

Dear Mr. Brakeland,

Submissions re. Preclosure letter for Ref. CHAP(2010)02125
Extra Points re. FCS possible evasion of Directives via Scottish Statutory
Instrument 1999 No. 43 - The Environmental Impact Assessment (Forestry)
(Scotland) Regulations 1999.

It is important for EU Commissioners to satisfy themselves that a perceived probability is not, in fact, more of a certainty that it was deemed to be '*cost effective*' to refuse the Developer's previous choice of the Western Route (map attached) as this would have deprived the Forestry Commission(Scotland) FCS of funding for the whole of the West Loch Awe Timber Haul Route from the A85 - which is 35 kms. I have now received confirmation from the landowner initially contacted in respect of the access for the Western Route, that Green Power did not continue with the negotiations and that no reason was ever given for this.

Claims that it was refused because of 'high ground ' winter difficulties do not stand up to scrutiny as the approach section to the Carriag Gheal wind farm site of the consented route has exactly the same, but compounded difficulties by being 600 metres from the nest sites of the pair of successfully breeding eagles already at risk from the wind farm itself being built on the edge of their core area. That an Environmental Assessment was not undertaken for both projects is something which must now be of real concern.

FCS have confirmed that they did not do their own Environmental Assessment. Email attached.

The EU Commissioners have a rare chance to look again at the implications of refusing to uphold this complaint. If there is no challenge to the FCS's by-passing of Directives via the mechanism of the Scottish Statutory Instrument 1999 No. 43 - The Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999, future developments will also follow the same evasive manoeuvre very similar to that of tax evasion. This will lay the Scottish countryside, habitats and wild life open to similar risks and render the EU

Commission's protective role at best, largely weakened or at worst, inoperative.

It should be remembered that even under the rulings of Scottish Statutory Instrument 1999 No. 43 - The Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999. There are areas of non-compliance as our own and SNH's full participation has not been possible due to destruction of documents and refusal of discussions for the alternative route previously presented for EU funding – as already advised.

Yours sincerely,

Christine Metcalfe.