

## EIR E0008249 Response

Dear [REDACTED],

Thank you for your information request of 24/10/11. You requested the following information:

*Details of correspondence (emails, letters) and meetings (agendas and minutes) between Ministers, and senior civil servants and*

*\* Canadian government ministers and senior civil servants;*

*\* Albertan ministers and senior civil servants;*

*\* Senior executives from BP and or Shell;*

*concerning the tar sands / oil sands and the Fuel Quality Directive since 1 September 2011.*

Your request has been considered under the Environmental Information Regulations 2004 ("the EIRs").

I am writing to confirm that the Department for Transport has now completed its search for the information.

A copy of the following information is attached. These documents have had personal data and/or signatures redacted under Regulation 13 of the EIRs:

Originator	Document
Shell	120911_Shell_oil_sands_presentation_redacted*
Shell	120911_Shell_fqd_presentation_redacted*

\* We are withholding some data in this listed document. Please see our reasons below.

We also hold a piece of information that is a letter from Paul Mather of BP to Norman Baker PM, which we understand has been supplied to you by colleagues at DECC and we are therefore not proposing to supply a duplicate.

In addition to the above information which we are releasing, we are also withholding some information under the exceptions in Regulations 12(4)(d), 12(4)(e), 12(5)(a), 12(5)(e) and 12(5)(f) of the Environmental Information Regulations 2004.

The details of the information we are withholding can be seen in the table below:

Originator	Document
DfT	A briefing note prepared for Norman Baker MP prior to a meeting with Shell

DfT	An internal note summarising a meeting between a DfT official and a Canadian official
Shell	A letter from Shell to Justine Greening MP
Canadian Government	Two notes, a letter to European ambassadors and a letter to the European Commission
Albertan Government	A letter from the Albertan Government to the Department for Transport and an incomplete, unfinished and unsigned draft of this letter

In applying the above exceptions we have had to balance the public interest in withholding the information against the public interest in disclosure. The key public interest factors we have considered for and against disclosure are set out below for each piece of information.

#### **Redactions in Shell's presentations.**

The public interest in releasing the redacted material is small. This material refers to Shell's commercial operations in Alberta and views on the Fuel Quality Directive that do not relate to emissions. In both cases, the material was supplied to the DfT in confidence and the potential benefits of its disclosure are limited while its release could harm the ability of Government to hold candid and frank discussions with stakeholders, diminishing the flow of information received by Government. We have not withheld material in this information that relates to emissions.

#### **Regulation 12(5)(f): Interests of the person who provided the information**

Making volunteered information available to the public could inhibit open and constructive discussions between public authorities and third parties. It is recognised therefore that the supply of volunteered information could diminish if information is later published in response to EIR requests. The information we are withholding under this exception was supplied voluntarily by Shell, without legal obligation, where the Department had no legal right to request such information. The material was provided to Government for the purpose of facilitating discussion on this topic and disclosure in these circumstances may impact the willingness of these stakeholders and others to disclose such information in the future.

#### **Regulation 12(4)(d): Relates to unfinished documents or incomplete data**

In the case of parts of Shell's oil sands presentation, we are also withholding some information under Regulation 12(4)(d). The information being withheld under this exception relates to an emerging vision under development within Shell and the company has indicated that it expects to publish this information once this vision has been formalised. It is currently at an early stage, with completion expected in six to nine months. This vision-in-development reflects aspirations rather than fixed targets or commitments and disclosing this information at this stage would give an incomplete and inaccurate picture of the company's position.

#### **Regulation 12(5)(e): Confidentiality of commercial or industrial information, when protected by law to cover legitimate economic interest**

We are also withholding some information in Shell's oil sands presentation under the exception in Regulation 12(5)(e) as it was received in confidence and Shell has informed us that it is commercially sensitive and not within the public domain. The potential for economic harm to the company and risk of related legal action against the Department outweighs the public interest in release of this information, when a formalised version is expected to be released in the near future.

**Regulation 12(4)(e): Would involve disclosure of internal communications.**

We have redacted hand-written notes made by an official on page 4 of Shell's oil sands presentation as they were meant as a personal aide-memoire and we do not believe there is any value to the public in their release.

**Decision to withhold Ministerial briefing document**

In weighing the public interest for and against disclosure of this information, we assessed the value of the public knowing the Department's stance prior to going into the meeting the briefing covers against the need for officials to be able to brief Ministers on important issues in confidence and openly provide full, detailed information away from the glare of the public eye.

**Regulation 12(4)(e): Would involve disclosure of internal communications.**

The information is a briefing prepared by officials for a Ministerial meeting and its disclosure may affect the ability of officials with expertise in specific policy areas to feel able to provide Ministers with the full facts as they understand them, which in turn may affect the ability of Ministers to take decisions that are based on the best available evidence. It is necessary for officials to have confidence that briefings that they prepare can include all useful information, regardless of whether it is potentially sensitive or not.

**Regulation 12(4)(d): The request relates to material which is still in the course of completion, to unfinished documents or to incomplete data.**

The briefing related to an evolving policy area where the Government's position is yet to be finalised. Disclosing this information would risk giving an inaccurate picture of the Government's position on the issues discussed.

**Decision to withhold internal meeting note**

In weighing the public interest for and against disclosure of this information, we assessed the value of the public being made aware of a junior official's assessment of the Canadian position following a meeting between senior officials against the need to disseminate confidential information internally and the risk of adversely affecting international relationships.

**Regulation 12(4)(e): Would involve disclosure of internal communications.**

The information was prepared by a junior official for internal circulation and its release may affect our ability to effectively share information of this kind internally. There is a clear need to be able to share potentially sensitive information with colleagues engaged in a given policy area but whose

attendance in person at a given meeting may not be possible or is deemed unnecessary. If officials feel restricted in their ability to deliver this kind of feedback due to concerns that it may be disclosed under a future EIR request, it may affect our ability to delegate both meeting attendance and preparation of these kinds of notes, which in turn would impact on our efficiency, with no clear benefit to the public good.

**Regulation 12(5)(a): Disclosure would adversely affect international relations**

The Department recognises the public interest argument in the release of information about a junior official's assessment of the Canadian position on the European Fuel Quality Directive. However, making a junior official's interpretation of volunteered information available to the public could inhibit open and constructive discussions between Governments. It is recognised therefore that the supply of volunteered information could diminish if such information is later published in response to EIR requests. Disclosure of this document has the potential to adversely affect the relationship between the Governments of Canada and the UK, damaging their ability to discuss these and other important issues. We do not believe that on balance, it would be in the public interest to release this information.

**Decision to withhold Material from the Albertan Government**

**Regulation 12(5)(a): Disclosure would adversely affect international relations**

The Department recognises the public interest argument in the release of information about the Albertan Government's views on the European Fuel Quality Directive. Specifically, release of such material would provide primary source information on Alberta's concerns about the Directive and how it might relate to emissions from crudes extracted from oil sands. However, making volunteered information available to the public could inhibit open and constructive discussions between Governments. It is recognised therefore that the supply of volunteered information could diminish if information is later published in response to EIR requests. Disclosure of these documents has the potential to adversely affect the relationship between Alberta and the Governments of Canada and in turn with UK. We do not believe that on balance, it would be in the public interest to release this information. It would damage trust and ability to hold open and frank discussions between Her Majesty's Government and the Canadian authorities on these and other important issues.

**Regulation 12(4)(d): The request relates to material which is still in the course of completion, to unfinished documents or to incomplete data.**

In the case of the draft letter, the document is an unfinished, unofficial and unsigned version of the same document which does not fully represent the originating authority's views. Release could give a misleading and inaccurate impression of the position of the Albertan Government. The EIRs are in place to ensure public access to environmental information and releasing this draft would present a risk of misinformation with no clear advantage to the public interest.

## **Decision to withhold Material from the Canadian Government**

### **Regulation 12(5)(a): Disclosure would adversely affect international relations**

The Department recognises the public interest argument in the release of information about the Canadian Government's views on the European Fuel Quality Directive. Specifically, release of such material would provide primary source information on Canada's concerns about the Directive and how it might relate to emissions from crudes extracted from oil sands. However, making volunteered information available to the public could inhibit open and constructive discussions between Governments. It is recognised therefore that the supply of volunteered information could diminish if information is later published in response to EIR requests. Disclosure of these documents has the potential to adversely affect the relationship of the Canadian Government and the UK, and indeed more generally with other national Governments if we are seen to disclose information freely volunteered in bilateral discussions. We do not believe that on balance, it would be in the public interest to release this information. It would damage trust and ability to hold open and frank discussions between Her Majesty's Government and the Canadian authorities on these and other important issues.

For the reasons set out above, we consider that the public interest arguments for withholding the information discussed outweigh the public interest arguments for its disclosure.

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The information provided may now be published on our website together with any related information that will provide a key to its wider context.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within 40 working days of the date of this letter by writing to the Department's Information Rights Unit at:

Zone D/04  
Ashdown House  
Sedlescombe Road North  
Hastings  
East Sussex TN37 7GA  
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

If you have any queries about this letter please contact me. Please remember to quote the reference number above in any future communications.

Yours

  
Low Carbon Fuels  


## **Your right to complain to DfT and the Information Commissioner**

You have the right to complain within 40 working days of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested. In addition a complaint can be made that DfT has not complied with its publication scheme.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF