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BY EMAIL

David Beadle
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Management

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From Dan Rogerson

Parliamentary Under Secretary of State for Water, Forestry, Rural Affairs and Resource Management

Dear David,

I recognise that you and others in the resource management sector have worked hard to create a unified voice and drive improvements in your industry. The work undertaken by the industry particularly through the Environmental Services Association Education Trust Report, *Waste Crime: Tackling Britain's Dirty Secret* has been instrumental in shaping our thinking on tackling waste crime and poor performance and I am grateful to all involved.

There have been some important successes, such as the 1,300 illegal waste sites stopped by the Environment Agency in 2012/2013 and we need to continue to do more to root out the illegal operators and the rogue traders that blight our communities and damage legitimate business. We have secured £5 million of additional funding for the Environment Agency to tackle waste crime. This provides a significant opportunity to close down illegal operations, audit sites to look for deliberate mis-description of waste and disrupt the illegal export of waste.

Operational delivery of the Environment Agency's action to tackle the above three issues using the additional £5 million has started. In addition we recognise that more systemic actions are also required to address waste crime and poor performance. I have listened to the industry, local representatives and members of the public and I am pleased to provide further detail on a series of proposals we have developed with the Environment Agency. While government and the Environment Agency will take the lead in further developing and implementing these proposals over the course of the next twelve months, I want us to continue to work together to ensure that regulation is implemented in a robust, fair and proportionate way to protect communities, the environment and the legitimate resource management sector.

Our proposals to tackle waste crime and poor performance are focussed around four key themes:

- Speedy and tough enforcement action;
- Greater Intelligence sharing;
- Making the polluter pay; and



- Making better use of regulatory controls.

Speedy and tough enforcement action

The Environment Agency needs to adopt the right balance between helping legitimate business to comply on one hand while, on the other, taking appropriate, robust and timely enforcement action to stop those who deliberately or repeatedly flout the rules or pose a significant risk of harm or nuisance. Specific proposals include:

- Increased Environment Agency interventions at poor performing sites with the objective that none remain poor performers for more than 18 months;
- Improved co-ordinated activity by the Environment Agency and HM Revenue & Customs (HMRC) to ensure a complementary, and where appropriate, joined up approach to tackling non-compliance linked to tax evasion;
- Government and the Environment Agency to review the sanctions and penalties available to aid effective enforcement for environmental offences; and
- Government and the Environment Agency to review whether it should be easier to suspend or revoke an environmental permit when significant non-compliance is found and whether opportunities to challenge this (by appeal or judicial review) should be more limited.

Greater Intelligence sharing

Government, regulators and industry share a common interest in ensuring that those that flout the law can be readily identified and are subject to timely and robust enforcement action. Specific proposals include:

- The Environment Agency to work with industry to review and where possible improve existing arrangements for reporting alleged illegal operations and the gathering and feedback of this intelligence;
- Government and Environment Agency to review the potential for improving the collation and access to records of convictions for waste and associated offences to prevent, where possible, past offenders being issued with permits; and
- The Environment Agency to make full use of the Memorandum of Understanding on Information Exchange with HMRC to share information and develop a better understanding of key compliance risks.

Making the polluter pay

Most waste crime is economically motivated and should not be allowed to pay. Operators should make the necessary financial arrangements to meet their obligations as well as being technically competent to manage and treat waste. The true costs of regulating those that operate to poor standards should be recovered through fees and charges. Specific proposals include:



- The Environment Agency to consult during 2014/15 on increased charges for poor performing sites to recover the cost of increased interventions;
- The Environment Agency to monitor the impact of the new Sentencing Council's guidelines on the fines being handed down by the courts in the cases it brings and make available its findings to Government to consider whether there needs to be further guidance; and
- Government and the Environment Agency to consider a new statutory mechanism to allow the Agency to re-charge waste sites for pollution clean-up costs in the same way that water polluters can be re-charged.

Making better use of regulatory controls

It is recognised that much waste crime operates in plain sight and can be tackled to a degree through greater inspection of waste documentation and records. Specific proposals include:

- The Environment Agency to apply greater scrutiny to newly permitted sites within their first year of operation. This will include more detailed and robust checks of the management system to ensure that it is fit for purpose and being fully implemented on site;
- The Environment Agency to introduce revised procedures for assessing operator competence. These procedures will focus on a series of detailed checks including financial, technical and behavioural indicators during permit application, variation and transfer. This will ensure only those that can fulfil their permit obligations receive or retain a permit;
- Government and the Environment Agency to review the case for strengthening the fit and proper person test of applicants for environmental permits, for example by requiring operators to provide better evidence of their technical competence;
- The Environment Agency to integrate checks on site records, waste transfer notes and where appropriate hazardous waste consignment notes into its regular site inspections for targeted waste streams;
- The Environment Agency to ensure that site management systems contain appropriate and specific minimum standards relating to the storage of combustible materials, reducing the impact of amenity issues and ensuring sustained good performance;
- The Environment Agency to carry out a review of the regulation of waste carriers, brokers and dealers and prepare a report with recommendations on improvements to the regulation of these activities;
- The Environment Agency will aim to publish a plan by April 2015 for fulfilling its duties in respect of carrying out appropriate inspection of waste activities that are exempt from the need for an environmental permit, quantify compliance problems and recommend enhancements to the regulation of these activities;



- Government and the Environment Agency to work with industry and stakeholders to establish how best to notify landowners that actual or proposed waste activities are taking place and to share advice on the potential legal obligations that may arise from leasing land to waste operations; and
- The Environment Agency to provide a mechanism for greater scrutiny of Regulatory Position Statements and Enforcement Position Statements, including a more detailed assessment of the risks posed by activities allowed under these statements.

These proposals reaffirm the importance the government attaches to protecting communities and legitimate business. I am particularly keen that those who commit crime or have entrenched poor standards of operation are subject to speedier and tougher enforcement action. Those who repeatedly operate to poor standards will be open to increased regulatory inspection to secure compliance and they will increasingly pay for this in their fees and charges to the Environment Agency. Better still, we propose action to stop rogue operators from getting environmental permits and other authorisations in the first place.

Some of these proposals require continued and potentially increasing co-operation with industry. When you have had a chance to digest the proposals I would welcome the opportunity to meet with you to discuss your views including on how we can take action together.

I see these proposals very much as a first step in the process of bringing about real change that will tackle those who fail to follow the rules, protect and enhance the reputation of all legitimate businesses in the resource industry and ensure the Environment Agency operates as a firm but fair regulator.

I look forward to working with you on this important agenda.

I am copying this letter to Steve Lee and to the Chairman and Chief Executive of the Environment Agency.



DAN ROGERSON MP

cc

Steve Lee, Chief Executive, Chartered Institution of Wastes Management
 Sir Philip Dilley, Chairman, Environment Agency
 Dr Paul Leinster, Chief Executive, Environment Agency

