

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Thank you for your request dated 24th February 2017 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

You asked for *“Copies of all correspondence sent and received from the “several teams” you have referred to in relation to this request since I first submitted it on 27 October 2016.”*

Response to your request

I enclose a copy of some of the information you requested (Annex B). While our aim is to provide information whenever possible, in this instance we are unable to provide all of the information you have requested because exemptions under sections s.30(c) (otherwise prejudice effective conduct of public affairs) and s.38(1)(b) (personal information) of FOISA apply to that information. The reasons why those exemptions apply are explained in the Annex to this letter.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to:

Chris Stark, Director – Energy and Climate Change, Chris.stark@gov.scot

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner’s website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

REASONS FOR NOT PROVIDING INFORMATION

An exemption applies

An exemption under section 38(1)(b) of FOISA applies to some of the information you have requested because it is personal data of third parties, ie names and contact details of individuals, and disclosing it would contravene the data protection principles in Schedule 1 to the Data Protection Act 1998.

This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

An exemption applies, subject to the public interest test

An exemption under section 30(c) of FOISA (prejudice to effective conduct of public affairs) applies to some of the information requested. The Scottish Information Commissioner is currently investigating your appeal against our decision on your previous request (FOI/16/01675). Disclosing this information about our detailed internal discussions relating to that request would substantially prejudice our ability to present a submission to the Commissioner setting out our settled view on the case. Releasing this information into the public domain at this stage would also substantially prejudice the Commissioner's ability to investigate the case independently and reach a decision. This would constitute substantial prejudice to the effective conduct of public affairs in terms of the exemption.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is some public interest in disclosing this information as part of open, transparent and accountable government. However, this is outweighed by the public interest in the avoidance of prejudicing the ongoing Scottish Information Commissioner's investigation.

1.

From: Central Enquiry Unit
Sent: 27 October 2016 09:02
To: Energy and Climate Change - Business Management
Subject: FOI - E - Stolen oil? - Richie Reid
Importance: High

Good morning

The email enquiry below was received at the Central Enquiry Unit today.

I would be grateful if you would deal with this or forward it to the appropriate person / area of business.

You may wish to acknowledge receipt of this email to the enquirer.

Thank you

[REDACTED]

[REDACTED]

Central Enquiry Unit

Reminder: If this email contains a request for information please remember that the Scottish Government is required to respond to all requests for information including e-mails, within 20 working days of receipt in accordance with the Freedom of Information (Scotland) Act. [FOI Guidance](#) A leaflet 'How to Open Government' is available for members of the public, the FOI unit recommend that you send a copy with your response.

All FOI requests received must be registered on the FOI Tracker. Please click here to access the [FOI tracker](#) .

 Please consider the environment before printing this e-mail

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Be a champion in your life and Back Our Bid [Here](#)



-----Original Message-----

From: Richie Reid [<mailto:request-367723-a2614f23@whatdotheyknow.com>]

Sent: 27 October 2016 07:59

To: Central Enquiry Unit

Subject: Freedom of Information request - Stolen oil?

Dear Scottish Government,

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move annually, or alternatively, an explanation for the creation of the new border and why it is not challenged by the current Scottish Government.

Yours faithfully,

Richie Reid

Please use this email address for all replies to this request:

request-367723-a2614f23@whatdotheyknow.com

Is ceu@gov.scot the wrong address for Freedom of Information requests to Scottish Government? If so, please contact us using this form:

https://www.whatdotheyknow.com/change_request/new?body=scottish_government

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

<https://www.whatdotheyknow.com/help/officers>

For more detailed guidance on safely disclosing information, read the latest advice from the ICO:

<https://www.whatdotheyknow.com/help/ico-guidance-for-authorities>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

This email has been received from an external party and
has been swept for the presence of computer viruses.

2.

From: [REDACTED] **On Behalf Of** Energy and Climate Change - Business Management

Sent: 27 October 2016 10:23

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: FOI - E - Stolen oil? - Richie Reid

Importance: High

[REDACTED],

As discussed with Stephen.

[REDACTED]

[REDACTED]

3.

From: [REDACTED]

Sent: 09 November 2016 14:42

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Hi [REDACTED]

As discussed on the phone here is the FOI request, I'd be grateful if you can have a quick look and let me know if it's something you guys can help with.

Thanks

[REDACTED]

[REDACTED]

[REDACTED]

I work at the Scottish Government and I have received an FOI request looking for information held from pre-devolution -

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move

annually, or alternatively, an explanation for the creation of the new border and why it is not challenged by the current Scottish Government.

Our FOI team has advised that information relating to discussions of the maritime boundary (as part of developing the Scotland bill in the mid 90's) may be available through NRS – can you please advise whether you would have this information, if it is 'open' and if so how the requester could access it?

I'm happy to discuss or provide extra information if needed

Thank you for your help

[REDACTED]

[REDACTED]

4.

From: [REDACTED]

Sent: 10 November 2016 10:13

To: [REDACTED]

Subject: FW: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

[REDACTED]– apologies, I also meant to send you the link to our [online catalogue](#).

5.

From: [REDACTED]

Sent: 10 November 2016 15:45

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Hi [REDACTED]

I haven't heard back from [REDACTED] in the FOI unit yet but as the deadline is approaching (Ideally get to Spads/Minister by the end of next week), I'd appreciate it if you could let me know if there is any realistic chance of us having statistics pertinent to the question asked – how much revenue lost by the move in the maritime border and potentially why the current government does not challenge the agreement?

No huge rush but if you have anything it would be good to get it by COP Wednesday (if possible)

FOI request in full:

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move annually, or alternatively, an explanation for the creation of the new border and why it is not challenged by the current Scottish Government.

Thanks for your help and let me know if you'd like to discuss.

[REDACTED]

6.

From: [REDACTED]

Sent: 16 November 2016 11:21

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Hi [REDACTED]

It is a nil response from myself, [REDACTED] and [REDACTED] on any statistics which detail the loss in revenue to Scotland due to changes in offshore demarcation lines. I can also confirm that I have asked [REDACTED], who works on the Government Expenditure and Revenue Scotland publication which contains analysis of revenues from oil and gas production, and he has also provided a nil response.

Kind regards

[REDACTED]

7.

From: [REDACTED]

Sent: 18 November 2016 09:19

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

[REDACTED]

I don't have any knowledge of the basis on which the maritime boundary was set. Have you asked Marine Scotland?

[REDACTED]

8.

From: [REDACTED]

Sent: 21 November 2016 15:13

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Importance: High

[REDACTED]

[REDACTED] suggested you may be able to help with the following FOI request;

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move annually, or alternatively, an explanation for the creation of the new border and why it is not challenged by the current Scottish Government.

I have looked into whether we hold the relevant information and info from the time of devolution has been moved to National Records Scotland, [REDACTED]

I would be grateful if you can advise whether you have any of the requested information and if you can advise on the question of why the marine boundary is not challenged.

Unfortunately the deadline is now approaching (COP Thursday), apologies for not coming to you earlier – I'd be very grateful if you could respond as soon as possible.

Happy to discuss.

Thanks for your help

[REDACTED]

[REDACTED]

9.

From: [REDACTED]

Sent: 21 November 2016 15:16

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Importance: High

[REDACTED]

Can you liaise with [REDACTED] on this please?

[REDACTED]

10.

From: [REDACTED]

Sent: 21 November 2016 16:19

To: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Thanks [REDACTED]– very helpful

11.

From: [REDACTED]

Sent: 23 November 2016 08:41

To: [REDACTED]

Subject: FW: media query - Scottish Independent Radio - Estimate of lost GDP from 'Appropriated' Scottish waters?

[REDACTED]

I had a nagging idea that OCEA may have stated something and I found this e-mail from early 2015. it should help. OCEA haven't looked into 'the lost fields'.

Martyn

[REDACTED]

12.

From: [REDACTED]

Sent: 23 November 2016 14:52

To: [REDACTED]

Cc: [REDACTED]

Subject: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

[REDACTED]

Before sending to SPADS I'd like to check whether you are comfortable with the current response.

[REDACTED]— sorry if this has come out of the blue, I have included you as the explanation of why we do not have the information is partly based on [REDACTED]

Happy to discuss

Kind regards

[REDACTED]

14.

From: [REDACTED]

Sent: 23 November 2016 15:37

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

[REDACTED]

I've tracked a few small changes, along with explanatory comments. Otherwise, I'm content with your response.

Regards

[REDACTED]

15.

From: [REDACTED]

Sent: 23 November 2016 15:32

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Hi [REDACTED],

I am content, and confirm that we have not done any analysis using other boundaries.

Thanks

[REDACTED]

17.

From: [REDACTED]

Sent: 23 November 2016 15:32

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Hi [REDACTED],

I am content, and confirm that we have not done any analysis using other boundaries.

Thanks

[REDACTED]

19.

From: [REDACTED]

Sent: 23 November 2016 15:56

To: [REDACTED]

Cc: [REDACTED]

Subject: Re: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

[REDACTED]

To the best of my knowledge this is correct. Might seem a pedantic point but are we certain that the records have been transferred to Public Records [REDACTED]. Forgive my question, just an FOI novice and paranoid. Ignore me if I am being naive.

[REDACTED]

Sent from my BlackBerry 10 smartphone on the EE network.

20.

From: [REDACTED]

Sent: 23 November 2016 16:02

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

[REDACTED]

Yes, the Scotland Bill records have been transferred to the NRS.

[REDACTED]

See our [FOI SharePoint site](#) for detailed FOI guidance.

Please note I am out of the office on Fridays.

21.

From: [REDACTED]

Sent: 23 November 2016 16:40

To: [REDACTED]

Cc: [REDACTED]

Subject: FoI/16/01675 request for clearance

[REDACTED]

We have received the following FOI request;

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move annually, or alternatively, an explanation for the creation of the new border and why it is not challenged by the current Scottish Government.

I have attached a draft response and I would be grateful for clearance/comments.

Background

The deadline for the FOI is 24/11/16 - although this is unlikely to be met.

I have discussed the FOI with OCEA and Marine Scotland colleagues. Records relating to the Scotland Bill, which created the maritime boundary, have been moved to National Records Scotland. I have been advised that we do not hold statistics which detail loss of revenue to Scotland.

The request for an explanation of why the border is not challenged has been answered in accordance with Marine Scotland lines from similar queries. Two letters have been sent by the Scottish government to UKG in 2009 and 2015 – [REDACTED].

If you have any questions please let me know.

Kind regards

[REDACTED]

22.

From: [REDACTED]

Sent: 24 November 2016 13:42

To: [REDACTED]

Cc: [REDACTED] Freedom of Information; [REDACTED]Energy and Climate Change - Business Management; [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

Thank you [REDACTED]

I have attached the two letters and the response that we received to the 2009 letter – no response was received from DEFRA/Liz Truss for the 2015 letter.

The 2015 letter in particular highlights our issue with the Maritime Boundary.

I have also attached the email that I received advising on lines taken for similar queries in the past, the relevant part is:

and why it is not challenged by the current Scottish Government'

- The matter was covered in 'Scotland's Future' (Question 559) in 2014 which said 'the setting of maritime boundaries for an independent Scotland will be guided by international law'. In the absence of agreement between parties, maritime boundaries are settled by the United Nations Convention of the Law of the Sea in accordance with international law.
- if asked about the boundary, there were many queries about the time of the referendum any Ministerial replies / ORs say "The Scottish Government will seek appropriate opportunities to ask the UK Government to review the 1999 North Sea boundary between Scotland and England."
- we have written to the UK Government on the matter, as there were some technical issues with the Order on the west coast (Wendy may know more on this) and not had a reply – see attached letter from Mr Lochhead to Liz Truss from April 2015.

[REDACTED]– although Marine Scotland colleagues may wish to comment on this;

The Scottish Government remain concerned about the approach taken to designate the boundaries when the 1999 Order was approved by the UK Parliament. We have written to UK Ministers and DEFRA highlighting the significant inconsistency, and technical issues regarding the boundary lines drawn under the 1999 Order to delimitate Scottish and English Waters. We will continue to seek appropriate opportunities to ask the UK Government to review the 1999 North Sea boundary between Scotland and England in future.

Kind regards

[REDACTED]

23.

From: [REDACTED]

Sent: 24 November 2016 13:59

To: [REDACTED]

Cc: [REDACTED]

Subject: FW: FoI/16/01675 request for clearance

[REDACTED]

Copying you in in [REDACTED]absence in case you have comments on the suggested response to being asked why SG has not challenged the England/Scotland maritime boundary.

Kind regards

[REDACTED]

24.

From: [REDACTED]

Sent: 24 November 2016 16:42

To: [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

[REDACTED]

A few minor tweaks suggested from me in the draft response (attached) , and in the strengthened line below.

[REDACTED] is back in the office tomorrow.

Kind regards

[REDACTED]

A suggestion for a strengthened line – although Marine Scotland colleagues may wish to comment on this;

The Scottish Government remain concerned about the approach taken to designate the boundaries when the 1999 Order was approved by the UK Parliament. We have written to UK Ministers and DEFRA highlighting the significant inconsistency, and technical issues regarding the boundary lines drawn under the 1999 Order to delimitate Scottish and English Waters. We will continue to seek appropriate opportunities to ask the UK Government to review the 1999 **Order and** North Sea boundary between Scotland and England in future.

25.

From: [REDACTED]

Sent: Thursday, 24 November 2016 17:00

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

Thanks [REDACTED]

[REDACTED]– Can you please take into account [REDACTED]amendments (in attachment and suggested strengthened line below), and potentially any comments that come through from [REDACTED]before putting to [REDACTED]tomorrow?

The Scottish Government remain concerned about the approach taken to designate the boundaries when the 1999 Order was approved by the UK Parliament. We have written to UK Ministers and DEFRA highlighting the significant inconsistency, and technical issues regarding the boundary lines drawn under the 1999 Order to delimitate Scottish and English Waters. We will continue to seek appropriate opportunities to ask the UK Government to review the 1999 Order and North Sea boundary between Scotland and England in future.

[REDACTED]- I will not be in the office tomorrow so if you have comments or amendments I'd appreciate it if you can put them to [REDACTED]and [REDACTED] directly in order to keep this moving forward.

Kind regards

[REDACTED]

26.

From: [REDACTED]

Sent: 24 November 2016 17:04

To: [REDACTED]

Cc: [REDACTED]

Subject: Re: FoI/16/01675 request for clearance

[REDACTED]

Managed to see this on blackberry - nothing more to ad.

[REDACTED]

Sent from my BlackBerry 10 smartphone on the EE network.

27.

From: [REDACTED]

Sent: 24 November 2016 17:43

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

Just spotted a wee typo “moundaries” should be “boundaries” in last para of page 1!

[REDACTED]

29.

From: [REDACTED]

Sent: 29 November 2016 17:26

To: [REDACTED]

Cc: [REDACTED] Freedom of Information; [REDACTED]; Energy and Climate Change - Business Management; [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

Thanks [REDACTED]

[REDACTED]

We should also stress that no response was received from [REDACTED].

One final point: the strengthened lines include “deliminate”. Do we mean delineate?

[REDACTED]

30.

From: [REDACTED]

Sent: 29 November 2016 17:48

To: [REDACTED]

Cc: [REDACTED]; Freedom of Information; [REDACTED]; Energy and Climate Change - Business Management; [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

Thank you [REDACTED]

[REDACTED]

Re. Deliminate – this is the word that was used in the 2015 letter to Liz Truss, I had looked it up as I wasn't sure about it but I thought it may be a technical term. 'Delineate' does seem to cover the meaning and is more normal language so I will use that instead – unless Marine Scotland Colleagues advise otherwise.

[REDACTED]

31.

From: [REDACTED]

Sent: 30 November 2016 08:15

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

[REDACTED]

I think we should have used 'delimit' or 'delimitate' instead and the Liz Truss letter may have been a mistake of wording. but let's not hold this up any more and go with go with 'delineate'.

[REDACTED]

33.

From: [REDACTED]

Sent: 05 December 2016 12:57

To: [REDACTED]

Subject: FW: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Oil and Gas team

You will be aware that we have received the following FOI request;

FOI request in full:

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move annually, or alternatively, an explanation for the creation of the new border and why it is not challenged by the current Scottish Government.

Apologies for not sending a formal request for information sooner. If you have any information relevant to this request please let me know today.

Thanks for your help and let me know if you'd like to discuss.

[REDACTED]

34.

From: [REDACTED]

Sent: 05 December 2016 13:03

To: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Can I just say, happily a nil for me! ☺

[REDACTED]

36.

From: [REDACTED])

Sent: 05 December 2016 13:04

To: [REDACTED]

Subject: FW: FOI annex response

[REDACTED] – can we discuss please, I'll try calling.

[REDACTED]

37.

From: [REDACTED]

Sent: 05 December 2016 14:58

To: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Nil from me, [REDACTED].

Cheers,

[REDACTED]

39.

From: [REDACTED]

Sent: 05 December 2016 15:03

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI annex response

[REDACTED],

Thanks, happy with this updated text. Copying [REDACTED] back in to edit draft response.

[REDACTED]

40.

From: [REDACTED]

Sent: 05 December 2016 15:05

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI annex response

Thanks both

41.

From: [REDACTED]

Sent: 05 December 2016 17:56

To: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

[REDACTED],

I can confirm that I do not hold any information within the scope of this request.

In 2014, field information was gathered by officials on a range of North Sea assets for an internal project, this did not include statistics on the loss of revenue to Scotland.

[REDACTED]

43.

From: [REDACTED]

Sent: 05 December 2016 18:05

To: Minister for Business, Innovation and Energy

Cc: [REDACTED] Freedom of Information; [REDACTED]; Energy and Climate Change - Business Management; [REDACTED]; Cabinet Secretary for the Rural Economy and Connectivity

Subject: RE: FoI/16/01675 request for clearance

Mr Wheelhouse

Please find attached a draft response to the following FOI request for Ministerial review and clearance;

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move annually, or alternatively, an explanation for the creation of the new border and why it is not challenged by the current Scottish Government.

Background

The draft response has been cleared by SPADs – [REDACTED] please note, a minor change has been made to Annex A to better match the enquirer's question which specifically refers to statistics.

[REDACTED], I became aware late in the day that some documents were potentially in scope and spent some extra time investigating this.

I have discussed the FOI with OCEA and Marine Scotland colleagues. Records relating to the Scotland Bill, which created the maritime boundary, have been moved to National Records Scotland. I have been advised that we do not hold statistics which detail loss of revenue to Scotland.

The request for an explanation of why the border is not challenged has been answered in accordance with Marine Scotland lines from similar queries. Two letters have been sent by the Scottish Government to UKG in 2009 and 2015 and no reply was received from the UK Government to the 2015 letter, these letters have been attached as an annex to the response.

Kind regards

[REDACTED]

44.

From: [REDACTED]

Sent: 14 December 2016 16:02

To: Minister for Business, Innovation and Energy

Subject: FW: FoI/16/01675 request for clearance

[REDACTED]

Are you able to advise on when the Minister will be able to consider this FOI?

If there is anything else that I need to provide please let me know.

Thanks

[REDACTED]

45.

From: [REDACTED]

Sent: 20 December 2016 15:02

To: Minister for Business, Innovation and Energy

Subject: RE: FoI/16/01675 request for clearance

Hi [REDACTED]

Is there any update on this FOI?

Thanks

[REDACTED]

46.

From: [REDACTED]

Sent: 20 December 2016 16:41

To: Minister for Business, Innovation and Energy

Subject: RE: FoI/16/01675 request for clearance

Thanks

47.

From: [REDACTED]

Sent: 05 January 2017 16:50

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FOI - E - Stolen oil? - Richie Reid - FOI/16/01675

Hi [REDACTED],

I would imagine it would be any activities. I can't think of any estimates that have been produced for the impact of the change on other areas. I also can't think of any other activities that would be affected by this change. E.g. fishing revenue would be reported on where the ship is harboured, and I don't think there are any offshore windfarms in the area.

[REDACTED]

48.

From: [REDACTED]

Sent: 09 January 2017 12:22

To: [REDACTED]

Cc: [REDACTED]; Freedom of Information; [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

Thanks [REDACTED]

[REDACTED] - I'd appreciate it if you could let me know what you think before I respond to Mr Wheelhouse.

Happy to discuss on the phone if that would be easier – I'm on [REDACTED].

Kind regards

[REDACTED]

49.

From: [REDACTED]

Sent: 12 January 2017 15:11

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

[REDACTED]

looks fine to me.

[REDACTED]

50.

From: [REDACTED]

Sent: 12 January 2017 15:22

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

Thanks

I will re-send to the Minister this afternoon then.

[REDACTED]

51.

From: [REDACTED]

Sent: 12 January 2017 15:23

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: FoI/16/01675 request for clearance

[REDACTED]

I have some comments on the FOI response which I will send you shortly.

[REDACTED]

[REDACTED]

See our [FOI SharePoint site](#) for detailed FOI guidance.

Please note I am out of the office on Fridays.

52.

From: [REDACTED] On Behalf Of DG Economy

Sent: 23 January 2017 11:46

To: [REDACTED]

Cc: DG Economy

Subject: FW: FOI - REVIEW - Internal review of Freedom of Information request - Stolen oil? - Richie Reid

[REDACTED]

I see that you dealt with Mr Reid's FOI request previously. Will you be taking forward a reply to the latest query from Mr Reid?

Thank you

[REDACTED]

[REDACTED]

-----Original Message-----

From: Central Enquiry Unit

Sent: 20 January 2017 11:42

To: DG Economy

Subject: FOI - REVIEW - Internal review of Freedom of Information request - Stolen oil? - Richie Reid

The email enquiry below was received at the Central Enquiry Unit today.

I would be grateful if you would deal with this or forward it to the appropriate person / area of business.

You may wish to acknowledge receipt of this email to the enquirer.

Thank you

[REDACTED]

Central Enquiry Unit

Reminder: If this email contains a request for information please remember that the Scottish Government is required to respond to all requests for information including e-mails, within 20 working days of receipt in accordance with the Freedom of Information (Scotland) Act. Please refer to the FOI Guidance.

All FOI requests received must be registered on the FOI Tracker.

If the request is from a journalist, responses should be issued by the relevant communications team. Please ensure that you involve them throughout the process

and also clear your draft response with SPADs and Ministers. Guidance on this is available at Steps 33 and 34 of the Step-by-Step Guide to Handling FOI/EIRs Requests.

-----Original Message-----

From: Richie Reid [<mailto:request-367723-a2614f23@whatdotheyknow.com>]

Sent: 20 January 2017 11:25

To: Central Enquiry Unit

Subject: Internal review of Freedom of Information request - Stolen oil?

Dear Scottish Government,

Thank you for your response.

Having had the time to peruse the contents, I would still like to continue with the Internal Review, and the request for further documentation, that I requested on 4 January 2017.

Firstly, I remain unhappy with the time taken for my request to be dealt with and secondly my query was specific to the “shifting a number of oil fields from Scotland waters to England” and I feel that your response has been rather obtuse. I have no interest in the effects of the change in border in relation to fishing activities.

The letters you have attached dated the 23 March 2009 and 1 April 2015 state that the Scottish Government has voiced “its concerns in Government over the loss of a substantial area of the Scottish fishing zone” and that the boundary determines, “which areas of seas within British fishery limits – are adjacent to Scotland and which are not”. I can find no reference to oil within these letters.

I am well aware that the act involved was the Scottish Adjacent Waters Boundaries Order 1999 and I am also aware that the change was debated in Parliament with particular reference made that, “The boundary provided by the draft order has particular significance for sea fisheries. I wish to make it clear—though it should be self-evident—that the boundary has no significance for other matters at sea which are reserved. In particular, it has no relevance to the regulation of oil and gas exploration and production at sea since these are reserved matters.”

Perhaps you could simply clarify if this is the case or if the Scottish Government disagrees with this assertion, and if so why there appears to have only been two letters, since 1999, relating to the change in fishing boundaries, and not oil boundaries. You could also clarify the names of any fields which are now in English Waters as a result of this Act, or if they remain within the Scottish Civil Jurisdiction offshore activities boundary, and therefore within Scottish Waters, as detailed in the map at the below link:

<http://www.gov.scot/Topics/marine/seamanagement/national/seaarea>

Yours faithfully,

Richie Reid

-----Original Message-----

Mr Reid

Apologies again for the delay in responding. Please find attached response to your request as well as a separate response outlining the Scottish government position on the current Maritime Boundary.

Kind regards

[REDACTED]

References

Visible links

1. <http://www.scotland.gov.uk/>

Please use this email address for all replies to this request:
request-367723-a2614f23@whatdotheyknow.com

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:
<https://www.whatdotheyknow.com/help/officers>

For more detailed guidance on safely disclosing information, read the latest advice from the ICO:
<https://www.whatdotheyknow.com/help/ico-guidance-for-authorities>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

This email has been received from an external party and
has been swept for the presence of computer viruses.

53.

From: [REDACTED]

Sent: 25 January 2017 11:18

To: [REDACTED]

Cc: DG Economy; [REDACTED]

Subject: FW: FOI - REVIEW - Internal review of Freedom of Information request - Stolen oil? - Richie Reid

Hi [REDACTED]

Mr Reid has come back with some further questions to the FOI response that was sent - asking whether we agree the maritime boundary only affects fishing - not Oil and Gas, why we have only written twice, and asking about what oil fields 'are now in English waters' with a link. (our economists may be able to identify which oil fields are in a specified section of the map if this is helpful).

Full question is in the email trail below.

Are you/your team able to respond to the questions?

[REDACTED]- Separately Mr Reid has asked for a review of the FOI (on 4 Jan) which I wasn't aware of, Is there anything that I need to do about this or is it already being taken forward by FOI team? I will close off the FOI today, it is still open as I am making sure everything is in the case file, it is relatively organised etc..

[REDACTED]

54. Draft Final Response

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Mr Reid,

Thank you for your request dated 27/10/2016 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move annually, or alternatively, an explanation for the creation of the new border and why it is not challenged by the current Scottish Government.

Response to your request

While our aim is to provide information whenever possible, in this instance the Scottish Government does not have the information you have requested. The reasons why we do not have this information are set out in Annex A.

You may find it helpful to know that:

- Information about discussions relating to the maritime boundary prior to devolution, and the reasons behind the creation of that boundary, may be held on files relating to the Scotland Bill by National Records Scotland (NRS) which are open to the public, the NRS online catalogue is available here: <http://catalogue.nrscotland.gov.uk/nrsonlinecatalogue/welcome.aspx>. Alternatively NRS can be contacted on 0131 535 1314.
- Legislation (The Scottish Adjacent Waters Boundaries Order 1999) concerning the maritime boundary was passed by the UK government and you can find a record of the parliamentary debate in Hansard. See these links. <http://hansard.millbanksystems.com/lords/1999/mar/23/scottish-adjacent-waters-boundaries>

and

http://www.publications.parliament.uk/pa/cm199899/cmhansrd/vo990324/debt_ext/90324-49.htm

~~You further asked why the Scottish Government has not challenged the creation of the boundary. This part of the request does not fall under the Freedom of Information Scotland Act and we have therefore responded in a separate letter.~~

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to;

Chris Stark, Director – Energy and Climate Change, Chris.stark@gov.scot

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

REASONS FOR NOT PROVIDING INFORMATION

The Scottish Government does not have the information

The Scottish Government does not have the information you have asked for [about the Scottish maritime boundary](#) because [that was a matter for the UK Government, which was agreed before the Scottish Government was established, and](#) records relating to the Scotland Bill [will](#) have been transferred to National Records Scotland in accordance with ~~our~~ standard records management practice.

In addition, all Scottish Government statistics on oil and gas production and revenues are produced using the 1999 boundary, and we do not hold statistics which detail any loss of revenue to Scotland compared to an alternative boundary.

[We do not have the information you requested about why the boundary is not challenged by the Scottish Government because we have raised concerns about it with the UK Government. I am sending you a separate letter explaining the Scottish Government's position in relation to the boundary.](#)

This is a formal notice under section 17(1) of FOISA that the Scottish Government does not have the information you have requested.

REQUEST UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 (FOISA)

Mr Reid,

Thank you for your request dated 27/10/2016 under the Freedom of Information (Scotland) Act 2002 (FOISA).

Your request

I have recently read with interest a number of articles, and indeed a petition, which states that, just prior to devolution, a deal was done between Donald Dewar and Gordon Brown to move the Scottish offshore boundary north, thereby shifting a number of oil fields from Scotland waters to England.

I would like to submit an FOI request for either, any held details of this "deal" and for any available statistics which detail the loss in revenue to Scotland due to this move annually.

Response to your request

While our aim is to provide information whenever possible, in this instance the Scottish Government does not have the information you have requested. The reasons why we do not have this information are set out in Annex A.

You may find it helpful to know that:

- Information about discussions relating to the maritime boundary prior to devolution may be held on files by National Records Scotland (NRS) which are open to the public, the NRS online catalogue is available here: <http://catalogue.nrscotland.gov.uk/nrsonlinecatalogue/welcome.aspx>. Alternatively NRS can be contacted on 0131 535 1314.
- Legislation (The Scottish Adjacent Waters Boundaries Order 1999) concerning the maritime boundary was passed by the UK government and you can find a record of the parliamentary debate in Hansard. See these links. <http://hansard.millbanksystems.com/lords/1999/mar/23/scottish-adjacent-waters-boundaries>

and

http://www.publications.parliament.uk/pa/cm199899/cmhansrd/vo990324/debt_ext/90324-49.htm

You further asked why the Scottish Government has not challenged the creation of the boundary.

The Scottish Government remain concerned about the approach taken to designate the boundaries when the 1999 Order was approved by the UK Parliament. We have written to UK Ministers and DEFRA highlighting the significant inconsistency, and technical issues regarding the boundary lines drawn under the 1999 Order to delineate Scottish and English Waters, these letters are attached at annex B. We received no response to our most recent letter sent 1 April 2015. We will continue to seek appropriate opportunities to ask the UK Government to review the 1999 Order and North Sea boundary between Scotland and England in future.

Your right to request a review

If you are unhappy with this response to your FOI request, you may ask us to carry out an internal review of the response, by writing to;

Chris Stark, Director – Energy and Climate Change, Chris.stark@gov.scot

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

REASONS FOR NOT PROVIDING INFORMATION

The Scottish Government does not have the information

The Scottish Government does not have the information you have asked for because records relating to the Scotland Bill have been transferred to National Records Scotland in accordance with our standard records management practice. In addition, all Scottish Government statistics on oil and gas production and revenues are produced using the 1999 boundary, and we do not hold statistics which detail any loss of revenue to Scotland compared to an alternative boundary.

This is a formal notice under section 17(1) of FOISA that the Scottish Government does not have the information you have requested.

ANNEX B

Letters to UK Government from Scottish Government regarding Marine Boundary

1. Letter from Scottish Government Officials to DEFRA, 23/03/2009

Marine Directorate

Sea Fisheries (Conservation) Division

Andrew Brown

T: 0131-244 6430 F: 0131-244 6474

E: andrew.d.brown@scotland.gsi.gov.uk



Richard Pullen

DEFRA

Sea Fisheries Conservation Division

2nd Floor

Nobel House

17 Smith Square

London

SW1P 3JR



23 March 2009

Dear Richard

I am writing to inform you that the Scottish Government is reviewing the Scottish Adjacent Waters Boundary Order 1999. The Scottish National Party made clear its opposition to this Order at that time and has continued to voice its concerns in Government over the loss of a substantial area of the Scottish fishing zone.

The line created by the 1999 Order bisected the Berwick Bank fishing ground. Thus fishing vessels active in that area could be subject to 2 separate management regimes, making compliance and enforcement that more complex.

We are currently reviewing the basis on which the boundary line was drawn on the east coast to delimitate Scottish and English waters. We believe there are alternative boundaries which would provide a more appropriate designation of waters between England and Scotland. For example, one option preferable to the current boundary would be a boundary based on the Continental Shelf (Jurisdiction) Order 1968. We note that while there are various international arrangements for determining boundaries, fundamentally it is a matter for jurisdictions to agree what are the appropriate marine boundaries.

I look forward to hearing from you.

Andrew Brown

Sea Fisheries Conservation Division

2. Letter from Cabinet Secretary for Rural Affairs, Food and the Environment to the Rt. Hon. Elizabeth Truss MP, 01/04/2015

Cabinet Secretary for Rural Affairs, Food and the Environment
Richard Lochhead MSP

F/T: 0300 244 4000
E: scottish.ministers@scotland.gsi.gov.uk



Rt. Hon. Elizabeth Truss MP
Secretary of State
Department for Environment, Food and Rural Affairs (Defra)
Nobel House
17 Smith Square
London
SW1P 3JR



1st April 2015

Dear Elizabeth,

The Scottish Adjacent Waters Boundary Order 1999

The Scottish Adjacent Waters Boundaries Order 1999 (S.I. 1999/1126) currently establishes boundaries for the purpose of determining which areas of UK internal waters and territorial sea - and which areas of sea within British fishery limits - are adjacent to Scotland and which are not.

I remain concerned about the approach taken to designate the boundaries when the 1999 Order was approved by the UK Parliament.

In March 2009, my officials in Marine Scotland wrote to DEFRA highlighting my concerns regarding the boundary lines drawn under the 1999 Order to delimitate Scottish and English Waters. I understand that at that time there was no intention to take forward a review or make any changes to the Scottish Adjacent Waters Boundaries Order 1999.

As you may be aware, there is a significant inconsistency, of some 6000 square miles, between the North Sea boundary between Scotland and England on the East Coast under the Order and the boundary used in the Civil Jurisdiction (Offshore Activities) Order 1987.

In addition, there is a technical issue regarding the drafting of the 1999 Order in relation to provision which sets out the boundary on the West Coast within the River Esk, adjacent to the River Sark. This is due to a change of the course of the River Esk since the 1999 Order was made. This has recently been recognised by the Delegated Powers and Law Reform Committee of the Scottish Parliament in their consideration of the draft Scottish Marine Regions Order 2015.

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



I am writing now to ask that you now reconsider the position and take forward review of the Scottish Adjacent Waters Boundaries Order 1999.

I am copying this letter to Michelle O'Neill MLA, the Agriculture and Rural Development Minister for Northern Ireland.

*With regard,
Richard*

RICHARD LOCHHEAD

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot

