

Katie

By email: request-743109-
bd97690f@whatdotheyknow.com

Our ref: CL224562MG

Date: 7 July 2021

Dear Katie

**Re: Request for information about permit application EPR/SP3609BX/A001
between the Environment Agency and various bodies**

Thank you for contacting the Environment Agency regarding Kingmoor permit application EPR/SP3609BX/A001 and associated communications between the Environment Agency and various bodies. Our apologies for the delay in responding. Please refer to the [Open Government Licence](#) which explains the permitted use of the information we have provided.

1	Public Health England	This is a consultee for this application – please see attached response from them.
2	The government's Committee on Toxicity	This is an independent scientific committee that provides advice to the Food Standards Agency. It is <u>not</u> a consultee of the EA application process.
3	The Food Standards Agency	This is a consultee for this application – we have not received any response from them
4	The government's Climate Change Committee (CCC)	The Climate Change Committee (CCC) is an independent, statutory body established under the Climate Change Act 2008. It is <u>not</u> a consultee of the EA application process.
5	Natural England	This is a consultee for this application – however the HRA is not currently available as it is still a work in process.
6	DEFRA	Not a statutory consultee of the EA application process
7	COMEAP	COMEAP provides independent advice to government departments and agencies on how air pollution impacts on health. It is <u>not</u> a consultee of the EA application process.



Please note that we have not supplied information which relates to item number 5 above, which we believe relates to material which is still in the course of completion. It is not yet finalised and therefore we are not providing it at this time. We expect that it will be available in the future.

As a public body we are required under the Freedom of Information Act/Environmental Information Regulations to give reasons for this refusal. We also need to show that we have considered the Public Interest balance between refusal and disclosure. **You can find the details in the appendix below.**

If you are not satisfied you can contact us within 2 calendar months to ask for our decision to be reviewed. We shall review our response to your request and give you our decision in writing within 40 working days.

If you are still not satisfied following this, you can raise a concern with the Information Commissioner, who is the statutory regulator for Freedom of Information and the Environmental Information Regulations. The contact details are:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 0303 123 1113
Website: <http://ico.org.uk>

Yours sincerely

Mark

Customers and Engagement Team, Cumbria and Lancashire

Appendix

Relevant exceptions

The exception that applies to the withheld information is:

EIR Regulation 12(4)(d) applies because the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data. To release information at this stage would be to provide an incomplete document and as such it could be misleading. We anticipate that the final information will be completed in the future.

The Public Interest Test

We have weighed the public interest factors in favour of maintaining the exception and find that they outweigh the public interest factors in disclosing the information. In carrying out the public interest test we have considered:

1. Factors in favour of releasing the information:

The detailed information that we hold is not already public. We recognise your particular concerns and we believe that release of environmental information generally contributes to the debate of the issues, and can contribute to the effective running of the public sector in the manner of permitting sites. However with regard to the Habitats Regulation Assessment (HRA) we do not consider that the factors in favour of release are strong. There is clearly a high level of local interest and public participation in the debate over the Kingmoor incinerator but here we do not consider that this applies to the specific information withheld.

2. Factors in favour of withholding the information:

Factors in favour of withholding include the importance of the grounds in the legislation and here regulation 12(4)(d) relating to information which is still in the course of completion is of considerable weight.

The Environment Agency would only withhold information if it is sure that disclosure would cause substantial harm. Here the harm is that disclosure would adversely affect the confidence of those using or relying on the information contained in the Habitats Regulation Assessment (HRA).

Release under the Environment Information Regulations (EIR) is release to the world at large, rather than to a particular person or body. Here the harm is that the release of this data could provide a false or misleading impression and that the current document may ultimately change before the final document is released.

As indicated, upon assessing the factors in the public interest test, we have assessed that in relation to the 12(4)(d) relating to information which is still in the course of completion, we find that the factors in favour of withholding information outweigh the public interest factors in disclosing the information.