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20<sup>th</sup> August 2007.

For the attention of: Mr. D. C. Spooner, Regulatory Advisor (Marine Minerals Team),  
Marine and Fisheries Agency, 3-8 Whitehall Place, London SW1A 2HH.

Dear Mr. Spooner, Statutory Basis for Marine Minerals Guidance Note 2.

Thank you for your letter of 16<sup>th</sup> July 2007 concerning the placing of Marine Minerals Guidance Note 2 (MMG2) on a statutory basis.

I am replying to your letter of 16<sup>th</sup> July 2007, and I am referring to your Team's Consultation Paper on Draft Marine Minerals Dredging Regulations and Procedural Guidance published in June 2006, our response to this public consultation dated 30<sup>th</sup> July 2006 (copy enclosed), and our letter to you of 8<sup>th</sup> July 2007 which refers to the foregoing (copy enclosed).

With respect to the Consultation Paper on Draft Marine Minerals Dredging Regulations and Procedural Guidance published in June 2006 it is our understanding that it was your department's intention to place MMG2 on a statutory basis. We commented on this intention on 30<sup>th</sup> July 2006.

By 8<sup>th</sup> July 2007 we had received no reply from you to the comments and questions which we had asked in our submission of 30<sup>th</sup> July 2006, and so I asked you whether you intended to reply. I also observed that your department had not yet acted on its intention to place MMG2 on a statutory basis, and I therefore asked when you would be doing so.

We now wish to make the following additional observations and requests to you:

1. You informed us in your letter of 16<sup>th</sup> July 2007 that a summary of the responses to the 2006 consultation were placed on the DCLG website ([www.communities.gov.uk](http://www.communities.gov.uk)) in November 2006, and we should consult this.

Firstly, we observe that you never informed us in November 2006 that this summary had been issued and placed on the DCLG website. Given that we engaged in the public consultation, we consider that your department should have informed us. Why did it not do so ?

Secondly, we have now consulted the November 2006 summary on the DCLG website. We observe that your department's summary is very cursory, and there is no detail provided as to the nature of the comments provided by each consultee – for example, a standard procedure employed by consultants when recording comments from those who have responded to marine aggregate dredging EIAs is to provide such detail. We observe that someone reading the DCLG summary would have no idea as to the nature of the comments submitted by MARINET. Similarly, we have no idea as to the nature of the comments submitted by other consultees. Accordingly, we ask whether you consider the Summary prepared by DCLG and published in November 2006 to be adequate ?

Thirdly, we observe that the Summary published in November 2007 is only that – a summary of comments received. The summary does not attempt to answer any of the questions asked. MARINET asked several questions – see enclosed copy of our comments dated 30<sup>th</sup> July 2006. Accordingly, we again ask you : do you intend to answer any of the questions we asked ? If so, when will we receive your reply ?

2. It is our understanding that the Consultation Paper on Draft Marine Minerals Dredging Regulations and Procedural Guidance published in June 2006 was a procedure designed to place MMG2 on a statutory basis.

Firstly, would you please confirm that it was the intention of the Consultation Paper on Draft Marine Minerals Dredging Regulations and Procedural Guidance published in June 2006 to seek views prior to placing MMG2 on a statutory basis.

Secondly, if it was not the purpose of the June 2006 Consultation Paper to seek views prior to placing MMG2 on a statutory basis, then could you please advise as to the true purpose of the Consultation Paper in relation to MMG2.

Thirdly, if it was the purpose of the June 2006 Consultation Paper to seek views prior to placing MMG2 on a statutory basis, then could you please advise when your department intends to place MMG2 on a statutory basis.

3. If your answers to the above questions in section two of this letter is that the consultation on the draft procedural guidance (MMG2) in June 2006 only referred to MMG2 as it applies to the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations, then could you please inform us on the following matters:

Firstly, has the version of MMG2 contained in the June 2006 Consultation Paper (and upon which you sought comments and we commented) been adopted by your department with respect to the application the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations when new licences are now being sought ?

Secondly, if the version of MMG2 contained in the June 2006 Consultation Paper has not yet been adopted with respect to the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations, when will this version of MMG2 be adopted ?

Thirdly, if the version of MMG2 contained in the June 2006 Consultation Paper has been adopted with respect to the Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (England and Northern Ireland) Regulations, does this version of MMG2 apply to all marine minerals dredging licence applications or only a sub-set of those licence applications (e.g. a sub-set that involves the Natural Habitats Regulations) ? If this version of MMG2 does apply just to a sub-set of the licence applications, will you please define that sub-set of applications.

Fourthly, if the version of MMG2 contained in the June 2006 Consultation Paper does apply only to a sub-set of the marine minerals dredging licence applications, and another version of MMG2 applies to the remaining licence applications not included in that sub-set, does this mean that there are two versions of MMG2 currently in operation ?

We would be grateful for your response to the above matters.

Yours sincerely

S. D. Eades  
On behalf of  
MARINET.