

## Re: Newborough Forest Review of Science

From: [ShuttleworthCM@aol.com](mailto:ShuttleworthCM@aol.com)

To: [chris.worker@wales.gsi.gov.uk](mailto:chris.worker@wales.gsi.gov.uk)

CC: [j.harries@imperial.ac.uk](mailto:j.harries@imperial.ac.uk) [Micheal.O'Briain@ec.europa.eu](mailto:Micheal.O'Briain@ec.europa.eu)  
[Stefan.Leiner@ec.europa.eu](mailto:Stefan.Leiner@ec.europa.eu)

Dear Mr Worker

I would like to thank you for your letter dated 22<sup>nd</sup> July 2011 (ref AT/JG/05853/11) in relation to the Abermenai SAC Science Review.

### Preamble

In my earlier letter to Mr Griffiths (6<sup>th</sup> July 2011), I outlined the Science review Chairman's failure to ensure that accurate and balanced Summary papers were produced. At every stage of our complaints, the late Gerry Quarrel and Diana Reynolds officials of (Wales Government) WG were copied in. The jaundiced Summary papers that were produced were, against our wishes, unfortunately provided to Forestry Commission Wales in order for them to 'advance a management plan for the forest'. I believe that this was at the instruction of a senior WG official. This action was parallel to, and before the determination of, the Science Review process. As you are aware, the Science Review process was set up to provide such guidance *at its conclusion*, and we still await an explanation from WG as to why this element of process was pre-empted and biased towards CCW evidence and opinion.

I sense from your text that WG officials want to move forward, but there is a point to labouring over the above; this is because WG are about to embark on a Science Review of Badgers & TB, and unless the Government is willing to acknowledge and learn from the wide failures of the Abermenai & Aberffraw Dune SAC Science Review, there is a danger that the same 'mistakes' and partisan process might emerge again.

### Arbitration panel

I have read your letter carefully and although I welcome the recognition that WG have 'concerns' about the arbitration process, the evidence is clear that Dr Parker, CCW and WG *officials* were involved *together* in producing the 'draft' text. WG have worked singularly with CCW and have excluded the independent scientists; a protracted process that I can précis:

1. I wrote to Dr Parker on 8/12/2010 complaining about CCW demands to send out the draft A4 page of bullet point for the future Arbitration panel to work from. Two months later a reply was received. On 3/2/2010, Dr Parker wrote, '**Sorry for the delay in getting back to you, but I have been working with Welsh Assembly Government officials to get the independent Arbitration panel into place.**' [my bold emphasis]

2. Since December 2010, the Deputy First Minister for Wales , Mr Ieuan Wyn Jones (IWJ) had been working to get a mutually agreed arbitration panel and process in place. Following the receipt of Dr Parker's email in Feb, IWJ wrote to CCW making it clear that independent scientists must be involved in the process. Two months later, and almost five months since my 8/12/2010 email to Dr Parker, IWJ received a reply from CCW.
3. In this regard, on 26<sup>th</sup> April 2011 Roger Thomas CEO CCW had written to IWJ, **Deputy First Minister for Wales** :

*'Thank you for your letter of 28<sup>th</sup> Feb 2011. This delayed reply has been due to my colleague **Dr David Parker** (my Director of Evidence and Advice and Chair of the Newborough Science Review) **working with the Welsh Assembly Government to convene the arbitration panel.**'* [my bold emphasis]

Mr Thomas went on, *'You will see that the enclosed draft Terms of Reference include proposed Panel members (three to cover the necessary scientific and legal skills)...However, it will be necessary for the Assembly to determine the Chair and members following consultation with Dr Shuttleworth and colleagues and I am hopeful that the suggestions will be acceptable to them.'*

These correspondences indicate that Dr Parker & CCW had been working with WG officials on the Science Review since Dec 2010. Discussions with CCW staff last week indicate that they proposed names that appear on the draft list, proving that wide consultation in CCW took place.

Further,

4. IWJ wrote to the Minister and on 29<sup>th</sup> June 2011, and Mr Griffiths replied (the letter to which I then responded on 6<sup>th</sup> July. Mr Worker, your letter to me crossed with a letter from IWJ to the Minister for Environment dated 21<sup>st</sup> July. In this letter IWJ states clearly that Mr Griffiths letter that the contents of Mr Griffiths's communication of 29<sup>th</sup> June 2011 *'do not reflect the agreement I had reached with your predecessor Jane Davidson...'*, Mr Jones goes on, *'When I met Jane Davidson, we had a video conference with officials. It was agreed that we should between us agree terms of reference for the arbitration and that we should agree on suitable names for the panel and independent adjudicator. However, your letter now makes clear that that agreement is not being adhered to and that only CCW and your office will determine these matters.'*

As I have stated, it appears that WG officials have been actively working with CCW and Dr Parker (CCW & Science Review Chair) in relation to the arbitration process, and thus, Para 2 of your letter of 22 July 2011 fails to reflect this bias and failure of process.

I am aware that a number of politicians have now written in regard to the requirement for arbitration to take place and that due process should be followed. I will suggest a way forward in relation to other matters of the review process at the end of my letter.

## **Communication**

The context of our exclusion from discussions of arbitration process is of course the wider catalogue of our communications that WG have not replied or responded to; behaviour that occurred whilst WG have maintained dynamic and active communication with CCW staff. It

appears that Dr Parker has in parallel courted CCW staff views on arbitration panel members but failed yet again to consult with us, which forms part of a longer term pattern.

There were early concerns regarding process when two simple communications were ignored; emails that were relevant and in the public interest in relation to the functioning of the Review. I have put these two issues as an Appendix in order not to dilute the main theme of my letter to you, but as I have said, they are useful though because they are the start of a pattern that continued into 2011.

Of more scientific significance is that material evidence and documents which were promised during discussions (as recorded on the meeting audio discs) and which are not forthcoming:

1. The report of the CCW contract given to John Houston to review of the threat of *natural succession change* on sand dune systems in Wales , was promised but never given to us.
2. Hydrological modelling paper draft was referred to by CCW but again although a copy was promised we were not given.

These matters sit again with the panel Chairman, but are the type of matters referred to in wider complaints to WG officials in 2010.

### **Financial restrictions**

Dr Parker announced in the 4<sup>th</sup> Science meeting *spring 2010* that there may not be arbitration and that WAG officials would decide following discussions with him. (We and FCW made it clear that there would be the agreed process of arbitration). This statement was well before the change in West Minister Govt and austerity measures.

Interestingly, in the context of financial limitations, Mr IWJ was Deputy First Minister until May 2011, and he has at no stage mentioned anything to us other than the WG wanting a mutually agreed panel. Economic or budgetary considerations have not been mentioned by him to us, nor do they appear in his letter to Mr Griffiths (21<sup>st</sup> July 2011).

Reading your second paragraph, I am afraid that from my perspective, we entered into an agreed process, one that includes an arbitration panel, and any alternative is currently not acceptable.

### **Moving forward**

Our complaint to the EU in 2009 about management of the SAC focussed upon the fact that we believed CCW withheld material evidence and opinion during the 2004-2007 public consultation. The complaint was not considered because there 1. was only a draft plan for Newborough at that time, and 2. a Science Review developed.

Just as we could have made a public complaint via the media about the Abermenai Science Review failure of process when the Badger Science Review was being covered earlier in July of this year, we have continued to suspend complaints to the EU and UN (Aarhus Convention) despite a management plan for the forest not being draft. The reason for these decisions is that we believe that the management of Newborough and Abermenai SAC should be based upon

sound and transparent science and that Welsh Ministers have always wanted this. The science review process is sacrosanct to us and we have avoided complaints to Press or third parties.

At this juncture WG officials need to

- 1.review the conduct of the Nature Conservation Division in the process
- 2.and ensure that our earlier complaints and concerns are universally addressed.
3. We need an explanation about the conduct of the panel Chairman
- 4.and an explanation as to why WG officials ignored communications from us.

Dr Parker is not an independent panel chair and we would like no longer to have to deal through the filter of CCW when communicating with WG officials.

**The most positive step forward is that we are involved in the arbitration process and panel selection, and that WG arrange a meeting between officials and independent scientists in Cardiff , a meeting where Gerry Quarrell's replacement is present.**

I feel that it would be much better to resolve this through direct conversation than through the medium of email.

Finally, we are aware survey of Annex I & II features and EU reporting of the survey results (favourable status) will take place this summer, this presents an evidential problem, as there may be data that is relevant and which we have not seen. To that end, the meeting with WG could also discuss this and the arbitration panel selection.

Craig

## Appendix

Welsh Government Disclosure Log 2525 dated 28<sup>th</sup> September 2009 dealt with a Freedom of Information request from a third party who has asked questions and given 'views' relating to the management of the SAC. In the response to the FoI Request, WAG stated that,

*'As you know, the review of science underpinning the conservation designations at Newborough is now underway, and this will help inform the new management plan for this area. We will ensure that your views are taken into account.'*

I wrote to Dr Parker on 8<sup>th</sup> Jan 2010, but received no reply. I subsequently wrote to WAG (Gerry Quarrell, Diana Reynolds) and copied in Dr Parker (CCW) in 2009 asking what the substance of these 'views' were, and how could they be identified within the Science Review (there is an obvious distinction between CCW evidence as a statutory nature conservation advisor and views of a member of the public and the distinction in evidence is important). The letter was neither acknowledged or replied to.

Similarly, the contents of an email written in September 2009 stated 'I am staggered by the duplicity of Craig's approach.' The email appeared to have been sent to, or written by, Dr Parker. A request that WG confirm that this communication was not sent by Dr Parker or WG official in the Nature Conservation Division was ignored.