EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
Directorate A - Communication, Legal Affairs and Civil Protection
ENV.A.2 - Infringements
The Head of Unit

23 JUIN 2006

Brussels,
ENV A2/IF/ac D(2006)11855

Mr Robert Latimer
Shell Hill
Bents Road
Whitburn
Tyne and Wear SR6 7NT
UNITED KINGDOM

Dear Mr Latimer,

Subject: Complaint 2004/5141
concerning Sea Disposal Trials in the Port of Tyne

I am writing to update you on your above-mentioned complaint.

The Commission has been informed by the UK authorities that a licence was granted for 90,000 tonnes of contaminated material to be disposed of at the existing Souter Point disposal site. This was required to be capped by 135,000 tonnes of clean sand material to prevent its dispersal and effectively prevent the bio-availability of any contaminants. The UK authorities advised the Commission that consideration as to the need for an environmental impact assessment was not deemed to be necessary as the operation did not, in their view, constitute a qualifying project under Annex I or II of Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment, as amended by Directive 97/11/EC ("the EIA Directive").

Given that the disposal took place on an existing disposal site, the Commission accepts that the operation would not constitute a project within the meaning of paragraph 11(d) of Annex II to the EIA Directive. This provision, together with Article 4(2) of the EIA Directive, requires new or proposed sludge-deposition sites to be screened for the need for an EIA to be undertaken.

A question remained as to whether the operation might fall within paragraph 13 of Annex II to the Directive. This applies the screening requirements to any change or extension of an existing project listed in Annex II which may have significant adverse effects on the environment. The Commission has been informed by the UK authorities that the only departure from the normal use of this existing disposal site was that the dredgings were released in a controlled manner to prevent dispersal and then covered with the sand topping so as to prevent any remobilisation. A formal environmental impact assessment was not undertaken therefore as the trial did not represent a significant change to the use of, or extension to, the existing disposal site.

Nevertheless, the UK authorities advised the Commission that the licensing authority did in any event require the provision of extensive and detailed supporting environmental information including the nature of the material, project design, long term monitoring and mitigation before authorisation was given.

The Commission considers that there is insufficient evidence to indicate that the change of normal use of the disposal site was such as to have a significant adverse effect on the environment, so as to fall within paragraph 13 of Annex II to the Directive, and thus to trigger the screening requirements of Article 4(2) of the Directive.

The further information provided in your e-mails of 20 June 2006 indicates that, in carrying out the trial, the Port authority is failing to adhere to certain conditions of the licence. It would seem in particular that certain areas of the cap are of a thickness significantly less than 1.5 metres as required by the licence. Nevertheless it would appear that the UK authorities, including the Department for the Environment, Food and Rural Affairs, are taking action to ensure that the conditions of the licence are complied with. The enforcement of the conditions of the licence is properly the responsibility of the national authorities, and is not a matter upon which the Commission can intervene.

The Commission has concluded therefore, that there is insufficient evidence to indicate breach of the EIA Directive in this case, and so does not intend to pursue this matter further with the UK authorities. We will therefore be proposing to close this complaint file. Before doing so, I would however like to give you an opportunity to comment. Please could I ask you to provide me with any comments you may have within one month of your receipt of this letter.

Yours sincerely,

J. García Burgués

Julio García Burgués
Head of Unit