From: latimers [robert@latimers.com]
Sent: 02 March 2007 10:20
To: Thomas Bell
Subject: FW: Port of Tyne Capping trial

-----Original Message-----
From: latimers [mailto:robert@latimers.com]
Sent: 08 February 2007 08:50
To: 'sarah.carter@cefas.co.uk'
Subject: FW: Port of Tyne Capping trial

Dear Ms Carter

I enclose the reply for what it worth from Chris Vivian, I think you will agree with me incompetence is to good of a word to use as the content of his reply does call into question the role of CEFAS if this was the man in charge of this trial that has turned into such a disaster. Why is it he cannot answer such simple questions? I did not ask Mr Vivian to answer questions 8,9 and 10 under the EIR or did I ask for his opinion it was Ospar who brought up the name of Vivian my questions were addressed to Cefas and for this reason I would like to ask Cefas the following.

8) Could Cefas supply under EIR all correspondence, e-mails, drafts, report's, memo's, fax's and letters showing that Cefas considered other environmental options for disposal of this contaminated material and the evidence to show that the best environmental option was chosen?

9) Under the EIR could Cefas provide all correspondence, e-mails, drafts, reports, memo's, fax's and letters showing that Cefas considered and showed that this contaminated material would not disperse beyond the boundaries of this trial site?

10) Under the EIR could Cefas provide all correspondence, e-mails, drafts, reports, memo's, fax's and letters showing that Cefas considered that this operation has or will not cause environmental damage outside the disposal site?

I asked - "You say that Cefas was always aware Souter was a dispersive site, under the EIR could I have a copy of the correspondence from Cefas informing both the PoT and Defra that this was the case" - Mr Vivian replied - "There is no specific document from Cefas to Defra or Pot that focused on this issue" - The situation is Defra tell me
that they rely on their advisors Cefas, the PoT advisors tell Defra the reason Souter was chosen was because it was a non-dispersive site this issue is paramount and had to be the main focus if as Mr Vivian says it was mentioned at several meetings and with other statutory bodies, the Pot and their consultants Envirocentre" - Under the EIR could Cefas supply the minutes of these several meetings where Cefas say they brought forward the point that the PoT were incorrect that it was a non-dispersive site?

Mr Vivian goes on to say - "You have already seen the only document that specifically mentioned this issue I.e. The Ospar EIHA Paper" - I have to make the point that the Ospar EIHA Paper was written two years after the dumping of the CDM ceased.

Mr Vivian goes on - "The Cefas view of the relatively low dispersiveness of the disposal site off the Tyne dates back to at least 1979 and was not an issue that needed elaboration in our view" - Under the EIR would Cefas supply all correspondence reports etc that supported Cefas's view? Would Cefas also supply under the EIR the correspondence and reports showing how much waste was being dumped from the Blaydon Power Station and Westoe Colliery on the Souter site in 1979 and how much of this remained on the Souter site before the trial began, we would have thought it would be in everyone view this would be consider

the trial began, we would have thought it would be in everyone view this would be consider when in excess of 15 million tons of waste was dumped during the 5 years preceding to 1993 yet we are told the site was almost level?

I also want to make a formal complaint against Cefas that they would allow such a reply to be made under the EIR.

Yours sincerely

Bob Latimer

-----Original Message-----
From: Chris Vivian (Cefas) [mailto:chris.vivian@cefas.co.uk]
Sent: 06 February 2007 16:47
To: Latimers
Subject: RE: Port of Tyne Capping trial

Dear Mr Latimer,

Further to my email yesterday, here is my response.

I must apologise for the delay in replying but illness has led to a pile up of work to be dealt with.

I am sorry I did not answer your additional questions but they were not in your email to me dated 25th November 2006, as can be seen below.

The answers to your questions are as follows:

8) In 2004 did CEFAS consider that the MCEU licenced capping trial was the best **environmental** option for disposal of the contaminated material?

Under the Environmental Information Regulations I am required to release environmental information held on our files. Regarding this question you are not asking for copies of information held on our files but for my opinion that I am not required to provide

9) Is the contaminated material likely to disperse beyond the boundaries of the disposal site?

Under the Environmental Information Regulations I am required to release environmental information held on our files. Regarding this question you are not asking for copies of information held on our files but for my opinion that I am not required to provide.

10) Has or will this operation cause environmental damage outside the disposal site?

Under the Environmental Information Regulations I am required to release environmental information held on our files. Regarding this question you are not asking for copies of information held on our files but for my opinion that I am not required to provide.

You also had a question "You say that Cefas was always aware Souter was a dispersive site, under the EIR could I have a copy of the correspondence from Cefas informing both the PoT and Defra that this was the case?"

You also had a question "You say that Cefas was always aware Souter was a dispersive site, under the EIR could I have a copy of the correspondence from Cefas informing both the PoT and Defra that this was the case?".

The answers to your question is as follows:

There is no specific document from Cefas to Defra or PoT that focused on this issue. You have already seen the only document that specifically mentioned this issue i.e. the OSPAR EIHA paper. The only other mentions of this issue were in documents/emails to Defra that were used to reply to your letters and emails that you have already received. However, it was mentioned in discussion at several meetings with other statutory bodies, the Port of Tyne and their consultants EnviroCentre. The Cefas view of the relatively low dispersiveness of the disposal sites off the Tyne dates back to at least 1979 and was not an issue that needed elaboration in our view.

Dr Chris Vivian.

-----Original Message-----
From: Latimers [mailto:robert@latimers.com]
Sent: 08 January 2007 11:12
To: Chris Vivian (Cefas)
Subject: Fw: Port of Tyne Capping trial

Dear Dr Vivian

I note you have failed to answer questions 8,9,10 could you inform me why? Could I ask you again to answer my questions? You say that Cefas was always aware Souter was a dispersive site, under the EIR could I have a copy of the correspondence from Cefas informing both the PoT and Defra that this was the case?

Bob Latimer
----- Original Message -----
From: Latimers
To: Robert latimer
Sent: Sunday, January 07, 2007 9:26 AM
Subject: Fw: Port of Tyne Capping trial

----- Original Message -----
From: Chris Vivian (Cefas)
To: Latimers
Sent: Thursday, December 21, 2006 4:49 PM
Subject: RE: Port of Tyne Capping trial

Dear Mr Latimer,

I must apologise for the delay in replying but I have been away abroad or tied up with other issues.

I enclose a copy of the document submitted to the OSPAR EIHA meeting. It is a large document - nearly 10 Mb - so if it does not get through your email gateway please let me know and I will send it on CD.

The answers to your questions are as follows:

1) I quote from the CEFAS Risk Assessment for the Port of Tyne Dredging

1) I quote from the CEFAS Risk Assessment for the Port of Tyne 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 Environmental Impact Assessment?

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.

2) Defra stated to the Port of Tyne 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 had 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 ..65m. Why has this breach of the licence been allowed to continue?

This question should be directed to Defra as they are responsible for deciding whether a breach of licence has occurred.

3) Is Ospar content to allow the terms of the Licence to be altered to suit the situation, regardless of environmental risks, and what sort of precedent does this set?

CEFAS cannot reply on behalf of OSPAR, this question should be directed to the OSPAR Secretariat.

4) In the letter to RL on Aug. 17th 2006 Defra confirm that POT had deposited a further 152,000 cu.m of capping on to the site but that monitoring a month later showed that only 64,000 cu.m of capping had been retained - less than half - so will OSPAR require CEFAS to supply RL with evidence that the original contaminated material was not similarly dispersed during the time before any capping was deposited (and subsequently?)

CEFAS cannot reply on behalf of OSPAR, this question should be directed to the OSPAR Secretariat.

5) CEFAS carried out a Risk Assessment of the capping in Nov. 2005 and found it was inadequate - what further risk assessments did CEFAS carry out before the second stage of capping in June/July 2006 in order to find out the stability of the thickness of the cap during the winter months?

Cefas did not carry out a further risk assessment before the June/July 2006 top up of the cap since no new information was going to be available before we saw the results of the annual monitoring conducted in April/May 2006. We first saw this information in late July after the topping up had occurred.

6) RL's understanding is that from 1988 until 2003 there was over 15million tons of waste tipped on this disposal site, the application form from the POT consultants state that the site was a non-dispersive site, why are Cefas now calling the site a dispersive site?

You will have to ask the PoT consultants why they viewed this disposal site as non-dispersive. However, the Souter Point site has always been viewed by Cefas as a dispersive site, albeit one of the least dispersive of all the dredged material disposal sites around England and Wales. Information about sediment movement etc was covered in a 1979 report by the MAFF Directorate of Fisheries Research (Cefas' predecessor).

7) In a Summary of the Capping Project (Oct. 2006) Defra are completely satisfied that all the objectives have been met. They state that they have 'no evidence to support your statement' … that the objectives have not been met' yet I have evidence that the objectives failed. They have now agreed that a capping of .85m (which has seemed to increase from the .65m which was present in August) rather than the licenced 1.5m is 'acceptable'. There has been no assessment of the effect of the contaminated material on the local marine environment. RI is extremely concerned that because of the 'cover up' - the trial will now be promoted as having been successful and that further dumping of contaminated material will be allowed, not just here but all around our estuaries - will OSPAR ensure that this is not the case?

CEFAS cannot reply on behalf of OSPAR, your question should be directed to the OSPAR Secretariat.

Dr Chris Vivian.

-----Original Message-----
From: Latimers [mailto:robert@latimers.com]
Sent: 29 November 2006 13:23
To: Chris Vivian (Cefas)
Subject: Fw: Port of Tyne Capping trial

Dear Dr Vivian

I enclose my letter to David Johnson of Ospar dated 6 November sent to him before the Galway meeting, this letter includes a number of questions which I understand you have a copy and have noted - as it is now the 29 November could I ask you to answer these questions under the EIR and provide evidence to back up your claims that this Trial has been carried out as stated in the licence? Will you also give a guarantee that this capping and CDM will remain in place?

Bob Latimer

----- Original Message -----
From: Latimers
To: David Johnson
Sent: Monday, November 06, 2006 11:04 AM
Subject: Re: Port of Tyne Capping trial

Dear Mr Johnson
Thank you for your clarification of the terms 'capital and maintenance dredging'
I would like to take up your offer to put some questions to the Ospar meeting which I understand will be tomorrow - sorry to be so late, I have just received your e mail?

The questions are;
1) I quote from the CEFAS Risk Assessment for the Port of Tyne 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 effers 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 Enivronmental Impact Assessment?

2) Defra stated to the Port of Tyne 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 had 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 .65m. Why has this breach of the licence been allowed to continue?

3) Is Ospar content to allow the terms of the Licence to be altered to suit the situation, regardless of environmental risks, and what sort of precedent does this set?

4) In the letter to RL on Aug. 17th 2006 Defra confirm that POT had deposited a further 152,000 cu.m of capping on to the site but that monitoring a month later showed that only 64,000 cu.m of capping had been retained - less than half - so will OSPAR require CEFAS to supply RL with evidence that the original contaminated material was not similarly dispersed during the time before any capping was deposited (and subsequently?)

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7) In a Summary of the Capping Project (Oct. 2006) Defra are completely satisfied that all the objectives have been met. They state that they have 'no evidence to support your statement' … that the objectives have not been met' yet I have evidence that the objectives failed. They have now agreed that a capping of .85m (which has seemed to increase from the .65m which was present in August) rather than the licenced 1.5m is 'acceptable'. There has been no assessment of the effect of the contaminated material on the local marine environment. Rl is extremely concerned that because of the 'cover up' - the trial will now be promoted as having been sucessful and that further dumping of contaminated material will be allowed, not just here but all around our estuaries - will OSPAR ensure that this is not the case?

Yours sincerely

Robert Latimer

----- Original Message -----
From: David Johnson
To: robert@latimers.com
Sent: Thursday, November 02, 2006 3:56 PM
Subject: FW: Port of Tyne Capping trial

Dear Mr Latimer

I promised to answer your specific points to the best of my knowledge.

My understanding is that within the UK, dredging EIAs are normally associated with port expansion applications. In most cases these are a Schedule 2 requirement and therefore not mandatory. The difference between a capital and maintenance dredge is that the former extract 'new' material (e.g. seabed not previously dredged) rather than the accumulation of material (e.g. within a marina through siltation and deposition). As a working rule the UK normally interprets 'new' sites, requiring capital dredge consideration as those that have not been disturbed for 10-years or more.

I hope this helps and clarifies.

Yours sincerely
David Johnson

From: David Johnson
Sent: 16 October 2006 17:00
To: 'robert@latimers.com'
Cc: Amparo
Subject: Port of Tyne Capping trial

Dear Mr Latimer

As Alan Simcock's successor I was pleased to receive your email and note your continuing interest in this matter. I will seek advice and respond accordingly to your specific questions.

The EIHA meeting in Galway will consider the issue of pollution caused by dredged material and, as Mr Simcock noted, the UK has agreed to make a specific presentation on the Port of Tyne Capping trial at this meeting. Under the OSPAR Commission's Rules of Procedure meetings of the Commission and its subsidiary bodies are held in private, therefore it is not possible for you to attend in person. If, however, you would like to send me a written submission I would be happy to draw this to the attention of the UK delegation.

Yours sincerely
David Johnson

Professor David Johnson

Professor David Johnson
Executive Secretary, OSPAR Commission
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Tel: +44 (0) 20 7430 5200 / Fax: +44 (0) 20 7430 5225
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