



Department
of Energy &
Climate Change

Department of Energy & Climate Change
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Our ref: IR 13/0221

18 July 2013

INTERNAL REVIEW OF EIR/FOIA REQUEST 13/0221 - RE: NOTE OF MEETING BETWEEN CHARLES HENDRY & CUADRILLA (02.07.12)

1. I write in response to your correspondence of 23 April regarding your request for the note of the 02.07.13 meeting between Charles Hendry and Lord Browne. You asked for an internal review of the decision made with regard to redactions in the note which was sent through to you.
2. In compliance with the Freedom of Information Act 2000 (FOI Act) and the Environmental Information Regulations 2004 (EIRs), I have conducted an internal review of the original response. In performing this review, I have considered whether the original response to your request, to withhold certain information, was correct. I have also considered whether the public interest in disclosing this information outweighs the public interest in withholding the information.
3. Having considered the information being withheld in the light of your request for an internal review, I have concluded that the commercial interests exemption and exception under section 43(2) of the FOI Act and 12(5)(e) of the EIRs that applied, and the public interest considerations in relation to these (and as set out in the letter to you of 10 April) continue to apply in relation to some of the information within the meeting note.
4. However having looked again at the meeting note and taking into account the arguments which you make in your e-mail of 23 April, it is clear that there is some information in the note which is not strictly confidential information provided by the company and cannot therefore be considered commercially confidential. I therefore attach a copy of the note with only those elements which I view as commercially confidential redacted from the document. These redactions have been made on the same basis as outlined in the letter of 10 April. A copy of the note, with some remaining redactions is attached.
5. I have considered the information which you have requested under the FOI Act and, to the extent that that information constitutes environmental information for the purposes of the EIRs I have also considered this information under the terms of those Regulations.

6. I consider that some of the information contains commercial information, the disclosure of which would be likely to prejudice the commercial interests of Cuadrilla: the exemption under section 43(2) FOI Act applies. To the extent this information is environmental, it is being considered within the exception under regulation 12(5)(e) where the disclosure of information would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest. In considering this, I have applied a presumption in favour of disclosure as required by section 2(2)(b) of the FOI Act and regulation 12(2) EIRs.

7. I recognise the general public interest in the disclosure of information which can help lead to greater transparency in Government. However as discussed in the letter of 10 April, against this there is a strong public interest in ensuring that the commercial and economic interests of external businesses are not damaged or undermined by disclosure of information which is not common knowledge and which could adversely impact on future business. I believe that to release the commercial information contained within the note would be prejudicial to the commercial and economic interests of the field licensee involved.

8. Some personal information has also been redacted within the document. Section 40 of the FOI Act and regulation 12(3) of the EIRs (by reference to regulation 13) provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act. Personal data of third parties can only be disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the Data Protection Act. We do not think that it is fair to release the names of third parties not already in the public domain and do not think that any of the relevant conditions apply. Accordingly, we are withholding the personal information of third parties in reliance on section 40 FOI Act and on regulation 12(3) (where the names are contained within information subject to the EIRs).

9. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Yours sincerely,

Simon and Stephen,

Thanks for the support in Monday's meeting with Cuadrilla (and of course to [REDACTED] for the briefing).

Charles Hendry's meeting with Cuadrilla on 2nd July 2012

Attendees:

- Charles Hendry (CH) - DECC
- Stephen Speed - DECC
- Simon Toole - DECC
- [REDACTED] - DECC
- Lord Browne (LB) - Cuadrilla
- Francis Egan (FE) - Cuadrilla
- Roy Franklin (RF) - Cuadrilla
- Mark Miller - Cuadrilla

CH said although previously there had been cross-party support for the Cuadrilla project and fracking more widely, this had now turned into a very controversial issue. The issue of the seismic tremors had contributed to this, but the situation had also got worse because of recent reports of badly managed community meetings, reports of trespass on people's land, etc. Over a hundred people were turning up at public meetings, with the mood becoming increasingly hostile – Cuadrilla was in a position to improve the mood and wider confidence, or to make matters much worse, with the effect of delaying future fracking activity.

Governance

[REDACTED]

LB described the background to Cuadrilla and its investors – [REDACTED]. The Board was now working effectively and was taking these issues very seriously.

[REDACTED] Francis Egan had been brought in as new CEO. They understood the need to have the correct governance mechanisms in place. [REDACTED]

[REDACTED]

[REDACTED] FE said they were committed to ensuring good procedures were in place, and constantly improving these. They understood the need to ensure they would do what would be expected of companies such as [REDACTED], etc. FE said there were currently only very modest levels of activity, but when this increased, they would recruit one or two more people to the HSE committee. RF had been brought in as Chair of the HSE committee. He outlined

his experience through having chaired HSE committees for a number of other companies, including Statoil, and emphasised the emphasis he attached to Section 5 (Duties) in the HSE Committee ToR.

CH said this was an issue wider than the company and its own future. The Government was committed to ensuring the most robust regulatory regimes were in place – both offshore and onshore. Despite wanting to see shale activities progress, before a decision could be made on the future of fracking activity, the Government would need to have confidence that the correct procedures were in place. LB said Cuadrilla was committed to making sure this was the case over the year.

Public Perception

CH expressed concern over recent reports of intrusion into developed areas for the seismic testing over Jubilee weekend. LB said they had ensured distances from properties were well over those that were required, they had also shortened working hours. They had received around 40 complaints, but had written to around 32,000 people and held 4 different public meetings.

CH said that these incidents only served to strengthen what was now fast becoming a national campaign. [REDACTED]

[REDACTED]. Cuadrilla needed to focus its efforts on tackling public concerns, involving the local community and thinking about how it could benefit from the project. LB said they planned to recruit someone with expertise in communications and public relations that would report directly to FE.

Other

LB said he had been impressed with the tone of the Royal Society report. They needed to further think about the recommendation for an environmental risk assessment for the full life cycle.

Actions

Simon Toole to write follow up letter to Cuadrilla. (Completed)

[REDACTED]
Senior Private Secretary to Charles Hendry MP