

Phil Jones

From: Phil Jones [pmj@abertawe.co.uk]
Sent: 11 September 2014 15:13
To: 'Swansea Tidal'; 'Katherine Chapman'
Cc: Ray Lockyer PASAS <ray.lockyer@pasas.org.uk>; Andrew Kelton FL <Andrew.Kelton@fishlegal.net>; Lennard Powell Afan Valley AC <lennard.powell@ntlworld.com>; Dave Hooper PASAS <dave.hooper@pasas.org.uk>; Des Williams PASAS <des.williams@pasas.org.uk>; Mark Hughes PASAS <mark.hughes7@virgin.net>
Subject: EN010049: Tidal Lagoon Swansea Bay
Follow Up Flag: Follow up
Flag Status: Blue

To: PINS and the Examining Authority

1. We write in response to:

- a. the letter issued by the Examining Authority on 4th September, containing a revised timetable for the examination; and
- b. the agenda, published on 9th September, for the issue-specific hearings due to start on 16th September.

2. The recreational fishing interests have consistently argued that the Environmental Statement submitted by the applicant is inadequate and that the examination should have been suspended pending the provision of essential further information, in accordance with Regulation 17 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, because many issues of relevance to our interests, including migratory fish impact monitoring, mitigation and offsetting, had not been properly developed and consulted upon. These issues are still far from having been adequately developed (let alone consulted upon) in the new information now submitted, seven months after the Submission date. An appropriate suspension to ensure that all the necessary information had been provided would have allowed interested parties to address relevant issues without undue pressure and relieved the Examining Authority of the obligation to complete the examination by the 10th December.

The applicant has now been allowed, however, to submit the new information in an attempt to remedy the inadequacies in the Environmental Statement and the Examining Authority has decided, instead of suspending the examination, to:

- a. require the applicant to publicise the new information;
- b. allow further time for interested parties to consider the new information; and
- c. adjust the examination timetable to allow interested parties and others to respond to the new information.

3. We don't think the situation should have been handled in this way and we write to draw attention to the effects and to indicate how we propose to proceed:

a. The agenda for the issue-specific hearings beginning on 16th September includes items which are inseparable from the new information (on which further consultation is continuing). The 'new information' includes:

- i. Replacement Appendix 9.5 to the Environmental Statement and associated new information on fish of July 2014 (Appendices to Applicant's Response to Written Questions).
- ii. The new Water Framework Directive Assessment.
- iii. Revised Operation, Construction, and Adaptive Environmental Management Plans.

Yet the planned 16-18th September hearings also include 'overlapping' items on fish impact modelling confidence (also covered in new Appx 9.5 above), on the AEMP, etc (also covered in the new information above), and on DCO mitigation provisions (again covered to some extent in the new information above).

b. We propose to respond to the new information by Deadline 4 (7th October).

c. We don't propose to make submissions to the issue-specific hearings beginning on 16th September and we don't think it right for the matters above to be discussed before the further time allowed for their consideration has expired and responses have been made. Even if other parties are willing to do so, it could disadvantage us. We might attend as 'observers', but believe the 'overlapping' issues above should be postponed (or at least there should be an opportunity to revisit them) until after the 7th October written response deadline.

d. Taking account of the new information, we propose by Deadline 4 (7th October) to draft and submit some monitoring / mitigation / offset / compensation requirements for inclusion in the DCO and we'll seek TLSB agreement to them (not necessarily in the form of an SoCG).

e. We'll then contribute to the second round of issue-specific hearings beginning on 20th October.

f. We'll submit final versions of the "requirements" that we seek by Deadline 5 (28th October).

4. The Examining Authority's letter of 4th September refers to Statements of Common Ground, including one which is said to be with us for comment. We don't think that document should be in the public domain, not least because it gives a completely false impression of our position.

We were not amongst the bodies asked by the Examining Authority in its letter of 16th June to produce an SoCG and, when the idea was mentioned to us informally by the applicant / their representatives, our response was extremely cautious, because we agree about so little.

A draft SoCG was then submitted to us unexpectedly "without prejudice" on 25th July and, pressed for a response, we have told TLSB / their representatives:

a. on 7th August, "I don't think [Fish Legal have] had a chance to look at it yet but I can't see how we could make your draft SOCG acceptable without a huge amount of work. As the ExA hasn't even asked us to try, I don't see the point."

b. on 12th August, "We've now discussed the proposed SOCG and we don't think there's much in it that we could agree. We might be able to agree something about monitoring, mitigation, etc, when we've studied the new AEMP."

We'd be grateful, therefore, if the draft SoCG could be removed from the PINS website, if possible with an appropriate explanation (that it had been posted there in error).

Phil Jones

=====
Phil Jones, Director / Treasurer
44 Bwllfa Rd, Ynystawe, Swansea, SA6 5AL
Tel: 01792 843951 Mob: 07957 154992

Pontardawe and Swansea Angling Society Ltd
www.pasas.org.uk
Reg'd in Wales No 6736638
Reg'd Office: 8 Bwllfa Rd, Ynystawe, Swansea, SA6 5AL
=====