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Our ref: FOI 20014/00611
2 May 2014

Dear Mr Robins

FREEDOM OF INFORMATION REQUEST : SEA LICE AND WILD SALMONIDS

Thank you for your request of 9 April 2014 under the Freedom of Information (Scotland) Act 2002 (FOISA) and the Environmental Information (Scotland) Regulations 2004 (EIRs), for information relating to sea lice and wild salmonids.

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are therefore applying the exemption at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

As the exemption is conditional we have applied the 'public interest test'. This means we have, in all the circumstances of this case, considered if the public interest in disclosing the information under FOISA outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

Your request

You asked for all communications from 1 January 2010 to 9 April 2014 between Marine Scotland and the First Minister and Scottish Government Ministers with responsibility for Aquaculture and the Marine Environment on the subject of sea lice infestations at marine salmon farms in Scotland, and the effect of such sea lice infestations on wild salmonids.

Response to your request

We endeavour to provide information whenever possible. A search of our paper and electronic records has found 17 documents relating to the information requested above.

However, in this instance we are unable to provide the information you have requested because an exception under regulation 10(4)(e) of the EIRs applies to that information. Regulation 10(4)(e) applies because all of the information in question is internal communication involving free and frank advice provided by officials to Scottish Ministers in relation to the development of Government policy.

This exception is subject to the 'public interest test'. Taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exception. We have found that, on balance, the public interest lies in favour of upholding the exception.

We recognise that there is a public interest in disclosing all of the information as part of open, transparent and accountable government, and to inform public debate. However, in relation to the free and frank policy advice there is a greater public interest in ensuring high quality policy and decision-making, and in avoiding officials being put off providing similar frank advice on this and other topics in future. Ministers and officials need to be able to consider all available options to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether these discussions about sea lice and marine salmon farms in Scotland will be disclosed in any future policy decisions on the matter, so release of this information would be likely to undermine the quality and level of detail of advice on the subject which is provided in future.

Your right to request a review

If you are unhappy with this response to your EIRs request, you may ask us to carry out an internal review of the response, by writing to the Director, Marine Scotland, Area 1B (South), Victoria Quay, Edinburgh, EH6 6QQ. Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request. If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your rights is available on the Commissioner's website at: www.itspublicknowledge.info.

Yours sincerely



FIONA M WATT

Performance, Aquaculture and Recreational Fisheries