

Dear States Member,

We at Save Our Shoreline, are petitioning all States Members to request that at least one of you will consider bringing forward a proposition to make an amendment to the Water Pollution (Jersey) Law 2000.

Over recent years Save Our Shoreline (SOS) have engaged with the Environment Department and other business organisations. We feel it is very important for the protection of our environment to raise issues of concern with these bodies. During this time we have made several representations in regard to the Water Pollution Law, namely during the excavation and construction of the Energy from Waste plant, the excavation of Castle Quay, and concerning discharge permits for the operation of these sites.

SOS made submissions back in October 2009 regarding the intended discharging into the Ramsar Area at Havre de Pas of up to 13.2 million gallons per day of preheated and biocide treated water used to cool the new incinerator plant. SOS had expected the submission to be rebutted by the operators, and it duly was, with a polite letter from the Regulator (currently Dr. Tim du Feu) thanking us for our submission but informing us that a permit has been issued.

After the granting of the discharge permits for both the EfW and the outfalls from the JEC's cooling system, we found that we were unsatisfied with the decision. SOS then attempted to challenge this decision as we believed our valid concerns were not being addressed. Unable to receive satisfactory response from the Environment Department, we had no choice but to approach the Judicial Greffe to see what our options were. This then led to correspondence between ourselves and the Law Officers Department.

During this correspondence the following facts became apparent. It is possible that where there is a self-issuing permit, any person or body making a representation in respect to the application would be able to legally challenge the decision. However external companies such as the JEC do not come under the same ruling.

Mrs Lara Luke on behalf of SOS went on to request the Royal Court to review the decisions of the Minister under Article 26 of the Water Pollution (Jersey) Law 2000. The eventual outcome was that our application was ruled out on a technicality: the article that was being used article 26 dealt with water discharge licences and not permits. We consider that there is in essence no difference in practice between a licence for a discharge permit and a permit for water discharge. The end result is the same.

Attached is the relevant correspondence in regards to the information provided above.

The events of the past few years have raised many concerns and potential threats in respect to the quality of our coastal waters. We illustrate the concerns with our EfW report (also attached) on how the site was managed in the early days of construction. What is needed to raise the standards of protection to our environment is an amendment to the Water Pollution (Jersey) Law 2000.

It is imperative to have the legal right to question the legality of Water Discharge Permits. SOS consider that these Permits may well be in contravention of Jersey's obligations under the Ramsar Convention and also contravene regulations set down by the UK's Environment Agency.

The Committee, Save Our Shoreline

16th March, 2012

www.jerseyinperil.com

Spokesperson on this issue: Mrs Lara Luke, contact 870831 mobile 07829 919665

In the Royal Court of Jersey

Between Lara Luke on behalf of Save Our Shoreline Appellant
And The Minister of Planning and Environment Respondent

TAKE NOTICE that in exercise of the right of making an application to the court for a review conferred by Article 26 of the Water Pollution (Jersey) Law 2000.

We are asking for a review of your decision of the 24th August 2010 to grant the following discharge permits:

1 Cooling water discharge permit DP(B)20100301 Application for a new discharge 24-Aug-10

Condition 1: The Discharge shall consist solely of sea water that has been used for cooling purposes.

Condition 2: The temperature of the Discharge shall be no more than 12 degrees centigrade higher than the temperature of the sea water at the point of intake, calculated as an hourly mean of the measurements of temperature uplift taken as required by Condition 13. Condition 4: The volume of the Discharge shall not exceed 60,000 cubic metres per day.

Condition 5: The rate of discharge shall not exceed 695 litres per second.

Condition 6: Nothing in this permit will authorise the Discharger to add any biocide that might be considered necessary to prevent fouling.

4 Cooling water discharge permit DP(B)2000/11/37 Consented deemed permit 18-May-10

Condition 1: The Discharge shall consist solely of: a. sea water that has been used for cooling purposes and may have been treated with necessary biocides to prevent fouling. b. seawater that has been used for cooling auxiliary oil or lubrication systems. c. surface water run-off that is likely to be contaminated with oil. d. Surface water run-off that is not likely to be contaminated with oil.

Condition 2: The temperature of the Discharge shall be no more than 19°C higher than the temperature of the sea water at the point of intake, calculated as an hourly mean of the measurements of temperature uplift taken as required by

Condition 4: The volume of the Discharge shall not exceed 294,600 cubic metres per day. Condition 5: The rate of discharge shall not exceed 6,820 litres per second. Condition 8: The Discharge shall contain no more than a. 0.05 milligrammes per litre of total amines and b. 0.05 milligrammes per litre of residual halogens.

On the grounds that:

1. The reasons for the delay in making this application to the Court are the fact that we received notification some 14 days after the granting of the permits at the end of August 2010, after which we then tried to ascertain if our points raised within our representation had been taken into account during the decision making process. The regulator also implied his decision was final and there was no alternative action. When questioned about Article 26, he stated that there was no such course of redress, that we could not ask the court for a review.

2. We were not notified that the new application from the Jersey Electricity Company was continued as a consented deemed permit, immediately upon advertisement in the Gazette, when it was a new application for a discharge permit. The dates here clearly show that no representations were taken in to account during the decision making process.

3. Two discharge permits have not yet been issued from the JEC application:

a. Backwash discharge permit - Not yet issued

b. Interceptor discharge permit - Not yet issued

Reason for not issuing - Environmental Protection awaiting the outcome of further work mainly relating to toxicity of the biocide used in relation to the potential lower rate of filming out of the biocide due to shorter discharge distances.

4. All the above mentioned discharge permits relate to the same biocide.

5. We call for a review of the decision on the basis that there is insufficient knowledge of the potential effects of these discharge permits, and gaps in the information contained in the applications for the permits.

Signed:

Appellants address for Service is:
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St Helier,
Jersey JE2 3BB

From: lara.luke@hotmail.com

To: p.matthews@gov.je

CC: jerseyinperil@gmail.com; andrew@seajersey.com; d.mills@gov.je; w.peggie@gov.je

Subject: Response of Duncan Mills - Re Water Pollution Law

Date: Mon, 20 Dec 2010 02:44:39 +0000

Dear Advocate Matthews,

I dispute the letter from Duncan Mills, dated the 8th December 2010 stating that Save Our Shoreline has no legal basis for an application for review.

Article 21 concerns discharge permits.

Article 26 concerns discharge certificates.

The applications were made by both Transport and Technical Services and the Jersey Electricity Company.

Article 56 of Schedule 3 however says -

3A.(1) This paragraph applies to a discharge certificate that –

(a) has been issued under Article 26 in respect of an introduction into controlled waters by the Minister for Transport and Technical Services; and

(b) is in effect immediately before the commencement of the Water Pollution (Amendment No. 2) (Jersey) Law 2007.

(2) From the commencement of the Water Pollution (Amendment No. 2) (Jersey) Law 2007, each discharge certificate to which this paragraph applies shall for the purposes of this Law have effect, subject to the provisions of this Law relating to discharge permits but otherwise according to the certificate's tenor, as if the certificate were a permit issued under Article 21.

(3) Therefore an application made by Transport and Technical Services is regarded as a self grant application, however the certificate has to adhere to the conditions of a permit. Therefore we have a legal basis for our application.

Kind Regards

Mrs Lara Luke