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3 February 2005

Dear Thomas

FEPA Act 1985 - PORT OF TYNE DISPOSAL LICENCE 31995/04/1

Thank you for your letter of 11 January to Mike Smith who has since left us for a new position.

The aim of the capping trial is to test a means of safely removing contaminated dredged material from within the Port of Tyne and the marine environment to allow the business of the port to continue and to avoid harming the socio-economic well being of the area. The trial site is located within a long established disposal site, just under 5 nautical miles offshore and lies in 45 metres of water. We do intend to pursue the broader issue of handling historic contamination in the sediments of ports and harbours and the trial will be relevant to that. However, we will be looking at all options both land and sea based as well as possible treatment methods. We are at the moment just considering how to take that forward but I can assure you that we intend it to be an open process and to involve all stakeholders, including the MCS.

As Mike explained in his e mail, there is no single, formal EIA document. We have no record that the North Eastern Sea Fisheries Committee requested an EIA. Defra did however request the Port of Tyne Authority (PTA) to supply a good deal of information and you have already received copies of the licence and the monitoring and work plans.

In relation to your request for other supporting documents, the PTA had asked that they not be released to protect commercial confidentiality. Since then we have been in correspondence with the Port seeking justification for their request . As a result I can now send you:

- EnviroCentre Report **1324** (summary of supporting information) with the exclusion of Appendix II, (Volumes of Contaminated Sediment in the Tyne Estuary Requiring Disposal) and Appendix IV (Risk Assessment Framework) which are withheld to protect commercial confidentiality.

- EnviroCentre Report **1740** (Sediment characterisation).

- **Posford Duvivier** Report with the exclusion of: Page 4 - Findings of the Sediment Survey and Analysis; Part 1 - Section 2, Map; Section 3; Part 2 - Sections 5 – 13; Part 3 - Appendix I - page 6, first paragraph; Sampling and Analysis Specifications - Section 10 which are withheld to protect commercial confidentiality.

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- **PriceWaterhouseCoopers** Report with the exclusion of Appendix B (Map of Contaminated Sites) which is withheld to protect commercial confidentiality.

- Jones J M Lab Report.

Two others, EnviroCentre Reports **1314** (risk assessment framework) and **1549** (Disposal and remediation options) are withheld to protect intellectual property and commercial confidentiality. In relation to unreleased material, we have had to balance the public interest in withholding information against the public interest in disclosure. The exceptions fall under Section 43 of the Freedom of Information Act and Regulation 12 (5) (e) of the Environmental Information Regulations. I would point out however that the Port of Tyne Authority has offered to meet anyone with concerns to discuss the detail contained in the documents.

In relation to liability, you may wish to contact the Crown Estate for a copy of the indemnity agreed with the PTA.

On responsibility for the monitoring plan, Condition 9.8 of the FEPA licence includes the work plan and the monitoring plan as licensed activities. The PTA accepted responsibility for both when they signed the licence. You will note that the monitoring plan identifies the PTA as responsible for financing the plan and EnviroCentre (under contract to PTA) responsible for carrying it out.

You have identified two out-of-date pieces of text in section 11.5 of the Work Plan. The first refers to a Memorandum of Understanding (MOU) between the organisations responsible for managing, funding and assessing the monitoring program. In fact, the roles of the Port, Defra, CEFAS and the SFI are clearly set out in the licence, the monitoring plan and existing MOUs between Defra, CEFAS and SFI - these documents overtook the need for an MOU.

The monitoring plan comprises two tiers: tier one (for three years annually on the anniversary of the placement) and tier two (after a 1 in 10 storm any time during the 5 year licence duration) and if monitoring shows that the cap is unaffected, following 1 in 20 storms thereafter.

Beyond the term of the agreement responsibility for monitoring the disposal site will fall to Defra and will be carried out by CEFAS as part of the wider FEPA monitoring program.

Condition 9.15 of the licence requires the licence holder to maintain the cap and if monitoring shows the cap integrity to be under threat to consult with the Licensing Authority immediately to agree a course of action. Any maintenance required will be secured as a condition of future PTA disposal licences or emergency licences as required.

Finally, you asked for details of supporting studies on capping.
The prime source of information was the US Army Corps of Engineers Capping Manual (2.8 Mb) that can be downloaded from
http://el.erdc.usace.army.mil/dots/pubs.html see in particular , under the 'Technical Notes online' heading.

Also there is a capping demonstration (1.3 Mb) at http://el.erdc.usace.army.mil/dots/training.html

In addition, the 'Environmental Effects and Dredging and Disposal' database at http://el.erdc.usace.army.mil/e2d2/index.html can be searched for capping reports and papers – 133 records currently.

I hope this and the accompanying information give you what you need. If you would like to discuss the trial please let us know. If you are unhappy with the outcome in relation to your request for information, you can write to Lewis Baker, Head of Defra's Access to Information Unit at Area 1E, 3-8 Whitehall Place, London SW1A 2HH who will arrange an internal review of your case. Full details of Defra's complaints procedure are on Defra's website.

Yours sincerely

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