

25 November 2014

Mr Andrew Sells
Chairman of Natural England Board
c/o Pam Mills-Cooke
Board and Executive Services Team
Natural England
First Floor, Temple Quay House
2 The Square
Bristol
BS1 6EB

Dear Mr Sells

**URGENT: NATURAL ENGLAND BOARD MEETING 26 NOVEMBER 2014:
FALMOUTH BAY TO ST AUSTELL BAY POTENTIAL SPA**

You may be aware that I and Dr Matthew Denny have been involved in reviewing the proposed classification of the Falmouth Bay to St Austell Bay SPA. Our work has concentrated on the scientific data that underlies the pSPA and we have presented your officers with two detailed reports.

We have identified and highlighted **serious flaws** in the data that has been used to support this proposed classification. Sound scientific practice has in this case been jettisoned for the sake of expediency. This is simply unacceptable for an organisation that must base its decision-making on sound scientific data; it undermines both Natural England and the SPA classification process.

I received from NE last night the Board papers (NEB P48 02 C and NEB P48 02B) relating to the above. In the very little time I have had available, I have considered the papers briefly and am very concerned that they present a misleading and incorrect summary of the fundamental flaws in NE's proposal which we have identified.

My biggest concern is that the Board papers are written as if the latest presentation of our concerns was at the meeting with NE that took place on 14 October 2014. This is incorrect and misleading.

We provided a further comprehensive report to NE on 14 November 2014. This report was reviewed and commented on by James Strachan QC of 39 Essex Street Chambers. This report takes into account the points made to us by NE at the meeting on 14 October 2014 and explains in detail why the proposed classification of this SPA remains fundamentally flawed. It also sets out further flaws in NE's proposal which have come to our attention since our July 2014 consultation response. Reference to this report has been omitted entirely from the Board papers.

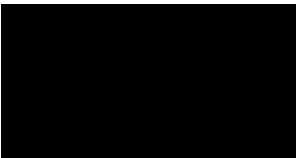
In view of this, I am now attaching a copy of our November 2014 report. It is imperative that you are fully apprised of the flaws relating to NE's proposed classification of the SPA and it is apparent that, unless my report is read by the Board, the Board will not have full information.

I would like to draw your attention in particular to the Summary and Conclusions of our concerns at the start of the report (pages 8-14). NE is not correct when it states (para 1.1 of Annex 2 of NEB P48 02B which discusses Baker Consultants Ltd's objection) that "*The main outstanding objection concerns the exclusion of aerial survey data to define the seaward boundary*". As is clear from our November 2014 report, "exclusion of aerial survey data" is only one of a number of serious flaws in NE's proposal.

In addition, as well as the technical and scientific flaws in NE's proposal, please note that given the revised basis on which NE now proposes the pSPA, further public consultation by NE is essential (see paragraph 1.6 of our report) and should have been undertaken before the matter was put to the Board. This agenda item should therefore be withdrawn from tomorrow's meeting to allow for that further public consultation to take place.

Please also note that, contrary to NE's assertion in para 1.1 of Annex 2 of NEB P48 02B, the revised data presented by NE in support of the pSPA *does* include data which was *in existence* when the Departmental Brief was written.

Yours sincerely



Andrew Baker
Managing Director