

Written Ministerial Statement

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Environment

High-volume Hydraulic Fracturing

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Mr Attwood (The Minister of the Environment): The Department of Environment's fundamental aim is to protect and improve the environment, promote well being, and deliver a strong and effective local government to support a thriving economy.

Within my Department the Northern Ireland Environment Agency (NIEA) seeks to safeguard the quality of the environment as a whole through effective regulation of activities that have the potential to impact on the environment. High volume hydraulic fracturing (fracking) is considered by the Agency to be such an activity.

As members will be aware, an Australian based company, Tamboran Resources, secured a Petroleum Licence from DETI to explore for shale gas reserves within the Northern Ireland section of the Lough Allen Basin, which is a cross border Basin shared with the Republic of Ireland.

I am informed that Tamboran are proposing to use an unconventional gas extraction technique known as High Volume Hydraulic Fracturing, or fracking for short.

I hope that no-one will or would adopt an approach that if gas exists in this form underground, for example in Fermanagh, that it should be extracted. The right approach is to ask: do we want to extract shale gas? Do we need to extract shale gas? Can it be done safely? Would it be done responsibly? These are the fundamental questions against which to judge fracking and to judge ourselves. A rush to fracking is ill judged. Indeed my approach is to be highly precautionary.

Fracking has generated much concern within NI, and around the world, over its potential impact upon the environment, particularly in relation to water quality, air emission issues, seismic impacts, matters of public and personal health and environmental impact to name but a few.

In response to these concerns I directed DOE and NIEA to supplement its knowledge of this process through reviewing and engaging with emerging research, studying case studies from other parts of the world and liaising with counterparts in other Environment Agencies in Britain and Ireland, and other countries where

fracking is currently proposed or taking place. My responsibility as a Minister is to do so I have been doing so and that has to be the approach in the future.

Specifically:

- DOE/NIEA represents NI at the European level on the EU Technical Working Group on Unconventional Fossil Fuels and on an Interest group of the Network of Heads of European Environmental Protection Agencies;
- At UK level DOE/NIEA represents NI on the Unconventional Gas Regulators Group which includes relevant regulators from throughout the UK;
- On a cross border level, DOE/NIEA meets regularly with the Republic of Ireland's Environmental Protection Agency and are co-funding and co-leading a major research programme. A consultation on the proposed Terms of Reference has been completed which attracted a huge scale of responses.
- DOE also participate on a NI Shale Gas Regulators Forum consisting of representatives from government departments and agencies with a potential regulatory role in relation to fracking activities. This forum, which has been formally established following a meeting between the DETI Minister, and myself will enable cross cutting issues, such as the impact of potential seismic activity on well integrity, to be discussed and assessed by the relevant regulators i.e. Geological Survey of Northern Ireland, NIEA and the Health and Safety Executive. It needs to be clearly understood that this forum is to consider the multiple issues around fracking, is not in any way to indicate support from DOE and does not compromise the authority of DOE/NIEA when it comes to planning habitats and all the relevant assessments.

I have also visited the United States, in March 2012 and March this year, where I received presentations and briefings from the U.S. Environmental Protection Agency's Office of Research and Development, and Office of Air and Radiation on the issue of hydraulic fracturing.

These presentations and briefings highlighted the work that the US EPA is doing, and its planned work, in relation to the environmental impact of hydraulic fracturing. In particular I was briefed on the US EPA's ongoing research programme on the potential impact of shale gas extraction on drinking water supplies, and also their work on potential technological and regulatory controls on gas emissions.

A senior official from NIEA accompanied me on my visit in March 2012 in order to establish relevant contacts with technical staff in the U.S. EPA and has maintained this relationship to ensure that on an ongoing basis we can benefit from the work of the U.S EPA in this area. I have to say that my sense as of the March 2013 meeting compared with the meeting a year earlier was that the precautionary approach was one clearly in evidence.

Due to the increasing level of interest and concern in relation to fracking, new studies, reports and assessments are continually being added to the body of literature on this subject, and my Department's review of available evidence will, by necessity, remain ongoing.

As studies, reports and assessments are completed, a broader evidence base will emerge which will aid decision making on the issue. It is my firm view that when it comes to assessments on fracking in relation to health, environment, water, air and other emissions(etc) and , when it comes to decisions (if any are to be made) it is only when the full scientific and research picture is complete that decisions could be made. To do otherwise given the scale of ongoing research and science is to decide in a vacuum that does not aid good decision making. This is the right, best and only way to proceed. That is why I have an enhanced precautionary approach on this issue.

The environmental regulation of fracking will be subject to the requirements and environmental standards set out in the relevant European Directives which apply in both jurisdictions. The Environmental Impact Assessment Directive will play a central role and is non-negotiable in the decision making process as it will ensure that the environmental implications of this project are taken into account before final decisions are taken and it will involve the public in the decision making process, making it more transparent. This will ensure consistent standards are applied to regulating such an activity, should any approvals be given in the future in either NI or close to the border in the Republic of Ireland. This consistency is imperative as the environment knows no borders. I have always said that all appropriate planning and environmental standards will be strictly applied on the issue of fracking. As Planning and Environment Minister this approach will not be compromised.

On a personal level, I am acutely aware of the concern and anxiety these proposals are creating. I have therefore adopted an open door policy in terms of meeting public representatives, community groups and concerned individuals and I will continue to meet with people or groups that can contribute to this issue.

I wish to reassure people, particularly in Fermanagh, that no decisions have been taken by my Department in relation to permitting fracking. Indeed no planning applications or applications for environmental permissions have yet been received.

As I outlined earlier, in terms of the current exploration process, it is my understanding that the development company may rely on certain permitted development rights (PDR), not requiring planning permission, for limited activity such as drilling boreholes or carrying out seismic surveys for a period of up to four months. Let me be clear if the exploration works themselves are considered to require Environmental Impact Assessment, the current legislation makes it clear that in such circumstances permitted development rights do not apply. Should the development company seek to rely on PDR, I will assess if Environment Impact Assessment (EIA is required. In any case, I am taking further legal advice if even drilling one borehole requires EIA. I will be clear and direct on this issue. I will tell people, in particular the community if a PDR entitlement exists or not.

That said, Permitted development rights are subject to conditions including pre-commencement notification to the Department giving details of locations, target minerals, details of plant, operations and timescales. All operations proposed within an Area of Special Scientific Interest (ASSI) or a site of archaeological interest is specifically excluded from these rights. My Department also has powers to restrict these permitted development rights where it is deemed that the works would adversely impact on local amenity.

I will ensure that all requirements in this regard are strictly honoured. I must again stress that they do not in any way extend to the extraction of shale gas, which constitutes development requiring planning permission.

I would like to reinforce to the elected members, and to the people of Fermanagh, that any proposals submitted to my Department by Tamboran, be it to drill for core samples, drill an exploratory well or set up office accommodation, they will be robustly assessed against the existing legislative and planning policy framework and, as I have said, any assessment has to be and can only be on the farside of research and science.

I wish to explain a number of matters further. Given the nature of Tamboran's proposals, if a full planning application involving the intention to use a high volume hydraulic fracturing technique is received the Department would have to carefully consider whether it should be deemed a major planning application under Article 31, of the Planning (Northern Ireland) Order 1991. Article 31 allows my Department to deal with such applications under special procedures which allow for a much greater level of scrutiny of the application and the resulting decision. For example, the Article 31 process allows for a public inquiry if my Department considers it necessary. The need for a public inquiry will normally emerge through the processing of a planning application where issues raised by consultees or public representation are technical and complex and cannot be satisfactorily resolved through the normal planning process. I believe there will be significant demands for a public inquiry, should such a planning application be received.

However, as Minister, I cannot pre-judge the issue and I will instruct my Department to consider all relevant matters, if a planning application is received in relation to both Article 31 and the option of a Public Inquiry. I would note that another energy proposal – the application for a North South Interconnector - was deemed Article 31 and is proceeding by way of a Public Inquiry.

I have met with Tamboran senior management to reinforce and directly so to them that there are stringent legislative, procedural and policy requirements that apply to fracking and to confirm to Tamboran that my Department will robustly assess any proposals presented, against these stringent requirements and my firm view on the issues of science and research.

As I have outlined in this statement, my Department is proactively engaging on an international, European, UK and Ireland and local level to ensure that should a planning application or an application for an environmental permission be received, my Officials within DOE Planning and NIEA, will be best placed to assess the proposals and enable me to make decisions based on knowledge gained from around the world but set within the context of our unique landscape and environment, which is particularly the case in County Fermanagh.

I am making this statement as Environment Minister and Minister responsible for planning. The scale, wonder and beauty of our natural, built, archaeological and Christian heritage is unsurpassed on this island. It is part of the character of our lives and a big part of the economic future of this part of the island. This is a further factor that must be fully assessed as the issues develop.