly transcribed the figures when writing the letter.

As you appear to have mislaid this information, it might assist you to annotate your copy of the letter as follows:

	DWF (l/sec) in sewer	Formula A (nominal 6 X DWF) l/sec
Whitburn	19	129
Seaburn	52	343
Roker	33	200

The Environment Agency
Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne, NE4 7AR
Tel: 0191 203 4000 Fax: 0191 203 4004

a. These flows are nominal dry weather flows (explained above) not peak daily flows.

b. Roker Ghyll flows directly into the interceptor tunnel and therefore does not have an impact on the flows in the foul sewers that serve the area.

c. In the calculation of foul flow in the Seaburn sewers during dry weather conditions an allowance for the infiltration of surface water into the foul sewer was made. Surface water discharging from Boldon Flats Nature Reserve during rainfall events was not specifically included in the assessment of the total likely volume of storm flow generated within the catchment area when the study was carried out in 1991/2.

Letter 26 February 1998:

3. Please see response 5 above which explains the difference in the figures. DWF at Seaburn is 4463 cubic metres per day and at Roker is 2847 cubic metres per day.

9. The discharge point is located at NZ 4206 6115 which appears to be just over 1,000 metres below the low water mark.

Discussion on Tuesday:

When we spoke on Tuesday, you requested other information from the feasibility study carried out in 1991/2 on behalf of NWL on the proposed scheme for the disposal of storm sewage at Seaburn, Roker and Whitburn. The former NRA was supplied with the sections that you have been given. The Agency does not have any further sections of this report .

You also requested information about St. Peter's Foul Sewage Pumping Station. The Agency does not obtain pumping records for foul sewage pumping stations as such information is not required for the carrying out of the Agency's functions. The Agency does have a record of emergency situations at such stations since this is relevant to the Agency's pollution control function. For the period from April 1998 to March 1999, St Peters Pumping Station was inoperative on 4 occasions for part of three separate days.

In addition, you referred to Brierdene Storm Sewage Pumping Station. In particular, you asked about the use of this station if an emergency situation were to arise at one of the foul sewage pumping stations in the area. The issue of a consent variation is still under discussion with NWL.

Yours sincerely

J E Burns
Environment Planning Manager

RL 124

Fax

ENVIRONMENT AGENCY

To	Mr R Latimer	From	John Burns
Company	Latimer Express Services	Date	23 February 2000
Fax	0191 529 5991	Pages	1 of 1

ST PETERS COMBINED SEWER OVERFLOW

I refer to your fax dated 8 February 2000 and to the questions i) and j).

I would refer you to the application dated January 1999 and the notes attached which were submitted in respect of a possible consent variation for the discharge from Whitburn Storm Sewage Pumping Station. You will see that the combined population given in the notes adds up to around 35,000 and not 30,000 as you state. The combined rate of flow from the Seaburn and Roker foul sewage pumping stations at 6X DWF is as you state (678l/s).

Having regard to the current setting (760 l/s) of the St Peters combined sewer overflow there is in the order of 80l/s of capacity available in this sewer under storm flow conditions without causing the overflow to operate. The population located to the north of Dame Dorothy Street and the North Quay area are also served by this sewer before it reaches the St Peters pumping station combined sewer overflow. The population from the area referred to above is around 3,500 (in the order of 10 l/s DWF).

There is a second connection to St Peters pumping station that is made to the sewer down stream of the St Peters combined sewer overflow and therefore does not affect the operation of the overflow.

I hope the explanation given above explains your concerns expressed in the two questions.

J E BURNS
Environment Planning Manager

If this fax is incomplete or illegible, please contact Alison Grainger ext. 4034

Environment Agency
Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne, NE4 7AR
Tel: 0191 203 4000 Fax: 0191 203 4004

Manifestly unreasonable on the grounds that the request is vexatious

When determining if your request is manifestly unreasonable on the grounds that it is vexatious, I have referred to the ICO's guidance 'Dealing with vexatious requests (section 14) Freedom of Information Act' which the ICO advised should be used when considering whether an Environmental Information Request is manifestly unreasonable on the grounds that it is vexatious. The definition of a vexatious request was determined in the case Information Commissioner v Devon County Council & Dransfield [2012] UKUT 440 (AAC), (28 January 2013): 'vexatious' could be defined as the *"...manifestly unjustified, inappropriate or improper use of a formal procedure."* (paragraph 27). As outlined by the Information Commissioner: "... we would suggest that the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress." I have therefore kept this at the forefront of my mind in this review.

The Whitburn system is a topic on which you have corresponded with Northumbrian Water for over twenty years. Northumbrian Water have photocopies of past correspondence with you (the earliest being a letter dated 1992), which evidences certain direct contact on past occasions. All these examples concern the Whitburn sewerage system. At last count in October 2015, Northumbrian Water had received over 282 contacts from you and this excluded taking into account the correspondence between the external solicitors acting either on Northumbrian Water's behalf or on yours, or the numerous pieces of correspondence between Northumbrian Water and other organisations involved in your many complaints. Alongside the correspondence there was also a Public Inquiry on this topic in 2001 which lasted 11 days, at which you were present as a registered objector. A considerable amount of information was presented to those attending in the form of an inquiry bundle.

It is reasonable that Northumbrian Water feel that the meetings, telephone calls, letters, legal action and internal reviews followed by ICO investigations, and a full Public Inquiry, which all span over 23 years on the same topic, demonstrate that everything possible has already been done to advise and assist you. Further, much of the information and assistance Northumbrian Water have provided to you about the Whitburn system has been provided to you voluntarily before the water industry were subject to the Environmental Information Regulations. This demonstrates Northumbrian Water's willingness to assist and advise you even when there was no legal obligation to do so. In Decision Notice FER0230659 (discussed further below), the Information Commissioner noted that, in considering Regulation 12(4)(b), a relevant factor will be "whether the complainant had already received a great deal of information on the subject of his request." You have already received vast amounts of information on this subject at your request from Northumbrian Water and other public authorities.

In the previous decision notice from the ICO to Northumbrian Water (FS50598562) on this very topic the ICO agreed with Northumbrian Water's stance and stated (paragraph 23):

> "The Commissioner considers that given the length of time the complainant has been corresponding with Northumbrian Water on this matter, the fact that it has been considered independently at a Public Inquiry and the complainants interaction with other public authorities on this matter under EIR, the complainant does demonstrate an unreasonable persistence and that there is also an obsessive nature running through the