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Edward Mountain MSP
Convenor
Rural Economy and Connectivity Committee
Room T.3.60
Scottish Parliament
EH99 1SP

3 February, 2020

Dear Mr Mountain

REC Committee - 22 January - Request for follow-up information

I refer to the email from your Clerk dated 28th January asking for follow-up information relating to my evidence to the Committee. I am pleased to provide the following information.

Cols. 23-24

Tim Hair: I will have to take that question away and write to the committee about the point at which there was a proposed change that was not signed off. I am afraid that I cannot remember the date off the top of my head. I do not want to avoid the question, but CMAL and others might be better placed to answer the question about when the relationship broke down.

Follow-Up: The contractual change we discussed related to the main engines. There was a Variation to Contract for the change that was raised on 22nd April 2016 and approved and the corresponding amendment to the Contract was drafted on 29th August 2019 but not signed. This may have been simply an administrative matter and I would hesitate to suggest that it is indicative of a breakdown in the relationship.

Col. 35

Tim Hair: As I have said, that point is a narrow contractual point that relates to the engines themselves. The efficiency of the ships is based on tank tests and various other things. I have not looked at how the engines compare with what CMAL originally intended. I will look at that and I will write to the committee to provide clarification.

Follow-Up: With regard to the efficiency of the main engines, I can confirm that the actual fuel efficiency, as measured at the Factory Acceptance test at the engine manufacturers, is within the range as originally specified by the engine manufacturer. There is therefore no loss of efficiency.



Col. 40

Tim Hair: I am not aware of any non-disclosure agreements signed by people who report to me who remain in employment in the organisation.

Follow-Up: My investigations have not found any Non-Disclosure Agreements relating to existing employees, and I can confirm beyond doubt that none have been signed since FMEL entered Administration on 16th August 2019.

For completeness, at the start of their employment with FMEL, prior to the Scottish Government taking control of the business, the senior management of FMEL agreed to confidentiality obligations as part of their Conditions of Employment with the previous owners of the business. The agreement took varying forms, but was typically a "Duty of Confidence Agreement" which included the following clause:

2. CONFIDENTIAL INFORMATION

- 2.1. Except in the proper performance of his duties or with the prior written consent of the Company the Employee shall not either during the employment or at any time afterwards divulge to any person, and shall during the employment use his reasonable endeavours to prevent the publication or disclosure of, any information of a private, confidential or secret nature concerning the business, products, processes or affairs of the Company or any Group Company or of any person having dealings with the Company or any Group Company and which comes to his knowledge during the course of or in connection with his employment by the Company.

These obligations, which continue after leaving the employment, transferred under TUPE from FMEL to Ferguson Marine (Port Glasgow) Ltd.

I hope that the Committee finds this information a useful contribution to its inquiry.

Yours sincerely,



Tim Hair
Turnaround Director

p.p.