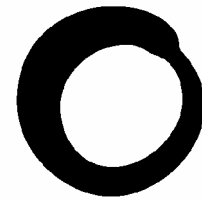




Marine Information Network
www.marinet.org.uk



**Friends of
the Earth**

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3rd April 2007.

For the attention of: Mr. Nigel Bayliss, Dept. for Communities and Local Government,
Minerals Planning, Division B, Zone 4/B1,
Eland House, Bressenden Place, London SW1E 5DU.

Dear Mr. Bayliss, Marine Aggregate Licence Decision : Areas 202/436.

Thank you for your letter of 6th March 2007 in which you inform us that you cannot usefully comment further on the outstanding matters we have raised with your Department in our letter of 10th October 2006 concerning the condition of Area 436 upon the expiry of licence held by Hanson Aggregates Marine Ltd (HAML) and the related decision to grant a new licence to HAML for Area 202.

Accordingly, we now advise you as follows:

1. Neither your Department nor the licence holder (HAML) has made any assessment of whether the loss of seabed in Area 436, being greater than the amount dredged (i.e. only 20% of the loss of seabed can be attributed to direct removal by dredging), is a phenomenon that has wider relevance to the renewal of the licence for Area 202 and the Great Yarmouth block of licences.

In other words, your Department has made no assessment of the possibility that if a loss similar to that which has occurred in Area 436 were to occur in other areas, then the aggregate resource in the Great Yarmouth block of licences would disappear long before the aggregate companies had the opportunity to extract the resource.

2. Marine Minerals Guidance Note 1 (MMG1), Section 41 (i), requires “*an adequate depth (normally at least 50 cm) of suitable material has been left as a ‘capping layer’ to provide a substrate for recolonisation*” by the benthic community.

However on the expiry of the licence for Area 436 neither your Department nor the licence holder has undertaken, or required to be undertaken, a survey to establish that such a substrate as required by MMG1, Section 41 (i), exists. In other words, the Secretary of State has failed to implement this specific requirement of MMG1 upon the expiry of the licence for Area 436.

In our opinion, this is a failure of duty by the Secretary of State.

It is true that the Secretary of State has required a post-dredging survey to be conducted in 5 years time upon the expiry of the renewed licence for Area 202, but such a survey does not assess the condition of Area 436 at the present time upon the expiry of its own licence, and it does not assess whether the current condition of Area 436 has any relevance to the continued operation of the renewed licence for Area 202. Hence, in our opinion, this failure of duty by the Secretary of State stands.

3. With the expiry of the licence of Area 436 we have seen no statement by Hanson Marine Aggregates Ltd that the company has established a monitoring regime in order to establish the rate of physical and biological recovery in Area 436, nor have we seen any requirement made of the company in this regard by the Secretary of State.

MMG1, Section 10, states “*The Government believes that this [that dredging activities do not significantly harm the environment or fisheries or unacceptably affect other legitimate uses of the sea, ref. MMG1, Section 9] can be achieved by:*

- *requiring operators to monitor, as appropriate, the environmental impacts of their activities during, and on completion of, dredging; and*
- *controlling dredging operations through the use of conditions attached to the dredging licence or dredging permission.*

Accordingly, in our opinion, the Secretary of State has failed in this specific duty of MMG1 which requires the establishment of a monitoring regime to assess the environmental impact of dredging in Area 436 upon the expiry of the licence.

4. In your letter of 29th September 2006 to ourselves you advised that a set of monitoring conditions for Area 202 would accompany the issue of the new licence for Area 202.

In our letter of 10th October 2006 we asked you to confirm that the draft Schedule of Conditions set out in Appendix 5 of Marine Ecological Surveys Ltd’s (HAML’s consultant) ‘Summary Consultation’ Report (May 2006) is in fact the final and actual Schedule of Conditions which is attached to the renewed licence for Area 202.

In your letter of 6th March 2007 to ourselves (which replies to our letter of 10th October 2006) you have failed to confirm this.

Accordingly, unless we receive further advice from your Department, we must conclude that the above specified draft Schedule of Conditions prepared by Marine Ecological Surveys Ltd have **not** been attached to the renewed licence for Area 202, and that the specific stipulation in those draft conditions that “the operators shall ensure that a minimum depth of 0.5 metres of aggregate resource remains in those parts of the area from which material has been dredged – ref. Condition 7.11” has **not** been applied to the renewal of the licence for Area 202 by the Secretary of State.

We regret detailing the above matters as they record a number of failures of duty by the Secretary of State. However, given clear evidence at this present time of these failures of duty by the Secretary of State, we feel it only proper to record the precise details of these matters for you because we will be placing these in the public domain.

Should you have any comment to make, or correction to offer in respect of our above conclusions, we would be pleased to hear from you.

Yours sincerely

S. D. Eades
On behalf of
MARINET