Shell Hill
Bents Rd
Whitburn
SR6 7NT

18 February 2007

Mr Andrew Dixon
Defra

Dear Mr. Dixon,

Re: **Port of Tyne Dredging Trial.**

To enable me to report the Port of Tyne dredging trial to the EU and to take the issue of Defra's involvement in this trial up with the Ombudsman - could you provide me, under the Environment Information Regulations with all correspondence, e-mails, notes, memos, faxes, letters and licences relating to the following questions: -

Dispersive Nature of the Site:

1. Were Defra aware that the Souter Site was a dispersive site prior to the issuing of the licence? Prior to the issuing of the licence, did Cefas ever advise Defra that it was a dispersive site and did Defra ever ask Cefas if it was a dispersive site? If Defra had no knowledge that the site was a dispersive site prior to the issuing of the licence, will you please state when Cefas first informed Defra that it was a dispersive site? Also, given that it was agreed between Cefas and Defra prior to the issuing of the licence that a cap of the dumped dredge material at the dumping site would be required, does this need for a cap not imply that the dumping site had a dispersive nature? And was this foregoing logic ever explored between Defra and Cefas prior to the issuing of the licence?

2. Did Defra ever discuss with the Port of Tyne and their consultants whether the Souter Site was a dispersive site prior to the issuing of the licence?

Best Practical Environmental Option:

3. An Environmental Study or Environmental Impact Assessment in connection with a licence application must establish the best practical environmental option (BPEO) in connection with the licence application i.e. in this case the best disposal option (BPEO) for the contaminated dredged material. Did Defra discuss the BPEO in connection with this licence application prior to the issuing of the licence with a). Cefas, and b). The Port of Tyne and its consultants, and if so, what was the advice rendered by Cefas and the Port of Tyne and its consultants to Defra with

regard to the BPEO?

Nature of Licence Issued by MCEU, Defra.

4. Why have Defra constantly told me that the licence number was 3199/04/1 for this trial, when in fact this licence was replaced on 28th January 2005 by licence number 31995/05/0 shortly after the trial had begun? What are the full set of reasons why licence 3199/04/1 was replaced by 31995/05/0? At what date did Defra advise me of this change in the licence from 3199/04/1 to 31995/05/0?

5. Defra has consistently told me that the conditions of licence 31995/04/1 have been met. I now find that the amount of contaminated dredge material (CDM) dumped exceeds the amount permitted in the subsequent licence, licence 31995/05/0. In other words, this condition in respect of CDM has been breached. Will Defra please explain why this specific condition regarding the amount of dumped CDM has been breached, and will Defra please state when it first became informed of this breach and by whom?

6. I have recently received a copy of licence 31995/05/0. I could not see the authorisation in this licence for the amount of CDM to be dumped at the disposal site which exceeds the authorisation in licence 31995/04/1. Will you please supply a copy of the authorisation by Defra which allows disposal of the additional contaminated dredged material?

Risk Assessment of Capping.

7. With respect to the *extra material* dumped in breach of the licence, could you please supply me with the analytical data supplied to Defra by both Cefas and the Port of Tyne and its consultants concerning the nature and quantity of the contaminants contained in this extra material dumped in breach of the licence, and the specific gravity of this extra material dumped in breach of the licence; and, any questions asked by Defra of Cefas and the Port of Tyne and its consultants with regard to this foregoing analytical data supplied to Defra?

8. With respect to the capping material for the CDM, could you please supply me with the analytical data supplied to Defra by both Cefas and the Port of Tyne and its consultants regarding the specific gravity and the nature of the contamination of the capping material; and, any questions asked by Defra of Cefas and the Port of Tyne and its consultants with regard to this foregoing analytical data supplied to Defra?

9. Could you please supply all evidence and analytical data provided to Defra by Cefas and the Port of Tyne and its consultants relating to the capping material which demonstrated that it was free of contamination

and suited to its purpose; and, any questions asked by Defra of Cefas and the Port of Tyne and its consultants with regard to this foregoing analytical data supplied to Defra?

10. Following the dumping of the CDM at the disposal site and the attendant capping operation, Cefas carried out a Risk Assessment of the capping in November 2005 and found that it was inadequate. Would Defra please supply all reports regarding the state of the capping following the meeting with the Regulator held in May 2006 and before the date of the additional capping which took place in June/July 2006?

11. Professor David Johnson of Ospar asked me to provide the following questions and he said that he would put them to Dr Vivian of Cefas at the Ospar meeting in Galway November 2006, the questions I asked were: -

    A. "I quote from the Cefas Risk Assessment for the PoT Dredging - *'Placement of contaminated material and subsequent capping of contaminated material in open water on this scale is almost unique, as even in the US most capping has been in shallower and more sheltered waters. This is the first in the UK and there are a number of uncertainties with regards to the potential long term effects as a result of the placement of contaminated dredged material in this area"*. Apart from this clear indication that this was to be Capital Dredging as Maintenance Dredging does not need capping, the assessment makes it clear that this was an uncertain and unique trial. So, how can this have been allowed to go ahead without a full EIA?"

    The answer from Cefas was - "This question should be directed to Defra as they are responsible for deciding whether a full EIA is required. Cefas act as scientific advisers to Defra". **Accordingly, I ask Defra to answer my question as recommended by Cefas, and would you please supply all correspondence relating to this issue and Defra's answer?**

    B. "Defra stated to the PoT on 30.03.06' - *"Defra stand by the assessment of our marine scientists at Cefas that the cap as it stands is not fit for purpose and an urgent placement of further capping material is required followed by two tier monitoring."* This was one year after the trial has taken place yet the licence required that a total cap thickness was to be 1.5m, and even with additional capping in June 2006 the cap thickness is allowed to be only 0.65m. Why has this breach of the licence been allowed to continue?"
    The answer from Cefas was - "This question should be directed to Defra as they are responsible for deciding whether a breach of licence has occurred?" **Accordingly, I direct this question to**

Defra to answer and to supply all correspondence to back up their answer?

12. You yourself informed me on the 30 August 2006 that the Souter site - *"as it is a dispersive site the intention is to avoid long term accumulation of material"* - Could Defra please inform me, with supporting documentation from Cefas and the Port of Tyne and its consultants about how all parties (Defra, Cefas and the Port of Tyne) intend to contain the CDM within the boundaries of the site while stayin within the terms of the licence because what Defra appear to be saying goes against the spirit of what the licence requires to be achieved?

13. Prior to the trial the Port of Tyne and its consultants along with Cefas put forward a specific depth regarding the required thickness of the capping. This requirement regarding the thickness of the cap was included within the conditions stated in the licence. This thickness has never been achieved. Is Defra going to allow this licence breach to continue or is Defra going to take action to ensure that that this required thickness of the cap as specified in the licence is conformed to

14. If Defra has agreed to a change in the required thickness of the cap which is less than the thickness specified in the licence, will Defra please supply all analytical data and advice rendered to Defra by Cefas and by the Port of Tyne and its consultants which demonstrates that thi revised thickness of cap is safe and will not result in the dispersion of the CDM; and, any questions asked by Defra of Cefas and the Port of Tyne and its consultants with regard to this foregoing analytical data supplied to Defra in connection with the revised thickness of the cap?

15. It is my belief that Defra is allowing the Port of Tyne to breach th terms of the licence. Specifically:

. The capping has failed to reach the required thickness, and Defra has failed to enforce this requirement.

   a. Once the capping fell to a thickness of less than 1200mm the licence stipulates that the Port of Tyne must act to replace the capping, but Defra has failed to enforce this requirement.
   b. The trial took place during a period of the year when the licence stated it should not take place, but Defra has taken no action ove this breach.
   c. The terms of the licence stated that there should be a stakeholders meeting. Defra told me meeting would take place in October 2006, but the stakeholders are still waiting for this meeting.

   Accordingly, would Defra provide me with correspondence and other substantive evidence to show both the EU and Ombudsman that I am mistaken and that Defra have policed this licence correctly.

16. Would Defra inform me how much of the CDM remains within the site, and would Defra supply the information which explains how and when this evaluation has been made?

17. It has been brought to our attention by the EA that they received a letter from Tim Hanham of Defra dated 26 February 2004, I quote: - "about the PoT application dated 12 February 2003 for a licence to dispose of a quality of capital (i.e. material which hasn't been licensed for sea disposal before) dredgings from berths on the River Tyne to sea." Would you supply the Defra consultation letter dated 24 February 2003 and all other correspondence relating to this issue and explain why Defra informed me that the dredging was Maintenance Dredging while informing the EA it was Capital Dredging?

Please supply all of the information requested above, (even if some has already been sent) so that I can forward it the EU and the Ombudsman.

Please would you acknowledge receipt of this letter.

Yours sincerely

Bob Latimer