

From: [McCoy, Laura](#) on behalf of [Mills, John \(DETI\)](#)
To: [Private Office DETI](#)
Cc: [Rooney, Eugene](#); [McCay, Davina](#); [Sinton, Dan](#); [Moore, Stephen \(DETI\)](#); [DG_DETI Press Office](#); [Aiken, Glynis](#); [Ross, Alastair](#); [Neth_Energy](#)
Subject: FW: Correspondence -- Ref. Number: COR/23/2014 : LUSTY BEG ISLAND - ISSUES WITH DETI
Date: 24 June 2014 14:10:28
Attachments: [COR 283 2014 - Lusty Beg Island - Unresolved difficulties with DETI.tr5](#)
[COR 283 2014 - Lusty Beg Island - Unresolved difficulties with DETI.DOCX](#)

Private Office

Please see attached advice and draft reply from John Mills for the attention of the Minister.

Regards,

Laura McCoy

Personal Secretary
Department of Enterprise, Trade & Investment
Netherleigh
Massey Avenue
Belfast, BT4 2JP
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Please consider the environment - do you really need to print this e-mail?

From: Christine.McLaughlin@detini.gov.uk [<mailto:Christine.McLaughlin@detini.gov.uk>]
Sent: 16 June 2014 09:52
To: Mills, John (DETI)
Cc: Dolaghan, Paul; [Neth_Energy](#); Sterling, David; Thomson, David; Rooney, Eugene; Aiken, Glynis; Stevenson, Valerie (DETI Private Office); [DG_DETI Press Office](#); Hegarty, Damien; [McLaughlin, Christine \(DETI\)](#)
Subject: Correspondence -- Ref. Number: COR/283/2014 : LUSTY BEG ISLAND - ISSUES WITH DETI

DEPARTMENT OF ENTERPRISE, TRADE AND INVESTMENT

URGENT - CORRESPONDENCE

Reference: COR/283/2014

Raised By: Mr David Cadden

Subject: LUSTY BEG ISLAND - ISSUES WITH DETI

Referred To: MILLS JOHN (MR) (Energy Branch)

Date Referred: 16/06/2014

ACTION REQUIRED

Please provide advice and a draft reply for signature by the Minister.

To be with Private Office not later than 23/06/2014 before Close of Play

For further information etc. contact :

Christine McLaughlin (Private Office)
Netherleigh House Tel : Ext 29222

Copied To For Information:

cc Energy

Hegarty Damien (Mr)

McLaughlin Christine (Mrs)

From: John Mills
Energy Division

Date: 24 June 2014

To: 1. Andrew Crawford
2. Arlene Foster MLA

Copy Distribution List Below

COR/283/2014: LUSTY BEG ISLAND – UNRESOLVED DIFFICULTIES WITH DETI

Issue: Mr David Cadden has written to you regarding an issue with RHI funding and Carbon Trust loans.

Timing: Routine

Need for referral to the Executive: None.

Presentational Issues: There is an increasing interest from the public on this issue.

Freedom of Information: Elements of this submission may not be discloseable at present on grounds of policy development.

Financial Implications: None.

Statutory Equality Obligations: There are no Section 75 implications.

PFG/PSA implications: None.

Legislation Implications: None.

Recommendation: A draft response to Mr Cadden is attached at Annex A.

Background

Mr David Cadden has written to you regarding an ongoing issue with funding for a biomass boiler installation at Lusty Beg. Mr Cadden had previously written to you in November 2013 in the same regard. The Lusty Beg biomass project was funded through the Carbon Trust 0% loan scheme and has now applied for funding from the Renewable Heat Incentive.

Carbon Trust loans and the RHI

2. An issue previously arose around the compatibility of RHI support and Carbon Trust loans. After discussions involving Ofgem, DETI and State Aid colleagues, it was agreed that the two were compatible but that in such cases the RHI would be classified as “de minimis” aid. If there is no other state aid, the funding is classified as “operating aid” and there is no such limit.
3. Under EU guidelines a company cannot receive more than €200,000 of de minimis aid over a three year period. An agreement was reached that where an RHI applicant was also in receipt of a carbon trust loan, Ofgem would seek a state aid declaration from applicants. Where it is clear that the EU limits will not be breached (when combining all aid) the process is straightforward. However, a number of applications have been received which may exceed this limit. DETI Energy and State Aid officials met with Ofgem last week to try to establish a definitive way forward. This is a complex matter and will take time to resolve fully, potentially involving amendments to regulations and/or state aid notifications.
4. Under RHI regulations, the option to repay grant funding is only available to applicants who commissioned their technology before 1 November 2012 i.e. the launch of the scheme. Therefore should any project installed after November 2012 be found to exceed the “de minimis” levels, the project would not have the option of repaying the Carbon Trust loan to allow it to avail of the RHI. Officials are liaising with Departmental Solicitors Office to establish a way forward.
5. As a first step, Ofgem has agreed to seek further information from applicants on projected usage of renewable heat installations to ensure that the estimated RHI payments are reasonable.

Lusty Beg application

6. The Lusty Beg project was installed in December 2013. Should the project be found to exceed the “de minimis” levels, under current regulations, it does not have the option of repaying the Carbon Trust loan.
7. Ofgem requested a State Aid declaration from the Lusty Beg project on 21 May and has not yet received this correspondence. This application is currently on hold while Ofgem awaits further information from the project. Ofgem has also now requested additional information on estimated project usage.

Recommendation

8. It is recommended that you respond to David Cadden using the draft attached at **Annex A**.

A handwritten signature in blue ink, appearing to read "J. Mills", is written over a light blue rectangular stamp or watermark.

JOHN MILLS
Energy Division

cc: Eugene Rooney
Davina McCay
Dan Sinton
Stephen Moore
Press Office
Glynis Aiken
Alastair Ross, MLA, APS

DRAFT REPLY

By email:

Dear David

Re: Lusty Beg Island – Unresolved difficulties with DETI

Thank you for your email of 6 June regarding the Lusty Beg Island biomass boiler project.

You will be aware from previous correspondence that DETI received a formal request in November 2013 to review a decision taken by Ofgem not to accredit an installation which had availed of a Carbon Trust 0% finance loan. As a result of this review it was determined that an installation that avails of a Carbon Trust loan can be eligible to be considered for accreditation as long as there is no breach of the European Commission's "de minimis" regulation, Commission Regulation (EC) No 1998/2006 of 15 December 2006 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32006R1998:EN:NOT>).

This is a complex area and you will wish to note that it is the EU, not DETI, that sets the limits on how much *de minimis* aid can be received (the limit is, in many cases, €200,000 over a three year period). DETI cannot change this limit.

We continue to work with Ofgem on all issues relating to the RHI. Ofgem has indicated that they have requested a State Aid declaration from the Lusty Beg project to allow the application to progress. I understand that at the time of writing, this had not yet been received.

I appreciate the impact that the interaction between the Renewable Heat Incentive and Carbon trust loans is having. It is a complex area and is proving more difficult to resolve than originally thought. I have asked my officials to prioritise this matter but, unfortunately, I am aware that resolution may take a while.

Yours sincerely

ARLENE FOSTER MLA

MINISTER OF ENTERPRISE, TRADE AND INVESTMENT