

Email Exchange between Lara Luke of Save Our Shoreline and Willie Peggie (answered by Dr. Tim du Feu) dates 12 November 2010 - 10th December 2010

-----Original Message-----

From: lara luke [<mailto:lara.luke@hotmail.com>]

Sent: 12 November 2010 00:31

To: William Peggie

Cc: Tim du Feu; dave - jerseyinperil; andrew syvret; Robert Duhamel

Subject: FW: South East Coast of Jersey, Channel Islands Ramsar Site (No 1043) - UK Decision on the requirement of an Article 3.2 report

Dear Willie,

Some time ago it was confirmed that a 'file' had been handed to the Attorney General for the deliberation of proceedings being brought for the pollution of controlled waters at the site of the EfW under the Water Pollution (Jersey) Law 2000.

I am under the assumption that the information within this file would be classed as 'evidence'.

Evidence of the pollution of controlled waters would suggest that there may be short or long term environmental impacts as a result of the incidents.

Therefore in light of the above information can you explain the below statement made by Tobias Salathe (copied from the attached letter).

"The Secretariat understands that you have received clear advice from the Jersey authorities that there is no evidence to suggest that the ecological character of the Ramsar Site has changed or is likely to change as a result of either the Energy from Waste plant (EfW) or any other activities along the coastline."

Who made the statement that there is no evidence?

How can it be stated that no changes to the ecological character of the Ramsar Site have occurred or are likely to occur when the pollution incidents have not even been addressed, evaluated, assessed, mitigated or rectified?

Kind Regards,
Lara Luke

From: T.duFeu3@gov.je

To: lara.luke@hotmail.com

CC: jerseyinperil@gmail.com; andrew@seajersey.com; R.Duhamel@gov.je; W.Peggie@gov.je; A.Scate@gov.je

Date: Fri, 12 Nov 2010 17:54:21 +0000

Subject: RE: South East Coast of Jersey, Channel Islands Ramsar Site (No 1043) - UK Decision on the requirement of an Article 3.2 report

Lara

[Willie Peggie has asked me to respond to your email.](#)

[As per my earlier email dated 13/09/10, you are correct in stating that a case file regarding an alleged pollution incident at the EFW has been forwarded to the Attorney General.](#)

[The Attorney General will review the file and provide a recommendation to Environmental Protection regarding further enforcement action. A prosecution will not be commenced unless the Law Officers are satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed, that there is a realistic prospect of conviction and that it is in the public interest to proceed \(as defined by the Code on the Decision to Prosecute issued by the Attorney General\).](#)

[The statement which you quote in your email, as cited from the letter by Tobias Salathé, Senior Advisor, Ramsar Convention Secretariat originated from the response by the Department to the Environment Scrutiny Panel dated 10 March 2010 \(section 20\) regarding the Panel's report into the EfW planning process.](#)

Regards

Tim

**Dr Tim du Feu, Acting Assistant Director,
Environmental Protection**

Planning and Environment Department

Tel: +44(0)1534 441691 | Fax: +44(0)1534 441601 | t.dufeu3@gov.je | www.gov.je

-----Original Message-----

From: lara luke [<mailto:lara.luke@hotmail.com>]

Sent: 15 November 2010 11:33

To: Tim du Feu

Cc: dave - jerseyinperil; andrew syvret; Robert Duhamel; William Peggie; Andrew Scate; Freddie Cohen; salathe@ramsar.org

Subject: RE: South East Coast of Jersey, Channel Islands Ramsar Site (No 1043) - UK Decision on the requirement of an Article 3.2 report

Dear Tim,

Many thanks for your reply.

I would just like to clarify the time line of events:

April 2009 onwards - Pollution incidents occurred at the site of the EfW which entered the controlled waters of the Ramsar area.

These events were deemed serious enough for an investigation to begin and a file prepared by the Environment Department to forward to the Attorney General for his deliberation.

As you state below - "[The statement which you quote in your email, as cited from the letter by Tobias Salathé, Senior Advisor, Ramsar Convention Secretariat originated from the response by the Department to the Environment Scrutiny Panel dated 10 March 2010 \(section 20\) regarding the Panel's report into the EfW planning process.](#)"

At the same review your department also informed the panel of the pending prosecution.

You also state below -

["As per my earlier email dated 13/09/10, you are correct in stating that a case file regarding an alleged pollution incident at the EFW has been forwarded to the Attorney General.](#)

[The Attorney General will review the file and provide a recommendation to Environmental Protection regarding further enforcement action. A prosecution will not be commenced unless the Law Officers are satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed, that there is a realistic prospect of conviction and that it is in the public interest to proceed \(as defined by the Code on the Decision to Prosecute issued by the Attorney General\).](#)"

In my opinion the facts rather invalidate your department's statement supplied to Tobias Salathe, through Simon Hopkinson at Defra, - "The Secretariat understands that you have received clear advice from the Jersey authorities that there is no evidence to suggest that the ecological character of the Ramsar Site has changed or is likely to change as a result of either the Energy from Waste plant (EfW) or any other activities along the coastline."

Kind Regards,
Lara

From: T.duFeu3@gov.je

Subject: RE: South East Coast of Jersey, Channel Islands Ramsar Site (No 1043) - UK Decision on the requirement of an Article 3.2 report

Date: 19 November 2010 11:19:37 GMT

To: lara.luke@hotmail.com

Cc: jerseyinperil@gmail.com, andrew@seajersey.com, R.Duhamel@gov.je, W.Peggie@gov.je, A.Scate@gov.je, E.Cohen@gov.je, salathe@ramsar.org

Dear Lara,

Thank you for your email.

As mentioned, we await the legal opinion of Attorney General following his Department's review of the case file.

We shall clarify the position through the Ramsar Management Group, once we have received an official response from the AG.

I am unsure of where your reference "at the same review your department also informed the panel of the pending prosecution" is quoted from.

Regards

Tim

(Page 2)

Dr Tim du Feu, Acting Assistant Director,
Environmental Protection
Planning and Environment Department
Tel: +44(0)1534 441691 | Fax: +44(0)1534 441601 | t.dufeu3@gov.je | www.gov.je

From: lara.luke@hotmail.com
Subject: RE: South East Coast of Jersey, Channel Islands Ramsar Site (No 1043) - UK Decision on the requirement of an Article 3.2 report
Date: 10 December 2010 00:56:23 GMT
To: t.dufeu3@gov.je
Cc: jerseyinperil@gmail.com, andrew@seajersey.com, r.duhamel@gov.je, w.peggie@gov.je, a.scate@gov.je, f.cohen@gov.je, salathe@ramsar.org

Dear Tim,

Thank you for your email.

For your ease I have copied in the below from the transcripts of the scrutiny hearing so you can see where I quoted "[at the same review your department also informed the panel of the pending prosecution](#)" from.

Environment Panel
Ramsar Review Hearing

Planning and Environment 18/09 2009:

FRIDAY, 18th SEPTEMBER 2009

Panel:

Deputy P.J Rondel of St. John (Chairman)
Deputy D.J.A. Wimberley of St. Mary (Vice Chairman)
Connétable J.M. Refault of St. Peter
Connétable P.F.M. Hanning of St. Saviour
Mr. R. McInnes (Panel Adviser)
Mr. M. Orbell (Scrutiny Officer)
Mr. M. Haden (Scrutiny Officer)

Witnesses:

Deputy R.C. Duhamel of St. Saviour (Assistant Minister for Planning and Environment)
Mr. A. Scate (Chief Executive Officer)
Mr. W. Peggie (Assistant Director, Environmental Protection)
Mr. R. Glover (Principal Planner)
Ms. S. Le Claire (Assistant Director, Environmental Policy)

Mr. W. Peggie: (Assistant Director, Environmental Protection)
There is no proof or no evidence of pollution to date from that site.

Then later:

Mr. A. Scate:

I just wanted to put on record obviously we have got an ongoing criminal investigation in relation to an alleged pollution investigation in relation to an alleged pollution incident on the site so we are not going to be able to go into detail at this stage on that. However, I will pass over to Willie to just give you any other information that is pertinent.

Mr. W. Peggie:

Yes, as was alluded to in the earlier hearing, we have indeed been informed of pollution incidents on site, one of which, as Andy rightly says, is the subject of an ongoing criminal investigation, another one being the ash pit damage which, as was quite rightly stated earlier on, was dealt with in an extremely efficient manner, in my opinion, by Transport and Technical Services. There was the expectation of T.T.S. and their staff, I think, that there was a likelihood of pollution. We arrived on site to determine that there was not a likelihood of pollution given the volume of liquid that escaped from that ash down into the surrounding trench. As I say, we monitored it we ensured that that TTS put in place robust methodologies for remediating the issue.