

#### **4.2 The Deputy of St. Mary of the Minister for Planning and Environment regarding water samples taken and tested from the Castle Quay site whilst excavations took place:**

Having been annoyed once, let us see if it gets better. Were water samples taken and tested from the Castle Quay site while excavations took place when it was known that the works were within reclaimed land containing loose, dumped hazardous waste and the site was being flooded with sea water twice a day to a depth of several feet and, if not, why not?

##### **Senator F.E. Cohen (The Minister for Planning and Environment):**

The Assistant Minister Deputy Duhamel with responsibility for Environment will answer this question.

##### **Deputy R.C. Duhamel of St. Saviour (Assistant Minister for Planning and Environment - rapporteur):**

In order to comply with the conditions of their planning permission, the site developers at Castle Quay were required to draft a constructionally environmental management plan. One of the outputs of this plan was that a monitoring regime would be put in place to determine water quality in the area adjoining the construction site, namely the Elizabeth Marina. Water samples have therefore been taken and tested. The monitoring data has been supplied to our department's officers. Last week, this information was sent to the Deputy of St. Mary and I hope he finds it useful. I also understand that the Deputy has some further questions about the data which I am advised that the department will respond to at their earliest opportunity. I am advised that the results so far do not provide any evidence of pollution to the marina area from the Castle Quay development. In the Minister's responses to the Deputy's previous written questions on this issue he stated that no tests have been undertaken by his department on sea water in the excavation of the Castle Quay site. There is no regulatory requirement to do so under the Water Pollution (Jersey) Law 2000.

##### **4.2.1 The Deputy of St. Mary:**

The C.E.M.P. (Construction Environment Management Plan) to which the Assistant Minister referred is currently unavailable on the website, because I looked it up, so I would just quote from the outline, which was in the written question to which the Assistant Minister referred - the answer to the written question on 6th October - where it says... and this is the outline of clause 3.8: "Assurance that waters potentially coming into contact with contaminated materials will be disposed of to the satisfaction of the States of Jersey." Now, I put it to the Assistant Minister that, clearly, sea water came into contact with contaminated material and I would like him to tell the House how the States of Jersey were satisfied that the sea water was disposed of satisfactorily.

##### **Deputy R.C. Duhamel:**

The role of regulator of Water Pollution (Jersey) Law 2000 gives the officers contractual obligations in order to satisfy themselves, on behalf of the States, that the conditions that have been put in place by the Construction Environmental Management Plan are to their satisfaction and, indeed, the satisfaction of the Island. Those reports can be made available if, indeed, the Deputy wishes to look at them.

##### **4.2.2 The Deputy of St. Mary:**

I am still puzzled. The basic point seems to escape the Assistant Minister, that when the sea water runs over the polluted material and then runs back again - by the way, not into the marina but into the bay - then there has to be proof that the States of Jersey is satisfied that that sea water is disposed of adequately. He still has not given the House any indication of how that was achieved.

**Deputy R.C. Duhamel:**

I am advised that there have been no transgressions of the Water Pollution (Jersey) Law 2000 and, as a consequence of that, I am not aware of any evidence of pollution, either, of controlled waters.

**4.2.3 Deputy A.K.F. Green of St. Helier :**

I would like to hear from the Assistant Minister if he considers it to be appropriate that sea water is not only coming into contact with the contaminants of the site, but mixing with leachate and then going out into the bay. Does he consider that appropriate?

**Deputy R.C. Duhamel:**

I do not consider that appropriate and I would be surprised if, indeed, that is the case. Leachate is a polluted water and, as such, should be treated according to the water pollution rules. If, indeed, these rules are being transgressed or not carried out properly then, indeed, I can understand the Deputy's concerns, but to my best knowledge, at present, no such transgressions have been made.

**4.2.4 Deputy R.G. Hérissier:**

Is the Assistant Minister aware of the need to maintain a detailed oversight, given the allegations that have been made that a project manager has allegedly been dismissed because of whistle-blowing on environmental issues on an associated site?

**Deputy R.C. Duhamel:**

I am not at liberty at the moment to divulge any information, if indeed I had it, if there is potential for an ongoing legal case. We have been told on many occasions by this House that if issues are potentially *sub judice* or actually *sub judice* then we should not discuss them. My advice, at the moment, is that I am unaware that there is a court case pending and when we get to that stage then I will be able to give a fuller answer.

**4.2.5 Deputy R.G. Hérissier:**

Would the Assistant Minister assure the House that he is taking a very close interest in this matter and, without micro-managing it, he is ensuring he is getting independent advice and support.

**Deputy R.C. Duhamel:**

Absolutely; the House can be informed that I did take an interest in this issue a number of months ago, before the work started, because there were reports of transgressions and I satisfied myself that all that could be done, in order to minimise pollution or to effectively deal with it, was being done.

**4.2.6 Deputy P.V.F. Le Claire of St. Helier:**

I would like to ask the Assistant Minister - although having set out in his earlier answer that discussing matters that are possibly *sub judice* should be steered away from - could he please circulate the Environmental Scrutiny Panel with the analysis of

the sample that was taken on the other site, in relation to the pollution that occurred when laying foundations for the incinerator, as that has been denied us, in the first instance and our duty of care, from a Scrutiny capacity, is being undermined in that respect because of that and mine, personally, as Deputy for that district, is being harassed and blocked because we are not able to analyse what was in that sample. Having already offered the previous sample to the Deputy of St. Mary, when everything was fine and hunky-dory, is he now able to offer us the results of the other test?

**Deputy R.C. Duhamel:**

I am not exactly sure that the question from the Deputy is a supplementary on what we are talking about. The information does refer to water samples being taken and tested from the Castle Quay site and this, indeed, is in a different place.

**The Deputy Bailiff:**

That, in my view, is a fair answer from the Assistant Minister.

**Deputy P.V.F. Le Claire:**

On a point of order, Sir. Standing Orders were changed that supplementaries did not have to refer to the original question, in my understanding [**Laughter**] and as long as - I certainly remember this - and if it was the case then we can strike out 90 per cent of the States Hansard. I would like his answer.

**The Deputy Bailiff:**

Are you able to help me with the Standing Order to which you refer, Deputy? [**Laughter**]

**Deputy P.V.F. Le Claire:**

I could ask advice from the A.G. (Attorney General). I have my copy of Standing Orders. It is just that I do recall this. I have a peculiar memory for some peculiar things; this is one of them, unless it is incorrect.

**The Deputy Bailiff:**

On this occasion, Deputy, your memory, peculiar as it may be, has let you down, because Standing Order 63(4) says: "Any Member of the States may, within the time allowed by the presiding officer for the purpose, ask one or more supplementary questions relating to the subject matter in question" and, in my view, a question about water samples from a different site from the site which is the subject of the question does not relate to the subject matter of the question.

**4.2.7 Deputy A.K.F. Green:**

Further to my question, where the Assistant Minister seemed to be unsure that sea water was coming into contact with the contaminants and leachate, I can assure the Assistant Minister that definitely is the case. The tide comes in twice a day and floods the site and then empties out into the bay. Does the Assistant Minister think this is an acceptable situation and, if not, what is he going to do about it?

**Deputy R.C. Duhamel:**

The construction of the made-up land at Castle Quay was subject to environmental considerations when the ground was being made up. To my best recollection, any hazardous materials from the bottom ash component or the fire ash component - in

fact I do not think there was a fire ash component from the incinerator, but there is certainly a bottom ash, which was put into that made up site - there was a lot of discussion, many years ago, as to the environmental sense of dealing with this matter in this way. What happened, towards the end of the contract, was that any hazardous materials, loose materials, were put on top of the site and not in the bottom of the site. The sea water comes in from the base; it does not come in from the air and fall as rain on to the site. The site was engineered taking that into account and, indeed, the waters that fill and deplete the marina are dependent upon the waters flowing in and out of the site. What I am getting around to saying, in a pretty long-winded fashion, is that, indeed, these issues were taken into account when the site was engineered and, indeed, for the removal of the materials which are on the top of the site, rather than at the bottom, special consideration was taken, when finding pockets of this material, to make sure that it was properly dealt with by Transport and Technical Services.

**The Deputy Bailiff:**

Could I remind Members and Ministers and Assistant Ministers, there is an obligation to be crisp in making your questions and supplementaries and crisp in your answers.

**4.2.8 Deputy G.P. Southern:**

I shall try, Sir. I shall try. Can I draw the Minister's attention to what he appears to be trying to say, that he has no evidence of pollution on this site and will he state yes or no whether a different phrase applies that he has evidence of no pollution, yes or no, on this site?

**Deputy R.C. Duhamel:**

I am told that there is no evidence of pollution of the controlled waters that are being caused to be polluted or not by the construction company.

**Deputy G.P. Southern:**

The Minister has avoided the question. The question was; does he have clear evidence that no pollution has taken place on this site, instead of just not having tested the right bit.

**Deputy R.C. Duhamel:**

The Water Pollution (Jersey) Law 2000 is not as black and white as the Deputy thinks. Pollution can be caused, but there has to be a mitigation process in order to clean up or to minimise any of the environmental problems that might occur. I am told that a report has been produced, by the department, investigation of possible contamination of marine biota from a land reclamation site and it states, within that report, that there is no evidence of contamination.

**The Deputy Bailiff:**

Deputy of St. Mary, as you have had 3 questions at the beginning, I think perhaps you would pass up your opportunity unless you are very swift indeed with your final question. We are not going to turn this into a debate. It is question time.

**4.2.9 The Deputy of St. Mary:**

I just want to point out to the Assistant Minister that the sea is a big place and the whole point is we are talking about toxic substances which bio-cumulate and that may take some time. Can the Assistant Minister assure the House that the C.E.M.P. has

been followed in order to protect the environment? Can he assure the House that it has not been broken clause by clause?

**Deputy R.C. Duhamel:**

I am advised that the regulator is not aware of any evidence of pollution of controlled waters or any transgressions of the Water Pollution Law.

**The Deputy of St. Mary:**

The question; I did say has the C.E.M.P.'s provisions been complied with. I did not talk about monitoring water at Corbière.

**Deputy R.C. Duhamel:**

The whole point of the Construction Environmental Management Plan is that the construction and development company does follow the things that are laid out in order to assist the regulator in doing his job. The regulator is satisfied that he has done the job to the best of his ability and that there are no problems.