

[Letterhead of the Environmental Board of Appeal]

To Håkun Djurhuus, Lawyer

Sent by email to djur@bechbruun.com and jle@bechbruun.com

19 September 2012 · Ref. no.: NMK-400-00063, NMK-400-00067 and NMK-400-00069 · Ref.: ssc

Dear Håkun Djurhuus

Complaints against the adoption of the national river basin management plan

By letter of 10 September 2012, you commented on my letter to you of 6 September 2012 and asked further questions about the consideration of the complaints made against the national river basin management plan.

I inform you that the Environmental Board of Appeal has not consulted nor discussed the contents of the complaints or the Board's future decisions on the adoption of the river basin management plan with the Legal Advisor to the Danish Government or with the Danish Nature Agency. In addition, the Board has not obtained legal advice about the construction of the Danish Act on Environmental Objectives or discussed the planning of the consideration of the cases with the Legal Advisor to the Danish Government or the Agency.

The discussion with the Legal Advisor to the Danish Government centred on the general practice of the Board in situations where both legal proceedings and complaints are pending in respect of the same decision, an issue raised because of the many complaints about the river basin management plan and the legal proceedings in respect of the this plan. As previously stated, the Board has decided not to await the outcome of the legal proceedings pending.

In your letter, on top of page two, you comment on the impact that these discussions may have on the consideration by the Board, including the use of the word "consequently". However, my letter of 6 September 2012 does not contain the word "consequently".

You have requested to receive a copy of a note sheet from the meeting with the Danish Nature Agency. No note sheet on the meeting was prepared since the Board did not receive any new information about the actual circumstances of the decision to adopt the river basin management plan of importance for the decision of the **case**, see s. 6 of the Danish Access to Public Administration Files Act (*offentlighedsloven*). The Agency described circumstances which appear from the letter received by the Board together with the complaints, of which you have also received a copy.

No documents were exchanged before or after the meeting. The new information received by the Board at the meeting was that the Agency intends to make a supplementary statement. As mentioned in my letter of 6 September 2012, you and the other complainants will receive a copy of the statement when it is available, and you will have the opportunity to make a supplementary statement.

In addition, I inform you that the persons attending the meeting from the Danish Nature Agency were: Helle Pilsgaard, Oluf Engberg, Sara Røpke and Mette Brandt. Besides me, the attendants from the secretariat of the Environmental Board of Appeal were Mikkel Schaldemose, Lise Marie Buhl and Susanne Spangsberg.

[Letterhead of the Environmental Board of Appeal]

Finally, I inform you that, as always, the members of the Environmental Board of Appeal will receive a copy of all relevant material in the cases on which they are to make a decision.

Please do not hesitate to contact me at tel. +45 72 54 10 01 if you have any further questions.

Yours sincerely

[signed]

Anne-Marie Rasmussen

For information purposes, a copy of this letter has been sent to:

- The Danish Nature Agency nst@nst.dk, ref. no. NST-4208-00017
- The Legal Advisor to the Danish Government, Sune Fugleholm sfs@kammeradvokaten.dk



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Til advokat Håkun Djurhuus

Sendt pr. mail til djur@bechbruun.com og jle@bechbruun.com

19. september 2012 · J.nr.: NMK-400-00063, NMK-400-00067 og NMK-400-00069 · Ref.: ssc

Klager over vedtagelsen af den statslige Vandplan

I brev af 10. september 2012 har du kommenteret mit brev til dig af 6. september 2012 og stillet yderligere spørgsmål til behandlingen af klagerne over den statslige Vandplan.

Jeg kan oplyse dig om, at Natur- og Miljøklagenævnets sekretariat ikke har konsulteret eller drøftet indholdet af klagerne eller nævnets kommende afgørelser om vedtagelsen af vandplanen med Kammeradvokaten eller Naturstyrelsen. Nævnet har heller ikke indhentet juridisk rådgivning om miljømålslovens fortolkning eller drøftet tilrettelæggelsen af sagernes behandling med Kammeradvokaten eller styrelsen.

Drøftelsen med Kammeradvokaten handlede om nævnets generelle praksis i de situationer, hvor der både verserer retssager og klagesager om samme afgørelse, hvilket de mange klager over vandplanen og retssagerne om samme gav anledning til at overveje. Som tidligere oplyst, har nævnet besluttet ikke at afvente udfaldet af de verserende retssager.

I dit brev side 2 øverst har du en betragtning om drøftelsernes påvirkning af nævnets sagsbehandling, herunder brugen af ordet "derfor". Mit brev af 6. september 2012 indeholder imidlertid ikke ordet "derfor".

Du har anmodet om kopi af et notatark fra mødet med Naturstyrelsen. Der er ikke skrevet et notat om mødet, fordi nævnet ikke modtog nye oplysninger om de faktiske omstændigheder ved afgørelsen om at vedtage vandplanen, der er af betydning for sagens afgørelse, jf. offentlighedslovens § 6. Styrelsen oplyste om forhold, som fremgår af det oversendelsesbrev, nævnet modtog sammen med klagerne, som du ligeledes har fået kopi af.

Der blev ikke udvekslet dokumenter før eller efter mødet. Den nye oplysning, som nævnet modtog på mødet, handlede om, at styrelsen ønsker at komme med en supplerende udtalelse. Som oplyst i brev af 6. september 2012, vil du og øvrige klagere få kopi af udtalelsen, når den foreligger, og få mulighed for at komme med en supplerende udtalelse.

Herudover kan jeg oplyse dig om, at deltagerne i mødet fra Naturstyrelsen var: Helle Pilsgaard, Oluf Engberg, Sara Røpke og Mette Brandt. Fra Natur- og Miljøklagenævnets sekretariat deltog foruden jeg, Mikkel Schaldemose, Lise Marie Buhl og Susanne Spangsberg.

Endelig kan jeg oplyse dig om, at Natur- og Miljøklagenævnets medlemmer som altid vil få kopi af relevant materiale i de sager, nævnsmedlemmerne skal træffe afgørelse i.

Hvis du har yderligere spørgsmål, er du velkommen til at ringe til mig på tlf. 72 54 10 01.

Med venlig hilsen

A handwritten signature in cursive script, reading "Anne-Marie Rasmussen". The signature is written in black ink and includes a horizontal line at the end.

Anne-Marie Rasmussen

Kopi af dette brev er sendt til orientering til:

- Naturstyrelsen nst@nst.dk, j.nr. NST-4208-00017
- Kammeradvokaten, Sune Fugleholm sfs@kammeradvokaten.dk