



Cosses Country House

Ballantrae, Ayrshire KA26 0LR.

Telephone: 01465 831363.

Facsimile: 01465 831598.

E-mail: staying@cossecountryhouse.com

www.cossecountryhouse.com

**For the Attention of CEO, Legal, Environmental Health and Planning Depts. of
Scottish Councils
24th July 2015**

Dear Sir or Madam,

A Request for Action under Article 12 of The Environmental Liabilities Directive **2004/35/CE** was sent to the First Minister on 12th July 2015. DECC, DEFRA, and various Scottish Government Departments have also received the same Request for Action.

Windfarm Development in Scotland is breaching The Environmental Liabilities Directive and the Water Frameworks Directive 2000/60/EC.

Competent authorities: Scottish Environmental Protection Agency/Scottish Water/Forestry Commission Scotland/Scottish National Heritage/Drinking Water Quality Regulator/Councils and the Scottish Government have failed in their legal duty to protect the water environment. Developments have not been monitored or assessed according to the legal requirements *as defined in Directive 2000/60/EC Article 8* during the preparation, construction, operation and decommissioning of windfarms. This windfarm construction, operation and decommissioning has resulted in the polluting of water catchment areas resulting in the deterioration, and in some cases contamination, of water supplies.

ELD 2004/35/CE Article 11- Competent authority

1. Member States shall designate the competent authority(ies) responsible for fulfilling the duties provided for in this Directive.



2. The duty to establish which operator has caused the damage or the imminent threat of damage, to assess the significance of the damage

WFD 2000/60/EC (11) *As set out in Article 174 of the Treaty, the Community policy on the environment is to contribute to pursuit of the objectives of preserving, protecting and improving the quality of the environment, in prudent and rational utilisation of natural resources, and to be based on the precautionary principle and on the principles that preventive action should be taken, environmental damage should, as a priority, be rectified at source and that the polluter should pay.*

This 'Request for Action' calls for an immediate independent investigation into hydrological impacts of ALL windfarm developments on water protected zones. Immediate cessation of all further development until the quality and quantity of drinking water dependent on water catchment areas occupied by windfarms can be assured.

Events are proving how damaging to water quality and public health it has been for the previous First Minister Alex Salmond, through the Scottish Water Act, to permit the industrialisation of water catchment areas in Scotland via wind power installations. The relevant section of this Act must clearly be repealed so that complete protection of reservoirs, lochs and private water supplies from the effects of industrialisation can be restored.

Councils play a significant role in the process of windfarm development but are 'between a rock and a hard place' protecting their local development plans and being pressured and coerced into consenting industrial windfarms. Once consented, by whatever means, local authorities are under resourced to carry out their monitoring and enforcement task effectively, and to understand and act upon any specialist monitoring results. It is also understood that due to lack of funding, they are almost always without the resources needed to instigate prosecution when developers fail to comply with planning conditions.

There is no effective protective mechanism for PWS if the competent local authority is responsible for protecting a private water supply from the effects of a development, but has no mechanism to insist that a developer find, chart and protect the water source, (rather than a more easily located water collection tank) and is subsequently not responsible for the adverse impacts upon that hydrological environment and water catchment, upon which that water supply depends. There is a serious disconnect in the effectiveness of the whole regulatory and planning process in respect of water and I therefore request that you support this Request for Action.



As you will see by reading the document, it will become obvious that no-one can deny that authorities must be held to account for actions taken and policies imposed. So it is encouraging to know that the Scottish Government and their agencies are already discussing this Request. By supporting this Request for Action through writing to that effect to the First Minister at St. Andrew's House, Regent Road, Edinburgh, EH1 3DG; councils will be able to prove to the electorate in their area that their responsibilities on their behalf are being legitimately carried out.

Article 7 4. The competent authority shall invite the persons referred to in Article 12(1) and in any case the persons on whose land remedial measures would be carried out to submit their observations and shall take them into account.

Yours faithfully,
S. M. Crosthwaite
Susan Crosthwaite

