

## Phil Jones

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**From:** Phil Jones [pmj@abertawe.co.uk]  
**Sent:** 10 December 2014 14:36  
**To:** 'Swansea Tidal'  
**Cc:** 'Katherine Chapman'; Ray Lockyer PASAS <ray.lockyer@pasas.org.uk>; Andrew Kelton FL <Andrew.Kelton@fishlegal.net>; Lennard Powell Afan Valley AC <lennard.powell@ntlworld.com>  
**Subject:** Swansea Bay Tidal Lagoon - Responses to Applicant's Late Representations  
**Follow Up Flag:** Follow up  
**Flag Status:** Blue



M Shorrock to PMJ  
2014-11-28.p...

To the Examining Authority

We'd like to make it clear that we do not accept the statements made by the applicant at:

- Deadline 7, in response to our Deadline 6 comments; and
- at Deadline 8 (contrary to the ExA's letters of 27th November and 2nd December), in response to our Deadline 7 comments.

In their Deadline 7 response:

Their para 12.5: "12.5. The assertion at paragraph 5.h. that the turbine array can be altered is not correct. As the Order is drafted, it must be constructed in accordance with the planning drawings, which are to be certified. Should a materially different orientation of the turbine housing be proposed, then the consent of the local planning authority would be required. If this would be likely to have different environmental effect then, under the case of R v London Borough of Bromley, ex parte Barker (ECJ ref: C-290/03), CCSC would be entitled to request a further environmental impact assessment. Essentially, such deviation is not permitted".

We maintain that the limits of deviation specified allow a materially different orientation and positioning of the turbine housing. We gave details.

Their para 12.6: Our submission was quite clear. They are quoting maximum swimming speeds for a situation where such speeds are unlikely to be triggered.

In their Deadline 8 response:

Their para 7.4: "7.4. PASAS have commented that "The 0.12% claim for adult salmon in para 6.11 is wrong – that's not what Table 9.22 says". However, this is not wrong. Table 9.22 of the ES reports 0.12% combined mortality for Atlantic Salmon." In fact we are right and the applicant is wrong. Table 9.22 actually shows 0.12% for salmon smolts and 0.87% for adult salmon (and 3.40% for sea trout).

Their paras 7.2 and 7.3 refer to a letter (attached) sent by the applicant's CEO directly to about a dozen of our committee members, using confidential contact details, in an attempt to bypass our properly authorised representatives. We'll accept their offer of further discussions but it is evidence that, as we said at Deadline 7, there are still "many loose ends untied and important material inadequately scrutinised".

Their para 7.7. We maintain that their failure to produce videos of eastern approaches is an evasion. We are convinced that it would show something they don't want us to see, because it would undermine their model even further.

Further, and to assist the ExA, in their arguments about the Salmon and Freshwater

Fisheries Act 1975 provisions relating to screens, neither the applicant nor NRW make it clear that AFD (Accoustic Fish Deterrence) is a form of screening.

Phil Jones

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