

8th January 2004
Brian Freeland
ODPM Minerals and Waste Planning Division
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Dear Brian

Partial Regulatory Impact Assessment – Proposal for a Directive of the European Parliament and of the Council on the Management of Waste from the Extractive Industries

The British Aggregates Association represents the interests of some 60 privately-owned and independent quarry companies throughout the UK operating out of over 100 individual sites with some 10% of national output. We also have 20 associate members who have interests in and offer services and equipment to our industry. Some of our members also have asphalt and ready-mix concrete facilities and/or operate landfill sites.

We welcome the opportunity to respond to this assessment and the ongoing discussions and negotiations within both UK and Europe as the Directive proceeds through the co-decision process. We have been closely part of this from early in 2000 directly and through our links with CBI Minerals Committee and the various government departments which we have already had several joint industry meetings with – DTI, HSE, DEFRA and ODPM.

We have seen the EU proposals develop to be increasingly relevant to our industry and broadly less prescriptive and essentially in line with current UK practice. The main areas of potential concern are the treatment of topsoil and overburden, and restoration bonds. In this respect we are concerned at several of the proposed amendments from the EU Parliament Environment Committee rapporteur that have been tabled to the current Commission document.

It has been of paramount importance to our sector that mine waste remains outside the scope of the Landfill Directive as this is not appropriate to the industry. This has been a significant driver in development of the Mine Waste proposals. In light of the recent ECJ case, the absence of metalliferous mining and the current robust nature of the UK regulations the most appropriate action, all things being equal, would be Option 1. The additional items from the EU proposals bring no additional environmental benefits but significant additional costs to an industry already overburdened by recent legislative and fiscal measures – and with already slim profit margins. In this respect we believe that you have underestimated the costs for the increased regulatory burden and of restoration bonds, and overestimated the level of company profits particularly for SMEs. We have recent examples where authorities in England and Wales have sought restoration bonds which are at an effective level of £1 per tonne of annual output; and many SME operations are looking at operating profits at under 5% of turnover.

Option 3 would be the next preferred and you have already annotated the additional burden on industry – with no perceived benefits. We would make the following additional comments in no particular order.

- **Nature of waste.** Whilst not immediately of direct application to the aggregates sector, we have serious concerns with the commissioned BGS report on the production and classification of waste in the UK. There are no mineral "wastes" generated by the overall UK minerals industry in total which would be classified as either dangerous or hazardous within the scope of Article 18 of Directive 75/442/EEC or as defined in the "European waste Catalogue and Hazardous Waste List" and the column "waste classification" in table 6 should reflect this. In this respect the inclusion of calcite waste as hazardous in their report has unnecessary potential implications for all limestone producers, and the commentary on vein minerals also for our Derbyshire members.
- **Waste placement.** Item (13-15). We would note that all waste in the UK industry is either inert or non-hazardous. As well as being used to fill voids, any surplus quantities are not just used to make heaps. It is also used for other uses such as artificial topsoil in general restoration, site screening etc.
- **Water pollution.** Item (20) should reflect that acid mine drainage was the EU concern in the Directive and not water pollution generally which is separately and adequately covered in the Water Directive.
- **Additional requirements over UK current practice.** Item (24-25). Much of this area is already covered currently within the scope of planning applications – and the most flexible Directive would encompass current UK practice without UK legislative change.
- **Impact on SMEs.** Item (83). We would reiterate the points you have already noted. In addition costs of preparation of documents, checks and monitoring would be in our opinion considerably higher than the £25K per site cost you estimate – possibly by a factor of 3-4.
- **Transposing.** Item (86). This is a continuing cause of concern in the UK where we believe there is significant gold-plating partly as a consequence of the UK case law against the EU Napoleonic law norm which looks for general principles rather than detailed prescription; and partly to avoid perceived possible infractions. We would seek that the ideal would be a final Directive with essentially no changes to the existing framework, no additional financial burden – and most importantly no additional involvement of other competent authorities which would be effectively duplication e.g. Environment Agency.

Thank you for this opportunity to respond and we trust that our points will be considered. If you require any further information or clarification, please do not hesitate to contact me further.

Yours Sincerely

**Peter Huxtable
MA(Cantab) CEng FIQ FIMMM
Secretary**