

2 September 2009

The Scottish Ministers
Scottish Government
Climate Change & Water Industry Division
Climate Change Division
Victoria Quay
Edinburgh
EH6 6QQ

Dear Sirs,

EV 7/9/09.

Water Environment (Controlled Activities) (Scotland) (Regulations) 2005
Appeal under Regulation 46
Dumfries and Galloway Council re River Nith
Representation

SEPA advised in its notice dated 26 August 2009 that I am entitled to make representations regarding the appeal lodged by Dumfries and Galloway Council. I therefore wish the undernoted to be taken into consideration and please note that in the interests of clarity I shall follow the sequence of the appellant's statement.

River Nith Background

No comment

Key Drivers for the Licence Application

As a resident of Dumfries since 1991 I am aware that the River Nith regularly floods wide areas of Nithsdale not simply the Whitesands area and that such flooding appears to have always occurred.

In respect of flooding of the Whitesands this has been reported in the local media (Radio Scotland, West Sound, Dumfries and Galloway Standard and the Dumfries Courier) probably as long as the media have been in existence. It should be noted that it is **flooding** that is almost always reported as being of concern, not the general appearance of the Nith. For the appellant (Dumfries and Galloway Council) to use the word '**condition**' in relation to alleged public and Ministerial concern and disquiet (I did not receive a copy of the Minister's letter) is, in my opinion, misleading as it seeks to link, again in my opinion quite wrongly, the issues of flooding and the aesthetics and appearance of the River Nith and its environs.

My observations of reading the local newspapers is that there is one person who has written for many years about the state of the River Nith, presumably as he owns or owned licensed premises that were subject to flooding. On the basis of the letter pages of the newspapers he appears to have little support other than from a few Councillors and members of the public.

There have been some, although admittedly fewer, letters expressing contrary opinions but I believe it is wrong for the appellant to misrepresent the apathy of the great majority of Dumfries residents as support for the council's proposals; the residents are most probably indifferent.

Grounds for appeal

a) Damage and Loss of habitat

The appellant refers to an infestation of invasive species over the 195m of the River Nith's 112km overall length. I am no botanist but I do regularly walk along the River Nith from Kingholm Quay (about 2 miles downstream of the area of concern) to the Whitesands and have not noticed any difference in what appears to be growing at the Whitesands compared with elsewhere. If the 195m stretch is indeed infested then presumably so is the two mile stretch I walk along and almost certainly much more of the river.

This begs the question as to what is to stop the alleged invasive plants re-colonising the 195m stretch given that they would appear to be both immediately upstream and downstream. Moreover might they not re-colonise with greater vigour?

I cannot comprehend how the appellant can possibly state that by undertaking the proposed actions it will deal with the proliferation of non-native plant species along the River Nith. To deal **effectively** with non-native plant species would require action along the whole 112km length and environs of the River Nith not simply a paltry 195m!

b) Unstable River Section

I am not an engineer but I would have thought that removing the river bank alongside the wall might make the wall less stable as this would surely expose the wall to scouring by the river (at present I surmise the bank acts as a shield in this respect)

In respect of 'natural process' I am at a loss to understand what is meant by this term in the context of this appeal. The deposition of gravel by a river is an entirely natural process as can be seen elsewhere in the Nith and indeed in other rivers such as the River Tay as it flows through the centre of Perth.

Moreover if the deposition of gravel and the formation of banks was not a natural process why does the appellant state that it will be necessary to undertake further similar works? The public utterances by Dumfries and Galloway Council implied that this was to be a 'one time fix' at around £250,000, not a regular and recurring part of council expenditure.

c) Impact on Salmonid Fish and Invertebrates

It appears that for the works not to have an adverse impact they will require to be conducted carefully etc. This calls into question the risks of doing such works compared with the benefits (if any).

d) Other Issues

Although litter will reduce the aesthetic value of a water course and its overall classification it is completely ludicrous to remove river and gravel banks to prevent the litter **being visible**. Removing the banks does not lessen the amount of litter in the river merely possibly how visible it may be. Surely the obvious answer is to prevent litter entering the river in the first place and thereafter remove any that does enter?

Furthermore litter is not confined to the River Nith and the Whitesands. Dumfries itself is a litter ridden dirty little town plagued by seagulls feeding on food discarded by a significant number of its inhabitants. If its citizens do not feel a 'sense of guilt' littering the areas they shop and work in there is absolutely no prospect of them refraining from littering the River Nith irrespective of whether it had banks or not. The appellant's arguments therefore that by removing the river and gravel banks and thereby reducing the visibility **but not the actual quantity of litter** entering the river is totally bogus.

I would also question how removing the river banks and gravel banks results in safer accessibility to the area for the council's workforce undertaking litter clearance and maintenance works. Why would the workforce be entering an area to remove litter when the stated purpose of the proposed works is to cure the litter problem by removing the river and gravel banks? If such works are deemed necessary in the future is this not tacit acknowledgement that the appellant concedes that the removal of the river and gravel banks will not resolve the litter problem.

Final Thoughts

It has been widely reported that local authority finances are in such a poor state that 5 year pay freezes, cut backs and/or redundancies are almost inevitable. Given this why is Dumfries and Galloway Council proposing to spend £250 000 of council taxpayers' hard earned money on a scheme that it itself concedes will need to be repeated in the future?

In my opinion the money would be far better spent on cleaning up the town centre, employing litter wardens, removing seagulls, repairing crumbling, potholed roads etc. That the money is not to be put to such good use is due to political dogma rather than reason and I for one resent paying large amounts of council tax to satisfy the egos of a few councillors and their supporters.

Furthermore given Dumfries and Galloway's track record on the delivery of major projects I would also have doubts as to whether the proposals would be carried out on time, on budget and without mishap if the appeal was upheld.

Please note that I fully accept these final thoughts/opinions may not be strictly relevant to the specifics of the case but I think the points are worth making as they place the proposals in their proper context.

Yours faithfully

A solid black rectangular box redacting the signature of Colin S Clark.

Colin S Clark

Scottish Government
Climate Change and Water Industry Directorate
Climate Change Division
Victoria Quay
Edinburgh
EH6 6QQ

If telephoning ask for:
Susari Watson

10 September 2009

Dear Ms Vance = ev 15/9/09

**WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS 2005
APPEAL UNDER REGULATION 46
DUMFRIES & GALLOWAY COUNCIL – RIVER NITH, DUMFRIES**

I refer to previous correspondence regarding the above. I am aware that you require SEPA's comments in relation to the appeal by 15 September 2009. I am writing to request a further 14 days to lodge a response to allow us to fully prepare our submission.

I confirm that a copy of this letter has been sent to the appellant.

Yours sincerely


Regional Solicitor



Chairman
David Sigsworth

Chief Executive
Dr Campbell Gemmell

East Kilbride Office
Redwood Crescent, Peel Park, East Kilbride G74 5PP
tel 01355 574200 fax 01355 574688
www.sepa.org.uk

From: James McCulloch [REDACTED]
Sent: 25 June 2010 15:22
To: Redpath C (Carol-Anne)
Subject: RE: River Nith, Dumfries - Reg 46(a) - Response from SEPA concerning interested parties notified of the appeal - DPEA - 23 June 2010.pdf - Adobe Acrobat Professional

Follow Up Flag: Follow up
Flag Status: Flagged

C-A

NFA needed on material from SEPA apart from acknowledgement.

And yes please for a reminder to Mr Slater.

Thanks Jim

Orange/Wanadoo provide a dreadful service. You may not get this message and even if you do we may never receive any reply that you send. So, if you're looking for an ISP don't use them!

From:
Sent: 25 June 2010 14:41
To: [REDACTED]
Subject: River Nith, Dumfries - Reg 46(a) - Response from SEPA concerning interested parties notified of the appeal - DPEA - 23 June 2010.pdf - Adobe Acrobat Professional

Hi Jim

Have attached response received today from SEPA in response to your request concerning the interested parties notified of the appeal. I haven't yet acknowledged so please advise any action.

Nothing yet from Mr Slater - do you want a reminder issued?

Finally, I have the file here - let me know if/when you want it sent out.

<<River Nith, Dumfries - Reg 46(a) - Response from SEPA concerning interested parties notified of the appeal - DPEA - 23 June 2010>>

Regards

Carol-Anne

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Susan Watson

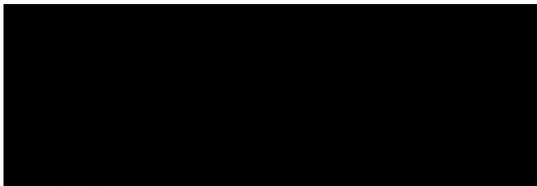
26 August 2009

Dear Ms Vance *= ev 29/09*

**WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS 2005
APPEAL UNDER REGULATION 46
DUMFRIES & GALLOWAY COUNCIL – RIVER NITH, DUMFRIES**

I refer to previous correspondence in connection with the above appeal and can confirm that the undernoted parties have been notified of the appeal in accordance with Regulation 49 and Schedule 9(8) of the 2005 Regulations.

Yours sincerely



Regional Solicitor

Michael Russell MSP
The Scottish Parliament
Edinburgh
EH99 1SP

Elaine Murray MSP
Friars Vennel
Dumfries
DG1 2RQ

Scottish Natural Heritage
Carmont House
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Bankend Road
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Continued overleaf/...



Chairman
David Sigsworth

Chief Executive
Dr Campbell Gemmell

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Redwood Crescent, Peel Park, East Kilbride G74 5PP
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**Nith District Salmon Fishery Board
37 George Street
Dumfries
DG1 1EB**

**Mr Colin Clark
38 Calside Road
Dumfries
DG1 4HA**

**Mr David Fleming
Berryland Cottage
Holywood
Dumfries
DG2 0JQ**

**Mr Chris Rollie
Area Manager
RSPB Scotland
The Old School
Crossmichael
Castle Douglas
DG7 3AP**

**Mr Andrew Grindall (Hon. Sec.)
The River Nith Society
21 Corberry Mews
Dumfries
DG2 7AX**

**Mr Morris Service
68 Albert Road
Dumfries
DG2 9DL**

**Mr D Slater
(address to follow)**

Scottish Government
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Victoria Quay
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If telephoning ask for:
Susan Watson

28 August 2009

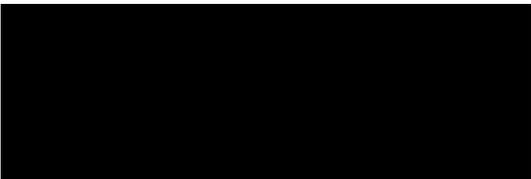
Dear Ms Vance *ev 2/9/09*

**WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS 2005
APPEAL UNDER REGULATION 46
DUMFRIES & GALLOWAY COUNCIL – RIVER NITH, DUMFRIES**

I refer to my letter of 26 August.

I can confirm that Mr David Slater's address is 8 Yarrow Court, Dumfries DG2 9HG. He has been notified of the appeal in accordance with Regulation 49 and Schedule 9(8) of the 2005 Regulations.

Yours sincerely


Regional Solicitor



Chairman
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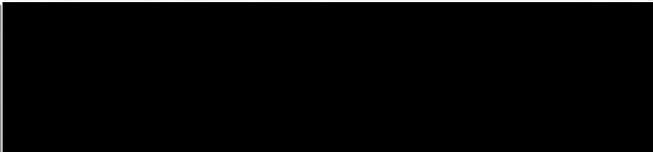
3 September 2009

Dear Ms Vance *= ev 8/9/09*

**WATER ENVIRONMENT (CONTROLLED ACTIVITIES) (SCOTLAND) REGULATIONS 2005
APPEAL UNDER REGULATION 46
DUMFRIES & GALLOWAY COUNCIL – RIVER NITH, DUMFRIES**

I refer to previous correspondence in connection with the above appeal and can confirm that SEPA wishes the appeal to be determined on the basis of written representations.

Yours sincerely



Susan Watson
Regional Solicitor



Chairman
David Sigsworth

Chief Executive
Dr Campbell Gemmell

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