

[redacted]
22 September 2017

Minister for Business, Innovation and Energy

UNCONVENTIONAL OIL AND GAS (UOG): POLICY ANNOUNCEMENT AND HANDING PLAN

Purpose

This minute presents an outline handling plan for announcing the Scottish Government's carefully considered position on Unconventional Oil and Gas (UOG).

Priority: Urgent (a response by 27 September will ensure preparations remain on schedule)

Background

1. The Scottish Government has maintained a cautious and evidence-led approach to UOG. Following a report from an Independent Expert Scientific Panel, a moratorium on UOG was established to provide the space for a further period of evidence-gathering and meaningful public participation on the future of UOG in Scotland.
2. A comprehensive public consultation, Talking "Fracking", closed on 31 May 2017. The consultation responses have now been independently analysed, and the final consultation analysis report has now been received. Further details of the consultation analysis report are provided in my submission dated 19 September.
3. Cabinet considered the comprehensive evidence prepared by the Scottish Government alongside the response to the consultation on 29 August. Agreement was reached that the Scottish Government would move to a position of not supporting UOG in Scotland at this time. That position was informed by the interim report of the consultation responses. The final report has now been received and the findings are consistent with the interim report.
4. Cabinet also agreed that the Scottish Government's position on UOG should be implemented through the Planning regime by maintaining the current moratorium on all UOG developments.
5. Cabinet also confirmed that the Scottish Government position on UOG should be set out at the earliest opportunity, and that this should precede a vote in Scottish Parliament on UOG.
6. Once the Scottish Parliament has considered and voted on the Scottish Government's position on the future of UOG, the next stages in finalising and implementing our policy on UOG can proceed. These steps include setting out our preferred policy in an appropriate policy document, and completing all appropriate statutory assessments, which includes undertaking a Strategic Environmental Assessment. Once the SEA process has been completed and considered, the Scottish Government's position on UOG can be finalised. Until that point, the position on UOG will be a preferred position, that is subject to the findings of the SEA.

Timetable and process for finalising a position on UOG

7. The proposed steps and timetable for announcing and finalising a position on UOG are summarised in the table below. The process has been designed so that:

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- the Scottish Government's position on UOG is clearly and accurately articulated to Parliament and stakeholders, including the UK Government;
- the commitment made on 08 November 2016 to give the Scottish Parliament the opportunity to vote on the Scottish Government's considered position on UOG is fulfilled;
- all necessary statutory assessments are undertaken before the policy on UOG is finalised.

8. Throughout the process, it will also be important to maintain close dialogue with key stakeholders, particularly those directly affected by the decision.

Step	Date
Publish UOG consultation analysis report	03 Oct 2017
Minister for BEI makes statement to the Scottish Parliament setting out the Scottish Government position on UOG	03 Oct 2017
Scottish Parliament debate and vote on UOG	Late Oct 2017
Publish policy document setting out SG's position on future of UOG	Oct/Nov 2017
Commence Strategic Environmental Assessment of UOG, which will include a 3 month public consultation in 2018 on the SEA Environmental Report.	Autumn 2017
Final Energy Strategy published*	Dec 2017
Climate Change Plan published*	Early 2018
Climate Change Bill introduced	March 2018
3 month public consultation on the SEA Environmental Report	Early 2018
Complete Strategic Environmental Assessment of UOG	Summer 2018

** The Scottish Government's preferred position on UOG, subject to the SEA process, would be set out in these documents.*

9. A separate submission will be provided setting out the detail of the Motion for debate and the timing of the debate.

Announcement of position on UOG: communications and handling

10. A communication and handling plan for announcing the Scottish Government's position on UOG on 03 October has been discussed with Comms and SpAds. Details of the communications and handling plan on the day are set out in **Annex A**.

11. The main activity will be a statement to the Scottish Parliament setting out the Scottish Government's position on UOG. The statement is an opportunity to:

- reiterate the Scottish Government's carefully considered approach to UOG, and how this contrasts with opposition parties;
- outline the findings of our comprehensive public consultation, including that the overwhelming majority of respondents were opposed to UOG;
- set out the basis and rationale for the Scottish Government's position of not supporting UOG;
- signal concerns about a Brexit power grab on onshore licensing, and the importance of relying on existing devolved powers to implement the Scottish Government's position;

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- make clear that despite the position on UOG, the Scottish Government remains fully committed to Scotland's industrial sectors, including oil and gas and the petrochemical industry.
- make clear that it is not possible predict future technologies or public opinion, and that it will be up to Parliament to decide if it wishes to revisit the issue at any point.

12. **Annex B** summarises the structure and key messages for the statement.

13. In preparing the statement, careful consideration is being given to those stakeholders who will be directly affected by the decision, including Scotland's petrochemical sector. Close lines of communication will be established with key stakeholders in the lead up to and after the announcement. Where necessary, separate advice on post-announcement handling will be prepared.

14. The following activities will be closely coordinated with the Parliamentary statement:

- A news release will announce the publication of the consultation analysis report and set out the SG's response to the analysis and considered view on UOG;
- The consultation analysis report will be published to coincide with the Parliamentary statement;
- A letter will be sent to the Secretary of State for Business, Energy and Industrial Strategy setting out the Scottish Government's position on UOG and concerns regarding delays to the transfer of onshore oil and gas licensing powers to the Scottish Government and over the transfer on EU powers over onshore licensing to Westminster rather than the Scottish Government (**Annex C**);
- A letter to all Heads of Planning in Scotland will be issued from the Scottish Government's Chief Planner. The letter will reference the Scottish Government position and confirm that to give effect to this policy, the Direction issued on 08 October 2015 will remain in force (**Annex D**);
- The Scottish Government website will be updated to reflect the Government's position on UOG.

15. A comprehensive briefing pack is being prepared for the Statement.

Recommendation

16. You are invited to note the content of this minute and indicate whether you are content:

- with the timetable and process for finalising a position on UOG, as outlined in the table after paragraph 8.
- for officials to progress the communications and handling plan for announcing a position on UOG outlined at paragraphs 10 -14.

[redacted]

Ext: [redacted]

OFFICIAL SENSITIVE

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
First Minister		X			
Deputy First Minister					X
Cabinet Secretary for Economy, Jobs and Fair Work					X
Cabinet Secretary for Health and Sport					X
Cabinet Secretary for Environment, Climate Change and Land Reform					X
Cabinet Secretary for Communities, Social Security and Equalities					X
Cabinet Secretary for Rural Economy and Connectivity					X
Minister for Public Health and Sport					X
Minister for Local Government and Housing					X
Minister for Further Education, Higher Education and Science					X
Minister for Parliamentary Business					X

Permanent Secretary
DG Economy
DG Communities
Chief Scientific Adviser
Chris Stark
Kenneth Hogg
Bridget Campbell
David Ritchie
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
Simon Fuller
John McNairney
Katriona Carmichael
[redacted]
[redacted]
[redacted]
[redacted]
Gareth Brown
[redacted]
[redacted]
[redacted]
Kate Higgins
David Miller
Liz Lloyd
[redacted]
[redacted]
Jeanette Campbell
Comms Economy

COMMUNICATION AND HANDLING PLAN

This communications and handling plan is designed to:

- allow swift publication of the consultation analysis report in conjunction with a clear and unambiguous signal of SG's preferred position on UOG;
- provide the necessary space for parliamentary due process;
- encourage a positive response from those opposed to UOG, while demonstrating respect and ongoing support for the industries affected.

Tuesday, 03 October	
Consultation responses published (13:00)	Via CitizenSpace.
Consultation analysis report published (13:00)	This will be published on the SG Publications webpage. Copy to SPICe.
Ministerial response to analysis report (14:20)	The Parliamentary statement will be published on the SG website (SGNews: speeches and Briefings Page & Onshore Oil and Gas Topics Page). It will set out: - the SG response to the consultation analysis report; and - the SG's considered view on the future of UOG in Scotland based on the evidence, which includes the outputs from the public consultation.
Media Activity	Ministerial News Release The NR will: announce the publication of the consultation analysis report and set out the SG's response to the analysis and considered view on UOG. TBC Ministerial interview bids (Q&A prepared) Record Audioboom and social media clip and tweet.
Stakeholder briefing	SpAds and Policy Officials will co-ordinate briefing of key stakeholders.
Post Statement	Letter issued to Local Authority Heads of Planning. Letter issued from Minister to SoS BEIS setting out SG position on UOG in Scotland/EU Withdrawal Bill interaction with devolved admins re UOG. Stakeholder mailshot including links to analysis report, CitizenSpace responses, Ministerial statement and news release. PW 1 st person piece (offered to the Times, Herald, Scotsman, P&J, Daily Mail and Johnston Press).

OUTLINE FOR PARLIAMENTARY STATEMENT**Introduction**

- Emphasise the cautious, evidence-led and transparent approach in considering the development of a UOG industry in Scotland, and the role of responsible government in making difficult decisions.
- Reiterate the value and importance of the Scottish Government's commitment to participation and constructive dialogue.

Context setting

- Set out that UOG cannot be viewed or considered in isolation from wider energy issues.
- Discuss the value of Scotland's oil and gas sector, the ambition of our Energy Strategy and the significance of Scotland's industrial base, including petrochemical.
- Set out SG ambitious approach to tackling climate change and the role this can play in creating new low carbon business/industrial opportunities.

Evidence and consultation

- Contrast the SG evidence-led approach with the approach of others.
- Summarise the SG approach to gathering evidence, including giving all those affected an opportunity to set out their views through our consultation.
- Summarise the key finding from the UOG consultation, including that the overwhelming majority of respondents were opposed to UOG.

SG position on UOG

- Set out that having carefully and considered the available evidence, and having listened to the people the Government does not support the development of a UOG industry in Scotland.
- Recognise that this is not a decision that is taken lightly and acknowledge that it will have impacts and will be met by mixed responses.
- Set out the areas where the SG has most concerns, including on lack of health data and concerns around climate change impacts.
- Outline that the position will be implemented through devolved planning powers, and that the SG position, subject to the SEA, is that the moratorium will remain in place. Reference letter to Heads of Planning and letter to UKG, and Brexit concerns.
- Be clear that despite the position on UOG, the SG remains fully committed to Scotland's industrial sectors, including oil and gas and petrochemical.
- Set out that the SG does not support the notion of a permanent ban as it is impossible to predict with any certainty what kind of clean energy technologies may be available in the decades to come, or future public attitudes.
- Make clear that future Parliaments can always decide to revisit the policy at any point.

LETTER TO PARLIAMENTARY UNDER SECRETARY OF STATE FOR INDUSTRY AND ENERGY

Dear Mr Norman,

The Scottish Government has today announced that, on the basis of available evidence, the Scottish Government does not support the development of unconventional oil and gas in Scotland.

This position is the culmination of a careful and comprehensive period of evidence-gathering, which has investigated the science, the economics and, public views and attitudes.

The Scottish Government will continue to use our devolved planning powers to implement this position and to control unconventional oil and gas developments in Scotland.

I am sure you understand my disappointment that the timeline for the transfer of onshore oil and gas licensing to Scottish Ministers continues to slip from that previously agreed. My records indicated that the last correspondence I received on this matter was in January this year, when we had anticipated commencement of the powers would be in February. I trust that the commencement of the powers can be organised as swiftly as possible.

I also understand that onshore licensing currently takes place under the auspices of an EU wide hydrocarbon licensing framework. It appears to be the proposal of the UK Government that, as part of the EU withdrawal process, this responsibility should be taken over by Westminster and not by the Scottish Government.

The Scottish Government is clear that any policy areas within devolved competence, carried out at EU level, should return to the Scottish Parliament in the event the UK leaves the EU.

PAUL WHEELHOUSE

LETTER TO HEADS OF PLANNING

Dear Heads of Planning

CONTROL OF UNCONVENTIONAL OIL AND GAS DEVELOPMENTS

The Scottish Government has today announced that, on the basis of available evidence, the Scottish Government does not support the development of unconventional oil and gas in Scotland.

The Scottish Government will continue to use planning powers to give effect to this policy. THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS) (UNCONVENTIONAL OIL OR GAS) (SCOTLAND) (NUMBER 2) DIRECTION 2015, which gave effect to the moratorium on unconventional oil and gas, will continue to remain in force.

The notification arrangements are on the same basis as the Direction issued on 28 January 2015.

As required under the Environmental Assessment (Scotland) Act 2005, the Scottish Government will shortly commission a Strategic Environmental Assessment of our preferred position on unconventional oil and gas.

Chief Planner

From: [redacted]
Sent: 13 January 2015 18:11
To: Deputy First Minister and Cabinet Secretary for Finance, Constitution and the Economy; [redacted]; Minister for Business, Energy and Tourism; [redacted]
Cc: [redacted]; McAllan M (Mary); Lloyd E (Elizabeth); Gunn C (Campbell); Ingebrigtsen R (Ross); McGillivray D (Donald); [redacted]; Ritchie D (David) SEPD; Ireland J (John); Minister for Environment, Climate Change and Land Reform; Cabinet Secretary for Social Justice, Communities and Pensioners' Rights; [redacted]; Communications DFM; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]; [redacted]
Subject: RE: REQUIRED FOR 6PM: Line for clearance and media bid - Fracking

[redacted],

Please find attached the following notes and documents for briefing the DFM:

Summary of Public Bill Committee deliberations on Tom Greatrex amendments (13 January)

- Amendments to the Infrastructure Bill by Tom Greatrex MP were debated at Committee this morning
- It was announced that the UK Government would bring forward amendments at Report stage (in 2 weeks) that will take Scotland out of the new underground drilling access provisions of the Infrastructure Bill.
- Its effect is to leave the current arrangement in Scotland as stands at present, so the new system for underground drilling access will not apply – however, this is not the same as devolving the power to the Scottish Parliament.
- As a result, Tom Greatrex voluntarily withdrew most of his amendments – some were carried to a vote but rejected. However, the amendment relating to devolution of onshore shale gas extraction licensing powers was voluntarily withdrawn.

Unconventional Oil & Gas FMQ note

[redacted]

Smith Commission – Background Briefing – Onshore Oil & Gas Licensing



**Briefing
contribution - M...**

Friends of the Earth Press Release (13 January 2015)



**Friends of the
Earth Scotland**

Lines released today:

Scottish Energy Minister Fergus Ewing said:

“This decision is a victory for common sense and shows how devolution of energy policy leads to different policy outcomes in Scotland. It is a vindication of the Scottish Government’s continued objections to UK Government plans to remove the right of Scottish householders to object to unconventional oil and gas drilling under their home. We’re glad the UK Government has finally taken this on board – especially as 99 per cent of respondents to their own consultation also opposed the move.

“We have already said we would work jointly with the UK Government to take forward the Smith Commission recommendations in full and as quickly as possible, including early action where possible. We are in discussion with the UK Government about the next steps and to identify those matters that can sensibly be taken forward now

“Whatever your view on the issue of unconventional oil and gas it is only right that these matters are devolved to the Scottish Parliament so that the decisions affecting the people of Scotland are made by the democratically elected Parliament of Scotland – not by the unelected House of Lords where the change to householders rights was originally introduced.”

[redacted]
Oil & Gas Team
Scottish Government
0300 244 1088

[redacted]

MINISTERIAL ENGAGEMENT BRIEFING: FERGUS EWING

Copied to:

<i>Engagement Title</i>	Ministerial Statement to the Scottish Parliament – Unconventional Oil & Gas
<i>Timing</i>	Immediate
<i>Organisation/Venue and full address including postcode</i>	Scottish Parliament Chamber
<i>Date and Time of Engagement</i>	Date(s): 28 January 2015 Time(s): 14:40 – 15:10
<i>Ministerial Statement</i>	Annex: A
<i>List of Studies Being Announced</i>	Annex: B
<i>Unconventional Oil & Gas – Recent issues</i>	Annex: C
<i>Regulation of Unconventional Gas Production in Scotland</i>	Annex: D
<i>Expert Scientific Panel on Unconventional Oil & Gas</i>	Annex: E
<i>Unconventional Oil & Gas Resource Estimates</i>	Annex: F
<i>Legal Issues relating to the Imposition of a Moratorium</i>	Annex: H
<i>Canonbie</i>	Annex: I
<i>FMQ Note</i>	Annex: J
<i>Q & A</i>	Annex: K
<i>Official Support</i>	Official
	Names: Mary McAllan John McNairney [redacted]

Ministerial Statement to Parliament - 28 January 2015
Unconventional Oil & Gas

List of Studies being Announced

- Public Consultation on Unconventional Oil & Gas
- Strengthening Planning Consultation
- Public Health Impact Assessment
- Strengthening environmental regulation

Unconventional Oil & Gas - Recent Issues**UK Government Announcements**

- **28 July 2014** – DECC announces launch of the 14th Landward Licensing Round for onshore hydrocarbon exploration, covering the Midland Valley of Scotland and smaller area in southwest Scotland. Applications for licence blocks were accepted until **28 October**.
- **15 August** – SG formally opposed DECC's underground drilling access proposals on basis that SG evidence based approach is the best way to proceed, and important decisions affecting the land ownership rights of the Scottish people should be taken by the Scottish Parliament, not DECC. DECC proposals suggest:
 - Granting underground access rights to companies in land at least 300 metres below the surface;
 - System for payment in return for access rights - industry has proposed a £20,000 one-off payment for every unique lateral well extending more than 200m;
 - Notification system for the community
 - Operators would still have to secure planning, environmental and other relevant consents
- **25 September** – UKG announce they are proceeding with proposals outlined in the underground drilling access consultation document – in spite of over 99% of all respondents opposing the proposal to legislate to provide automatic underground access to gas, oil and geothermal below 300 metres.
- **13 January** - UK Government announces Scotland will be excluded from scope of provisions on underground drilling access rights in the Infrastructure Bill at Report stage – a victory for Scottish Ministers, who have constantly opposed these provisions to remove property owners rights to object to drilling under their homes

Smith Commission

- The Scottish Government asked for full fiscal and regulatory powers and autonomy in relation to both onshore and offshore oil and gas as part of the Smith Commission process
- 21 November – Results of Survation poll commissioned by the Scottish Greens - 66.1% say that licensing of unconventional gas should be devolved to Scotland, with 66.6% indicating Scottish Government should have final say on proposals regarding permission to drill under people's homes.
- 10 November – Tom Greatrex (Labour Shadow Energy Minister) agreed – "...it makes sense to also devolve decision making on mineral access rights", bringing "coherence to what can be a confusing situation - so the public are clear where responsibility for these decisions in Scotland lie."
- On 27 November 2014, the Smith Commission published its report detailing Heads of Agreement on further devolution of powers to the Scottish Parliament. Two key recommendations were that:

PRO FORMA – MINISTERIAL ENGAGEMENTS

- The licensing of onshore oil and gas extraction underlying Scotland will be devolved to the Scottish Parliament; and
- Responsibility for mineral access rights for underground onshore extraction of oil and gas in Scotland will be devolved to the Scottish Parliament.
- Draft legislation was published in a Command Paper by the UK Government on 21 January.

Scottish Government Announcements

- **23 June** – Minister for Planning and Local Government announced SPP and NPF3 and introduced 5 main changes that strengthen the new SPP in relation to unconventional oil & gas:
 - Confirmation that the concept of buffer zones should be applied to all proposals for the first time
 - Additional requirement for risk assessments to be prepared, using a source-pathway-receptor model, to ensure a transparent and evidence-based approach to assessing whether proposed buffer zones are acceptable
 - Making explicit that buffer zones will be assessed by the planning authority and statutory consultees, with a strong expectation that planning permission should be refused if they are unacceptable
 - Ensuring that operators are upfront about their plans and that communities are consulted on all unconventional gas developments, including close involvement in the risk assessment process
 - Requiring a fresh planning application (and public consultation) if permission was not sought for hydraulic fracturing but developers subsequently intend to undertake this process.

INEOS plans to move into shale gas

- On 18 August, INEOS announced it was purchasing a 51% share of the shale interests in PEDL 133 from BG Group for an undisclosed sum. The remaining 49% is still owned by Dart Energy (the acquisition of Dart Energy Ltd by IGas PLC was completed on 16 October 2014)
- This was followed by the purchase of an 80% share in PEDL 162 from Reach Coal Seam Gas Ltd on 13 October. This PEDL is adjacent to PEDL 133 in the Midland Valley
- On 28 September, INEOS announced its plans to give 6% of its **shale gas revenues** to homeowners, landowners & communities close to its wells, estimating that it will give away over £2.5 billion from its new shale gas business on the assumption that the wells are as successful as those in the US.
- Dart Energy (now IGas) continue to own 100% of the CBM interests in PEDL 133
- The licence block covers the area surrounding the Grangemouth refining and petrochemical complex. DECC are responsible for onshore hydrocarbon licensing through the Petroleum Exploration and Development Licence (PEDL) system – but operators still require a planning application submitted to the Local Authority and the requisite environmental and health & safety consents before exploration can begin.

- INEOS announced on 20 November that it **was planning to invest \$1 billion (£640 million)** in UK shale gas exploration and appraisal. As part of the announcement, INEOS indicated:
 - The company would become the biggest player in the UK shale gas industry if it is awarded all the licences applied for in DECC's 14th onshore licensing round;
 - The majority of the new licences applied for are in Scotland and the north of England;
 - Its belief that an indigenous shale gas industry would transform UK manufacturing and that the gas can be extracted safely and responsibly.

Dart Energy Ltd Planning appeal

- Dart submitted its original planning application at Airth on August 2012. Their proposal to Falkirk Council was to move into the **coal bed methane production phase** in licence area PEDL 133. Dart lodged an appeal with DPEA against non-determination on 5 June 2013. Inquiry and hearing sessions and a site inspection were held and closing statements were heard on 15 and 16 April. The reporters took additional evidence from parties once Scottish Planning Policy was published. The process for additional evidence and subsequent comments was to complete by 5 August.
 - The Scottish Government has recalled the two planning appeals and Ministers will now take the decision over Dart Energy's appeal for the proposed development of coal bed methane production at a number of sites in the Falkirk and Stirling Council areas.
 - The decision was taken in light of the considerable public interest in the proposals, as well as its relevance to the implementation of the new recently updated Scottish Planning Policy - creating a national interest that would be best served by further scrutiny of the proposals.
 - The Scottish Government reporter will now produce a report, containing a recommendation as to whether the appeal should be upheld or dismissed. On receipt of the report, Scottish Ministers will give consideration to the reporters' recommendations and will issue their decision on the appeals
-

Regulation of Unconventional Gas Production In Scotland

1. There are robust licensing, planning permissions, permit regimes and monitoring arrangements currently in place. Combined, these consider and mitigate potential environmental impacts from prospective operations.
2. The regulation process for unconventional gas requires a suite of licences, permits and conditioned consents from a wide range of organisations including:
 - DECC;
 - HSE;
 - Local Authorities;
 - Landowners; *and*
 - SEPA.
3. As with offshore oil and gas in the UK, the licencing of onshore oil and gas activities is a reserved matter managed through the competitive bidding process for licences known as Petroleum Exploration and Development Licences (PEDL), and issued by DECC.
4. However, drilling operations which propose hydraulic fracturing techniques 'fracking' require an added layer of permissions in the form of a licence under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR license).
5. CAR licences are issued and conditioned by the Scottish Environmental Protection Agency (SEPA), who carry out a risk assessment as part of its specific obligations to evaluate risks to the water environment when assessing such applications.
6. Operators must also provide details of the chemical additives proposed to be used in drilling and fracturing fluids to SEPA. This information is used by SEPA in their examination of any application for injection, to ensure the substances involved are of a type and at a concentration that will not cause pollution of the water environment.
7. A further layer of regulation is applied to some surface activities connected to onshore gas extraction such as refining of gas, gasification and other heat treatments, combustion or disposal of liquid or solid wastes. These are controlled by SEPA through their Pollution, Prevention and Control License (PPC).
8. The Health & Safety Executive monitors unconventional gas operations from a well integrity and site safety perspective - safe working practices, as required under the Health and Safety at Work Etc Act 1974, and regulations made under the Act - The Borehole Site and Operations Regulations 1995 (BSOR) and The Offshore Installations and Wells (Design and Construction, etc) Regulations 1996 (DCR).
9. Any activity which intersects, disturbs or enters coal seams requires prior written authorisation from the Coal Authority.

Local Planning Consent

10. Any operator wishing to develop onshore gas in Scotland also needs to seek planning permission from the relevant Planning Authority (PA), and the usual public notification and consultation processes apply.

Expert Scientific Panel On Unconventional Oil & Gas

1. In summer 2013, the Chief Scientific Adviser for Scotland recommended a group of scientific experts with experience in the field of unconventional oil & gas to review the available evidence and to produce an authoritative report. The Panel provided a robust analysis of the existing (preferably peer-reviewed) scientific evidence, and did not provide policy recommendations to Scottish Government.
2. The Panel was officially convened in September 2013 and its expertise crossed a range of disciplines related to unconventional oil & gas – geological, engineering process, environmental and resources extraction.

Key Points

3. The Panel's report was **published on 28 July 2014**, and the key findings of the Panel were:
 - safe extraction of unconventional hydrocarbons could take place providing robust regulation is in place;
 - many of the social and environmental impacts could be mitigated if they are carefully considered at the planning application stage, and addressed through transparent regulation; and
 - public engagement is necessary for the development of unconventional oil and gas resources in Scotland and there is a growing body of evidence showing that sustained and meaningful community engagement has beneficial outcomes for communities, operators and policymakers.
4. It was noted in the report that the regulatory framework was largely in place to control the potential environmental impacts of the production of unconventional oil and gas in Scotland; the report also highlighted potential regulatory gaps which may impact on the effective monitoring and control of a new (onshore) unconventional hydrocarbon industry.
5. The Panel also considered evidence on potential public health impacts of unconventional oil & gas developments, and sought advice from Health Protection Scotland (HPS). The key findings were that much of the science was emerging and anecdotal, and that potential impacts can be mitigated if they are carefully considered at the planning application stage. It was further concluded that there were already considerable legislative safeguards to ensure any potential impacts are not realised.

Unconventional oil & gas resource estimates

- The British Geological Survey (BGS) published the results of a DECC-commissioned survey on 30 June 2014, which looked at the potential resources contained in shales in the Midland Valley area of Scotland. This report into the Midland Valley followed similar DECC-commissioned studies into the Bowland-Hodder shale in Northern England and the Weald Basin in Sussex.
- Central resources estimate for **shale gas** is **80 trillion cubic feet** (high estimate is 134 trillion cubic feet) – compares with a central resource estimate of Bowland-Hodder shale of 1,300 trillion cubic feet.
- Central resource estimate for **shale oil** is **6 billion barrels of oil** (high estimate is 11.2 billion barrels of oil) – compares with central resource estimate of 4.4 billion barrels of oil in Weald Basin.
- These figures for the Midland Valley relate to the estimate of total oil or gas in the ground – it does not mean that this amount of oil or gas could be extracted as exploratory drilling is needed to determine how much of the gas can be technically and commercially recovered.
- Only available coalbed methane resource figures are UK estimates from 2004 BGS report. The report indicated there could be up to **100 trillion cubic feet of in-place resource**.

[redacted]

CANONBIE**Lines to take**

- A moratorium cannot be applied retrospectively but the statement that I have made today will apply to any future planning applications that may be needed at Canonbie.
- planning officials will explore the implications of today's announcement with Dumfries and Galloway Council and the local residents association.
- In parallel Ministers have directed SEPA not to issue new CAR licences for unconventional gas related work.

Background

1. The issue of the Canonbie development was raised when the Cabinet visited Dumfries on 26 January. [redacted] subsequently wrote to the First Minister about the Canonbie development and suggesting that SEPA are instructed not to issue any further Water Environment (Controlled Activities Regulations) (CAR) consents for the site.
2. Dumfries and Galloway Council approved over 20 separate planning applications from Green Park Energy for unconventional gas (coal bed methane) extraction at various locations around Canonbie between 2007 and 2010. Further applications were made in 2013 extending the period for when operations can commence for a further 3 years. The subsequent consents cover the exploration, appraisal and extraction phases of development. The Council has confirmed that these applications were advertised in the local press, with details also circulated to the Community Council. Environmental impact assessment was also undertaken.
3. Any moratorium would cannot be applied retrospectively. The local residents has written to the Chief Planner and this suggests that the new developer, IGas, may wish to seek an amendment to the original consent. If this is the case, any subsequent planning application would need to be considered in the context of the moratorium.
4. Following Wednesday's statement, planning officials intend to pursue with the Council and local residents association the various issues around the Canonbie development and the implications of the statement for the site.
5. In parallel the Minister for Environment, Climate Change and Land Reform is expected to agree to Directing SEPA not to issue CAR for unconventional gas related activity. This provides consistency between regimes under Scottish Ministers' control and will protect SEPA in any area where planning permission currently exists.

FMQ – Unconventional Oil & Gas (updated 22 January 2015)

TOP LINE: The development of unconventional hydrocarbon resources is at an early stage in Scotland. We are taking a balanced, responsible, evidence-based approach and will listen to the concerns of communities. As with proposals for all types of energy projects, any applications for coalbed methane (CBM) or shale gas projects in Scotland will be studied on their merits.

KEY QUOTE: *“The Scottish Government have taken a very cautious approach to unconventional gas and fracking, unlike the UK Government. With much tougher planning rules, more ambitious climate targets and a review of both health issues and licensing underway.”* **Richard Dixon, Director, Friends of the Earth Scotland. news release, 20 Nov.**

1. Devolution of powers on Unconventional Oil & Gas

- **27 November** - Smith Commission has recommended the devolution of licensing powers over onshore oil & gas to the Scottish Parliament. This is a victory for the Scottish Government who have constantly demanded the devolution of these powers.
- **21 November** – Results of Survation poll commissioned by the Scottish Greens - 66.1% say that licensing of unconventional gas should be devolved to Scotland, with 66.6% indicating Scottish Government should have final say on proposals regarding permission to drill under people's homes.
- **10 November – Tom Greatrex (Labour Shadow Energy Minister) agrees – “...it makes sense to also devolve decision making on mineral access rights”,** bringing *“coherence to what can be a confusing situation - so the public are clear where responsibility for these decisions in Scotland lie.”*
- 19 January – Scottish Greens launch petition to Ed Davey to oppose DECC plans to award licences for onshore oil and gas before licensing powers devolve to Scottish Parliament. Also Daily Record publish Survation poll showing 45% of respondents oppose fracking, 24% support and the rest undecided (although unclear how many polled).

2. INEOS announce plans to invest £640 million in shale gas exploration and production in UK

- **20 November** – INEOS announce plans to invest £640 million (\$1 billion) in shale gas exploration in the UK – no details given of how much investment in Scotland, but suggests that hydrocarbons would be used for chemical feedstock
- **28 September** - INEOS announces plans to give 6% of its shale gas revenues to homeowners, landowners & communities close to its wells, estimating that it will give away over £2.5 billion from its new shale gas business
- **18 August** – INEOS purchase 51% share of shale interests in PEDL 133 from BG Group for an undisclosed sum, remaining 49% owned by Dart Energy (acquisition by IGAS completed – 16 October 2014), followed by purchase of 80% of PEDL 162 from Reach Coal Seam Gas Ltd on **13 October**, which is adjacent to PEDL 133 in the Midland Valley
- Dart Energy continue to own 100% of the CBM interests in PEDL 133
- The licence block covers the area surrounding the Grangemouth refining and petrochemical complex.
- There are no current proposals in Scotland that include hydraulic fracturing (fracking) DECC responsible for licensing – operators still require **planning application** submitted to the Local Authority and the requisite **environmental and health & safety consents** before exploration can begin

3. SNP MPs to formally oppose UK Infrastructure Bill fracking provisions at Westminster

- **13 January** - Amber Rudd announces that UK Government will exclude Scotland from scope of provisions on underground drilling access rights in the Infrastructure Bill at Report stage – a victory for Scottish Ministers, who have constantly opposed these provisions to remove property owners rights to object to drilling under their homes
- **14 October**: Underground access drilling provisions are being taken forward through the UK Infrastructure Bill - debated in the House of Lords Grand Committee. Labour could have opposed this but chose not to. Their opposition would have stopped this going forward. As noted in Guide to the Proceedings of the House of Lords – 2013, Chapter 8, para 8.102] “As divisions are not permitted in Grand Committee, decisions to alter the bill may only be made by unanimity. Thus when the Question is put, a single voice against an amendment causes the amendment to be negated.”
- **Labour Lords present at the debate** – Baroness Gibson of Market Rasen, Lord Whitty, Baroness Worthington, Lord Young of Norwood Green, Lord Berkeley, Lord Davies of Oldham
- **25 September** UKG announce they are proceeding with proposals outlined in the underground drilling access consultation document – in spite of over 99% of all respondents opposing the proposal to legislate to provide automatic underground access to gas, oil and geothermal below 300m.
- **15 August** - SG formally oppose proposals on basis that SG evidence based approach is best way to proceed and **important decisions affecting the land ownership rights of the Scottish people should be taken by the Scottish Parliament, not DECC.**
- DECC proposals suggest:
 - Granting underground access rights to companies in land at least 300 metres below the surface;
 - System for payment in return for access rights - industry has proposed a £20,000 one-off payment for every unique lateral well extending more than 200m;
 - Notification system for the community
 - Operators would still have to secure planning, environmental and other relevant consents

“We are delighted that the Scottish Government is saying no to UK Government plans to remove people’s rights to stop, or even be notified about, shale gas fracking underneath their homes. The UK Government is falling over itself to get fracking going, all credit to Scottish Ministers for having more respect for Scottish communities. The Scottish Government’s more cautious approach to unconventional gas extraction is good news for the people of Scotland” **Richard Dixon, FoES Director, News Release 15 Aug.**

“At a time when we should be doing all we can to harness the full potential of renewables, Scottish ministers are right to resist moves to ease the rules for the fracking industry.” **Lang Banks, WWF Scotland director, The Herald 15 August**

4. Scottish Ministers recall Dart Energy’s planning appeals

- **10 October** - Ministers recall Dart Energy planning appeals and will now take the decision over the proposed development of CBM production at a number of sites in the Falkirk and Stirling Council areas.

PRO FORMA – MINISTERIAL ENGAGEMENTS

- National interest best served by further scrutiny of these proposals in light of the considerable public interest in the proposals, as well as relevance to the implementation of the new recently updated SPP
- Dart submitted original planning application at Airth with Falkirk Council in August 2012 and lodged appeal with DPEA against non-determination on 5 June 2013. Inquiry and hearing sessions held between 18 March and 2 April, closing statements heard on 15 and 16 April. Reporters took additional evidence once Scottish Planning Policy was published. The decision is in line with the Government's cautious and evidence based approach to unconventional oil and gas extraction in Scotland.

5. Scottish Government published finalised SPP and NPF3 on 23 June 2014

Introduced 5 main changes that strengthen the new SPP in relation to unconventional oil & gas:

- Confirmation that the concept of buffer zones should be applied to all proposals for the first time
- Additional requirement for risk assessments to be prepared, using a source-pathway-receptor model, to ensure a transparent and evidence-based approach to assessing acceptability of proposed buffer zones
- Making explicit that buffer zones will be assessed by the planning authority and statutory consultees, with a strong expectation that planning permission should be refused if they are unacceptable
- Ensuring that operators are upfront about their plans and that communities are consulted on all unconventional gas developments, including close involvement in the risk assessment process
- Requiring a fresh planning application (and public consultation) if permission was not sought for hydraulic fracturing but developers subsequently intend to undertake this process

"....we cautiously welcome these new planning protections for communities.....The inclusion of buffer zone protection for communities and environmentally sensitive areas is welcome"

Mary Church, Head of Campaigns, Friends of the Earth Scotland news release, 23 June

"It is good news that the Government has closed a worrying loophole whereby developers seeking to extract coalbed methane could apply for permits to frack coal seams after planning permission had been granted, with no community consultation." **Mary Church, Head of Campaigns, Friends of the Earth Scotland press release 23 June**

6. We are taking an evidence-based approach to the development of unconventional oil & gas

- SG convened an Expert Scientific Panel (September 2013) to review the scientific evidence
- Chaired by Dr Chris Masters, who is co-chair of the Scottish Scientific Advisory Council and a member of the Court of the University of Edinburgh. Included representatives from SEPA and the British Geological Survey as well as academics from Glasgow, Edinburgh and Heriot Watt Universities.
- Panel published report on 28 July – key findings that there could be potential for an unconventional oil & gas industry in Scotland and positive economic impacts, but the regulatory regime may require further consideration. Report noted much of the evidence relating to health impacts is anecdotal or emerging.
- Mr Ewing announced the setting up of a Working Group to take forward findings in the Expert Scientific Panel report – further details of Chair, membership and remit to be announced in due course.

"The Expert Panel had a very broad remit to cover in a short period of time, so we welcome the Scottish Energy Minister's acknowledgement that more work needs to be done, particularly in terms of health, public acceptability and regulatory gaps." **Mary Church, Head of Campaigns, Friends of the Earth Scotland press release 28 July**

7. **“In their own energy policy document (28 Jan 2013), the Scottish Tories talked about the need for an evidence-based approach, which is the approach we are taking:** *“Scottish Conservatives will fully support unconventional gas exploration and expansion in Scotland, but as with all new technologies we must be evidence-led in exploring the best and safest routes of development in this field”* (Power With Responsibility – Energy Policy Review 2013 p10)

8. **Tory Peer Lord Howell of Guildford**, father-in-law of George Osborne, claimed fracking was ok for the “desolate” North East. Then he said sorry he meant the North West. 30 July 2013: *“There are large and uninhabited and desolate areas. Certainly in parts of the North East where there’s plenty of room for fracking, well away from anybody’s residence.”* (BBC online)

1 August 2013: BBC reported *“The Conservative peer criticised for saying fracking should take place in “desolate” areas of the North East has revealed he was actually referring to the North West”*.

“He told the Daily Telegraph he was actually talking about “the drilling going on off the Lancashire coast”. (BBC online)

[redacted]

Q&A - Unconventional Oil & Gas**POLICY POSITION****1. What is the rationale behind a moratorium?**

This consultation process will allow everyone with a view on this issue to feed it into government. It is a logical next step in the cautious and evidence based approach we have demonstrated to date, and is an example of our commitment to the community engagement which this Government believes in.

The further work announced [today] - on planning, environmental regulation, health impact assessment and a full consultation process - will take time to complete. Given the importance of this work in shaping our evidence based approach to unconventional oil and gas in the longer term, it would seem inappropriate to allow any planning consents to be given in the meantime. Of course, it is worth pointing out that there are currently no live planning applications that involve fracking in Scotland and only those for coal bed methane production at Airth.

2. The Expert Scientific Panel reported last summer – why is the Scottish Government only now calling a moratorium?

For some considerable time, the Scottish Government has been concerned about the approach of the UK Government to the licencing of unconventional oil and gas in Scotland, which has been continuing with no consultation with the Scottish Government.

Now that we know the licensing powers are coming to Scotland as part of the Smith Commission proposals, it provides an opportunity to consider the challenges, concerns and opportunities around unconventional oil and gas in Scotland afresh. In doing so, SG can reflect the full range of new devolved powers that will be available.

3. Exactly what new powers will be available to the Scottish Government as a result of the Smith Commission recommendations?

The Scottish Government will have responsibility for the licensing of onshore exploration and extraction of oil and gas and responsibility for mineral access rights.

This enables the Scottish Ministers to set the framework of consideration of all planning applications for oil and gas projects onshore; to refuse permission for activities which are not acceptable in the specific locations proposed; and to impose appropriate controls to prevent pollution and protect the environment in respect of proposals which do receive permission.

This will include powers to grant licences, and to make further provisions in respect of licences within the Scottish onshore area. Scottish Ministers will also benefit from information sharing powers and will gain powers of inspection, and powers to make Regulations setting out Model Clauses to be incorporated into licences.

4. What about the economic opportunities that will be lost by not developing unconventional oil & gas?

We should be clear that this is not an absolute ban on unconventional oil & gas – we are calling a moratorium now so that we can determine the best way forward when we have the devolved powers on onshore oil & gas extraction. This also gives us the time to further develop our evidence-led approach by gauging the views of a wide range of stakeholders on our longer term approach and to augment that with further novel research on key areas (like health, environment and planning).

Finally, we know the resources are there - they will still be there in the future.

5. Industrial figures like Tom Crotty at INEOS have already indicated that a moratorium will harm our security of energy supply and could have a negative impact on their operations. How can this be avoided?

We believe that we need a balanced energy mix and it is clear that fossil fuels will be a part of that for the foreseeable future. However, in order to inform our longer-term strategic approach, we think it's important to seek further evidence to fill the gaps in our knowledge and let the voice of local communities be heard. A moratorium is the right approach so that everyone is clear on expectations – developers, local communities and environmental campaigners.

We are already blessed with significant resources in the North Sea - current production from the Scottish portion of the North Sea alone is enough to meet Scottish domestic gas demand three times over and our oil demand six times over.

It is important that we hear the voice of our industrial base in Scotland during our forthcoming consultation and we warmly welcome any points made by companies like INEOS.

6. What action will Scottish Government take if UK Government continues to issue onshore oil & gas licences in Scotland?

The Scottish Government is pleased to note that the UK Minister Amber Rudd tabled an amendment to the Infrastructure Bill to exclude Scotland from the provisions to remove householder property rights – presumably because the Smith Commission also announced the devolution of mineral access rights to this Parliament.

Given the precedent of not acting on a policy area about to be devolved, the UK Government should do the same on onshore licensing and should not issue any further licences for unconventional oil and gas.

The Scottish Government has announced a moratorium across Scotland on the granting of planning consents for all unconventional oil and gas developments, including fracking, until further work and a full consultation are concluded. I will keep Parliament advised of the progress of that work.

7. When will the Scottish Government's consultation start and what issues will it cover?

Scottish Ministers have [today] announced that we are undertaking a full public consultation. It will be launched in the next two months and will last for the normal 12 week period of Scottish Government consultations. Thereafter we will consider the consultation responses that have been made.

This consultation will allow us to take into account the legitimate views of all stakeholders in determining the longer term concerns and opportunities for unconventional oil & gas.

8. Why do we need a moratorium on unconventional oil & gas projects? Why not allow planning applications to proceed while the Government consults stakeholders and undertakes further research?

A moratorium is a sensible way to proceed – it gives clarity to all interested parties – including potential developers - on the Scottish Government's position on the matter and allows us to take stock of where we are and what our long term plans should be.

9. What type of developments are covered by this moratorium?

All onshore unconventional oil & gas developments planning applications will be included in the moratorium. This will cover principally onshore shale oil & gas and coalbed methane developments.

10. What is your policy on offshore underground coalbed gasification?

Today's statement is about onshore unconventional oil and gas.

With relation to offshore underground coalbed gasification, many of the relevant powers remain with Westminster and there is no doubt that we should proceed cautiously, and take an evidence-based approach to ensure that the environment is protected.

It is vital that potential operators engage with local communities and the key regulators (local authorities, SEPA, the Health and Safety Executive, Marine Scotland, the Crown Estate).

It is important that potential projects demonstrate they can be done in an environmentally safe and sustainable way, thus giving the necessary confidence and security to local communities.

11. What is the timescale for the moratorium?

The moratorium will remain in place until the work referred to today has been completed. I will keep Parliament advised of the progress of that work.

12. Is the extraction of unconventional hydrocarbons contradictory to Scottish Government's ambitious climate change policies?

It is clear from our actions that we are equally committed to the transition to a low carbon economy. This is evidenced in our ambitious renewables targets, climate change targets and our draft Heat Generation Policy Statement, which will reduce our use of fossil fuels.

We need a global transition to a low carbon economy and Scotland is helping to lead that transition, however as a global society it is very likely that we will continue to need fossil fuels as part of the energy mix for many years to come, so our approach is one of careful stewardship of finite resources.

As countries such as Denmark show, there is no contradiction between making use of substantial, in its case, gas reserves, while leading the transition to a low carbon economy. The oil and gas industry has an important role to play in that transition, and the hydrocarbon-rich nations have a responsibility to lead the transition to a low carbon economy.

13. What consideration are you giving to the climate change consequences of unconventional oil and gas?

The carbon impact of unconventional oil and gas will play a part in our consultation process. The Cabinet Sub-Committee on climate change is also considering how we can further cut carbon emissions.

14. Should the Scottish Government be pursuing opportunities for development of onshore wind rather than unconventional gas?

In Scotland we need a diverse and balanced energy portfolio to provide us with secure and affordable heat and electricity for decades to come. However, the Scottish Government has an obligation – both moral and of economic opportunity – to lead the way to a low carbon economy. Scotland already generates 46.4% of its equivalent electricity needs from

renewables and our ambition is to deliver the equivalent of at least 100% of gross electricity from renewables by 2020.

However, we also recognise the need for clean thermal baseload to supplement increasing renewables and unconventional gas could potentially play a part in that, particularly if used in conjunction with carbon capture and storage technologies.

It is equally important to remember that gas is used for much more than just electricity generation in Scotland, with the majority of it is used for heating and other purposes.

15. There is a wealth of world-leading skills and expertise in our offshore oil & gas supply chain. What is Scottish Government doing to ensure we maximise the opportunities for these companies in the unconventional gas industry?

We recognise that there are significant global opportunities, principally in the United States, for our indigenous oil & gas supply chain companies to use their skills and expertise to win lucrative contracts and market share.

The Scottish Government, through Scottish Enterprise, will support Scottish companies in the oil and gas supply-chain to utilise their world leading skills, knowledge, and expertise in the development of opportunities presented across Europe and wider afield.

16. You mentioned that Dr McLeod has instructed SEPA not to issue any further Controlled Activity Regulation licences. Could you please clarify what these licences are for, why no further CAR licences will be issued and what the practical effect of this measure will be?

Unconventional gas activities involve activities such as boreholes which require authorisations by SEPA to ensure that environmental impacts are recognised and mitigated.

The Direction to SEPA to refer any new applications to Ministers ensures that we have a coherent approach across Scotland and that the moratorium does not have gaps between regimes; e.g. those areas where planning permission may already be granted. Its practical effect will be to support the Scottish Government's moratorium on unconventional gas development.

17. Will you be matching the ban that Westminster has given to national parks and scenic areas?

The announcement that the Scottish Government is making today is a comprehensive, pan Scotland moratorium and will as such include national parks, national scenic areas and sites of specific scientific interest.

National parks already have significant protection through the Scottish Planning Policy but we will take views in this area as part of the public consultation.

18. What is the likely impact on transport / truck movements from a typical unconventional oil and gas development?

The Institute of Directors (IOD, 2013) estimated that a single 10-well pad of 40 laterals, (typical in the Bowland shale) could see 11,155 - 31,288 truck movements over 20 years, depending on whether the water comes from a mains connection or transported by truck. Assuming truck movements are concentrated in the early years of drilling activity, this averages out at 6.1 - 17.1 per day over five years. A report by the Institution of Civil Engineers (2014) estimated that a single well might require between 500 and 1,250 lorry movements in total.

To put the number of truck movements into context, the IOD estimate that British dairy farmers make 366,667 milk tanker journeys each year in rural locations to transport milk from the farms where it is produced.

As with all issues relating to unconventional oil and gas, it is essential that any evidence and international experiences are considered in the context of Scotland, where roads are often narrow and villages smaller than the freeways and sparsely populated plains of Dakota and other US States.

19. What is the purpose of a Direction?

The Direction will ensure that the Scottish Government is notified of all planning applications for unconventional oil and gas should any come forward. The Direction takes effect immediately and is not time-limited.

20. What will be the process of implementing the moratorium?

Developers will need to reflect on the statement that I have made today. If they decide to submit a planning application, today's Direction will ensure that the Scottish Ministers are notified of any application that is accepted by the planning authority as a valid. Our expectation is that planning permission should not be granted. However, the Direction ensures that the Scottish Ministers will have an opportunity to call in any application. We will not hesitate to use the powers available to us to ensure that the moratorium is enforced.

21. What is the scope of Direction?

The Direction applies to all planning applications for the onshore exploration, appraisal and extraction of coal bed methane and shale oil and gas.

22. How does the moratorium affect the Dart Energy planning appeals at Airth?

These are live cases, which Ministers have re-called for their decision. We await the report from the inquiry Reporter to Ministers. However, my announcement today regarding our policy of a moratorium on the granting of new consents applies to all current and future planning applications for unconventional oil and gas developments.

As this remains a live planning case, it will not be appropriate for me to comment further.

23. Does the moratorium means that applications can't be refused either?

As my statement made clear, the moratorium applies to restricting the grant of planning permission, not to refusal of permission.

24. How does this affect the proposed extraction of unconventional oil and gas at Canonbie?

A moratorium cannot be applied retrospectively but the statement that I have made today will apply to any future planning applications that may be needed at Canonbie.

However Ministers are clear of the need for consistency across policy areas and thus we have also instructed SEPA to proceed with a moratorium on issuing Controlled Activity Regulation licences for unconventional oil and gas developments. This will include any application for CAR licences for Canonbie.

Planning officials intend to meet both Dumfries and Galloway Council and the local residents association to discuss the implications of my statement today.

25. What is happening about strengthening planning regulations?

We are currently considering a range of ways to strengthen the planning system to ensure that applications contain all the information needed to support a robust and evidence-based approach to decision making.

PRO FORMA – MINISTERIAL ENGAGEMENTS

We want to ensure that all applications are subjected to “major planning application” procedures, and existing regulations, such as those relating to environmental impacts assessment and mining waste, are appropriately applied.

26. Will there be a need for a Strategic Environmental Assessment on what has been announced?

We will consider the requirements of the Environmental Assessment (Scotland) Act 2005 to look at whether the actions that I have outlined today should be subject to strategic environmental assessment.

1. What is your view of the proposal for a “triple lock” on the development of unconventional oil and gas, including a proposal for a local referendum?

The action I have outlined today recognises that community concerns go well beyond fracking. The moratorium until environmental and health issues are fully considered also provides communities with much greater reassurances than the local referendum proposed by the Labour Party. Their proposals are therefore too little, too late.

2. Does this moratorium not risk jobs in the oil and gas sector?

No as we do not expect any major unconventional oil and gas developments in the near future in any case, especially given the low oil price. In my statement I noted that job creation was one potential benefit of development of unconvensionals, but it only one element amongst many thank must be considered.

3. Why doesn't the SG ban fracking and unconventional oil and gas?

Because we are taking an evidence based approach to this issue and currently we do not have the evidence to support a ban.

4. Who will be on the planned working group on oil and gas, when will it convene and what will its remit be?

This is still being finalised and will be announced in due course.

5. Does this not show that Scotland is closed for business?

No it shows Scotland is responsible in how it does business.

6. What elements will the consultation consider?

It will consider a range of issues connected to this issue including environmental, planning, climate change, traffic, public health, economic, public finance and employment factors, amongst other relevant areas as appropriate.

7. How was the membership of the expert Scientific Panel decided?

It was decided on the advice of the Chief Scientific Adviser.

8. Why did you support business interests and not community interests in relation to the development of unconventional oil and gas at Canonbie?

I took a balanced position between business, community and environmental considerations as is clear from my correspondence.

9. Why is the Environment Minister not more involved in decision making on this issue?

The former and current Environment Ministers are fully involved in the decision making on this issue. In addition Cabinet Secretaries from across Government have discussed this issue at Cabinet. This includes the full involvement of the Cabinet Secretary for Rural Affairs, Food and the Environment.

10. Is this not just a political fix to take you through until after elections in 2016

PRO FORMA – MINISTERIAL ENGAGEMENTS

No. It is clear that there are several areas of concern where we do not have sufficient information analysis and expert evidence, and since our approach is evidence based, these are gaps that we need to fill

11. This is a U turn pure and simple / backtracking etc

Not at all. We are continuing to take an evidence based approach, and it is clear that we simply lack sufficient evidence on a number of important areas, and therefore we are proceeding to start the work necessary to fill these gaps. This will take time. But it is important that we have a comprehensive consultation process in Scotland in anticipation of possession of powers from the Smith Commission recommendations.

12. This is an about turn for you personally Mr Ewing;

Not in the slightest. I have consistently pointed to the need to proceed on the basis of evidence and that remains our process - and I have of course successfully persuaded the UK Government to abandon their plans to confiscate rights of householders to object to operations beneath their homes or land, and I also successfully campaigned for the powers over this policy area to be devolved

I have also spoken out very clearly against the "gung ho" approach of the UK Government, and described on several occasions the UK approach on where unconventional be mined, as akin to the slogan of the old Martini advert "any place any time anywhere."

From: John Ireland
22nd January 2015

First Minister
Deputy First Minister
Minister for Business, Energy and Tourism

UNCONVENTIONAL OIL AND GAS: POLICY OPTIONS

PURPOSE

1. To provide you with advice on the policy options for unconventional oil and gas in the light of recent developments.

TIMING

2. **URGENT:** An amendment to the Infrastructure Bill in the House of Commons has been tabled by Caroline Lucas of the Green Party, which calls for a UK moratorium on the development of unconventional oil and gas. We understand this will be debated on Monday 26 January.

BACKGROUND

Scottish Government Policy

3. To date, the Scottish Government has followed a pragmatic, evidence based policy approach to unconventional oil and gas, based on the principle that environmental protection is paramount and that the voice of local communities must be heard. This has sought to find a practical middle ground between those bodies calling for a ban or moratorium, and those seeking to accelerate the development of an unconventional oil & gas industry in Scotland.
4. The Scottish Government has taken a number of practical actions to either increase the evidence base or take action to ensure the regulatory regime is robust and that communities have a strong say in matters affecting them locally. These include:
 - Convening an Expert Scientific Panel on Unconventional Oil & Gas in September 2013 to review and report upon the scientific evidence;
 - The new Scottish Planning Policy published in June 2014 was strengthened in relation to unconventional oil and gas;
 - The Scottish Environment Protection Agency (SEPA) published its regulatory guidance with respect to shale gas and coalbed methane in December 2012; and

- Most recently, the Scottish Government successfully argued that the provisions in the UK Government's Infrastructure Bill giving automatic underground drilling access rights to oil & gas and geothermal companies should not be applied in Scotland.

UK Infrastructure Bill

5. Several amendments have been tabled at different stages of the Infrastructure Bill's progress through the House of Lords and (currently) the House of Commons. These have proposed either to impose a moratorium on unconventional oil and gas developments or to regulate developments much more heavily. Other amendments have sought to devolve onshore shale gas licensing powers to Scotland more quickly than the Smith Commission process. The most recent amendment from Caroline Lucas of the Green Party seeks to prohibit the use of hydraulic fracturing for the exploration of unconventional petroleum.

Planning Applications

6. There are current no planning applications in Scotland that propose hydraulic fracturing. Ineos are one of the more prominent potential applicants in Scotland. They have purchased a majority of the shale interest in Petroleum Extraction and Development Licence (PEDL) 133, and a majority share in the adjacent PEDL 162. [redacted]

7. We are aware that the company has to do some surface seismic testing in advance of exploratory drilling (at which point we understand a planning application would be required), but it is difficult to estimate exactly when this may be. The impact of low global oil prices may also have an impact on the economic model for shale extraction by INEOS, which makes the timing of a planning application even more difficult to predict. We have asked Ineos about the impact of low oil prices on their plans but they refuse to say. Industry sources suggest that the break even oil price for developing shale gas is between US\$70 and US\$80.

8. [redacted]

Dart Energy Ltd and the Airth Planning Appeal

9. The most advanced unconventional oil & gas project in Scotland is Dart Energy Ltd's coal bed methane developments at Airth. Dart Energy Ltd was taken over by IGas last October. Dart Energy Ltd submitted its original planning application at Airth with Falkirk Council in August 2012 to move into the coal bed methane production phase. The company lodged an appeal with the DPEA against non-determination on 5 June 2013. Inquiry and hearing sessions were held by reporters between 18 March and 2 April, and closing statements were heard on 15 and 16 April. Reporters took additional evidence once Scottish Planning Policy was published.

10. On 10 October 2014, the former Planning Minister recalled Dart Energy's planning appeals and will now take the decision over the proposed development of CBM production.

11. The planning appeal has been an intense focus of interest during the hearing and evidence sessions last year, evidenced by the significant number of representations and documentation submitted to the reporters. All stakeholders are keenly awaiting the outcome of the appeal process, particularly as it may be viewed as signalling the intent of how Scottish Government is likely to proceed with such projects.

POLICY OPTIONS

12. A number of options for the policy over the next twelve to eighteen months are discussed below. However, whatever option or combination of options is chosen there is a clear need that the policy allows Ministers to move to a position which is sustainable over the longer run. [redacted]

13. The Smith Commission process is likely to mean that the power to grant on-shore licences will be devolved to Scotland. Clearly these powers will enhance the Government's ability to control exploration and development by either refusing to grant new licences or being selective about the licences it grants. There may be greater uncertainty over the Scottish Government's ability to restrict existing licences that have already been granted by DECC, including those that are due to be granted shortly as part of the 14th onshore licensing round.

14. The other vital element of developing a sustainable policy is the need to build a stronger element of public and industry consensus on these issues. The options below, and Option 1 (Policy Review) in particular, provide some mechanisms for doing this. However, the design of any consultation and the engagement with communities and industry around that will need to provide a clear route to greater consensus in what is currently a very divisive issue.

Option 1: Announce a Policy Review

15. The Government could announce a policy review which would have a public consultation at its heart. An announcement could be made quickly that a review and consultation would take place including if desired an outline of some of the options that the Government would consult on. These options could include:

- a moratorium or an open ended prohibition on exploitation;

- a middle course of a geographically differentiated prohibition; or
- the current position of developing a robust regulated regime that protects the environment and allows the voices of local communities to be heard.

16. The consultation would presumably need to cover any future powers on on-shore exploration and development that are devolved to Scotland as well as existing regulatory and planning powers.

17. The consultation could also include options on a further strengthening of the planning guidance as promised by the former Minister for Local Government and Planning last June after publication of the Scottish Planning Policy.

18. A consultation document would need to be drafted including specific details of the options that were being consulted on. This drafting process could take about a month if it were done internally or slightly longer if input was sought from external stakeholders. There would then be a formal consultation period of at least twelve weeks, in line with existing Scottish Government guidance. The responses would need to be analysed which could take some time – for example, the Same Sex Marriage and Referendum consultations both took about five months to analyse. Ministers would need time to consider the results as well as taking any decision suggesting that the process could take between nine months and a year in total.

19. The Policy Review period could be accompanied by a formal moratorium. However, there is an argument that the time scales and the low price of oil are such that there are unlikely to be any planning applications during the period of the Review. [redacted].

20. The potential advantages of a Policy Review could include:

- As the Policy Review would have a formal consultation at its centre it allows the NGOs, local communities as well as potential developers to have a formal mechanism to express their views. There would also be the opportunity for substantial engagement with interested groups and communities. In particular the Review could play well with the increasing number of anti-unconventional community groups, who may welcome the opportunity to contribute to a SG consultation and engagement on the matter.
- A consultation would also allow industry groups to express their views more actively and build a more considered case for a robustly regulated approach to developing unconventional in Scotland – something that has not happened to date.
- A Policy Review raises the scope for the Government to build consensus behind a middle path that prohibits the exploitation of unconventional oil and gas in certain geographic areas of Scotland, while allowing carefully regulated development elsewhere;

- There is an opportunity to make clear that Ministers are willing to consider some options that have previously not been spoken about if the announcement of the Review included some information on the potential options that would be consulted on.
- The Review would assist in the consultative requirements for meeting Mr McKay's commitment to publish strengthened planning guidance by June 2015.

21. The potential disadvantages of this option could include:

- The responses to the consultation are likely to come overwhelmingly from environmental NGOs and community groups and, indeed, members of the public against unconventional oil & gas. We could also anticipate campaigns from environmental NGOs, which could result in a very high number of responses heavily in favour of a moratorium or a ban.
- The Scottish Government would be under pressure to accept the result of the consultation of massively in favour of a moratorium or ban, even if the majority of responses are along the same lines and use the same arguments. The UK Government were heavily criticised for not listening to 99% of the respondents to the underground drilling access rights consultation.
- Existing industry players in Scotland could take the Review as a hardening of the Scottish position and decide against any investment in Scottish indigenous resources.

Option 2: Announce a Time Limited Moratorium

22. The Government could announce a time limited Moratorium on the development of unconventional oil and gas in Scotland. The Annex to this paper provides more detail on the mechanisms by which a Moratorium could be achieved. In effect the planning system is the mechanism by which the policy of a temporary ban is enforced. Ministers would need to issue a policy statement that confirmed why the Moratorium is taking place and providing sufficient justification for using the planning system for doing so. This statement would ideally be issued at the time the Moratorium was announced.

23. [redacted]

24. Clarity will be required on the coverage of a Moratorium. The line between "unconventional" and "conventional" is difficult to define and the public and environmental groups don't often differentiate. What is mostly in the media is concern about hydraulic fracturing of oil shale to produce hydrocarbons. However, people can "frac" conventional reservoirs too in order to increase production. In addition there is coal bed methane production (as in the Airth application) which does not involve hydraulic fracturing but which many people consider as an unconventional technique and of course conventional drilling

can be based onshore. Finally, we should be aware that there is also the potential for technical innovation that may give rise to new techniques.

25. The Smith Commission proposal is to devolve all onshore licensing powers so even if a Moratorium is initially narrowly defined as onshore hydraulic fracturing the wider set of issues will become relevant in due course. The Government will also get responsibility for at least the first twelve miles of sea and will need to consider how to influence that.

26. A Moratorium could cover prospective applications for on-shore oil and gas developments as well as the on-shore elements of an off-shore application that required planning permission. [redacted]

27. The purpose of the Moratorium is key to its public perception. An obvious extension of the Government's current evidence based position is that the Moratorium is necessary to support the collection of further evidence on public health impacts, environmental and climate change impacts as well as the necessary additional requirements of development of a robust regulator regime as described in Option 4. In a similar light the period of a Moratorium could be used for a Policy Review as in Option 1. It would probably be hard to justify a Moratorium without following either the Option 1 or 4 approach at the same time.

28. Alternatively if a Moratorium were in part intended as a holding position until the powers to grant new licences (and possibly administer existing licences) were devolved to Scotland a longer period would be required.

29. The potential advantages of a Moratorium could include:

- A Moratorium would probably be seen as positive by those opposed to developing unconventional oil and gas, although as argued above public perceptions will depend critically on what the stated purpose of the Moratorium.
- If the Moratorium were sufficiently long it would provide a reason to revisit the time of the consultation requirements for meeting Mr McKay's commitment to publish strengthened planning guidance by June 2015. The presence of the Moratorium may also influence the nature of the public debate about the strengthened guidance.

30. The potential disadvantages of a Moratorium could include:

- The adverse signals it may be seen as sending to potential developers and other related industries such as the Scottish petro chemicals sector. This may make it more difficult to construct a middle way in the future if that was desired. The constructive use of industry engagement during a Policy Review may mitigate this risk;
- The risk of legal challenge from licence holders under ECHR or to the planning regulations used to enforce the Moratorium;

- The additional risk of a challenge if the Moratorium included the current Airth application;
- A Moratorium may be seen as “overkill” given the likelihood of planning applications in the near future with the a low oil price.

Option 3: Announce an Open Ended Prohibition

31. At this stage an open ended prohibition on developing unconventional oil and gas in Scotland would be a significant departure from our existing evidence based approach. It could be very difficult to justify in terms of the findings of the Expert Scientific Panel’s report.

Option 4: Current Proposals

32. With this option, Scottish Government would continue with our cautious and pragmatic approach to unconventional oil and gas, with a view to developing the evidence base further. The three proposed work streams on a public health impact study, a regulatory review group and proposals to strengthen the planning guidance are summarised in Annex B.

33. The advantages of this policy position would be:

- Industry and trade bodies are likely to be more content with a position that does not involve a Moratorium
- It could lead to the quicker development of unconventional oil & gas in Scotland, with concomitant economic benefits – including helping to keep our petrochemical and wider chemical and refinery businesses competitive on the global market.

34. The disadvantages of this policy position would be:

- Environmental NGOs and local community groups are not likely to be satisfied with this position and we may anticipate increased scrutiny of our position and further calls for a moratorium or ban;
- The Scottish Government will continue to be universally accused of ‘sitting on the fence’ on this controversial issue;
- Mr McKay’s commitment to publish strengthened planning guidance by June is still live and delivering on that will mean this option will need to include a public consultation in the near future unless a Moratorium is also imposed that provides reason for revisiting the time scale.

DISCUSSION AND RECOMMENDATION

35. Three of these options are inter-related. Either Option 1 (Policy Review) or Option 4 (Current Proposals) could be taken – and presented as a development of the position in the Programme for Government. In both cases Option 2 (a Moratorium) could be imposed and justified by the Policy Review or following the Current Proposals. Alternatively either Option 1 or 4 could be followed without imposing a Moratorium on the argument that further planning applications are unlikely in the near future.

36. [redacted]

37. The arguments in favour of imposing a Moratorium (Option 3) at the same time as a Policy Review are more finely balanced. While the chance of a planning application is low, there is some risk of such applications. In the absence of a Moratorium the mechanism for dealing with any applications would require consideration of the specific circumstances as in the case of the Airth application which to date has taken over two years. [redacted]

38. On balance given that the planning process would probably take sufficient time that the Review would have been completed before any final planning decisions are reached [redacted]

[redacted]

Summary of Work Streams Currently Under Development

1. Since completion of the work undertaken by the Expert Scientific Panel, officials have been keen to develop further options for taking forward some of the findings, as well as undertaking novel research to develop the evidence base. This has been developed since July 2014, culminating in the most recent advice to the DFM on 19 January 2015. These proposals form the basis of Option 4 in the main paper.

2. In summary, the key propositions are:

- A Working Group on Unconventional Oil & Gas – this was initially proposed as a vehicle through which the findings of the Expert Scientific Panel could be taken forward, focusing on clarification and transparency of the regulatory regime and to ensure it was as robust as possible. However, this could also be an opportunity to solicit advice from experts on the group in relation to the development of onshore oil & gas licensing regime in Scotland;
- Commissioning novel research – this would be in the areas of decommissioning and remediation of unconventional oil & gas sites and the effect of the use of extracted oil & gas on the Scottish Government’s climate change commitments.
- Further strengthening planning controls – The Cabinet Secretary for Social Justice, Communities and Pensioners’ Rights has requested that officials develop a further paper to be considered by Ministers, which would outline plans for a public consultation on proposed planning guidance and actions to strengthen planning. This would focus primarily on community engagement issues, particularly meaningful community interaction with developers and planning authorities before a planning application is submitted.
- The DFM has requested work be undertaken on a Public Health Impact Assessment on unconventional oil & gas. This was the subject of further advice on 19 January, which noted that this would be a generic assessment of the available evidence on health impacts, to be carried out by Health Protection Scotland, and that it would should be completed within one year.

Copy: All Cabinet Secretaries
Lord Advocate
Minister for Environment, Climate Change and Land Reform
Minister for Public Health
Minister for Local Government and Community Empowerment
Permanent Secretary
DG Enterprise, Environment and Digital
DG Communities
Cabinet Secretariat
Chief Scientific Adviser for Scotland
Chief Scientific Adviser for Rural Affairs and the Environment
Mary McAllan
John McNairney
[redacted]
David Ritchie
[redacted]
[redacted]
[redacted]
[redacted]
Gareth Brown
[redacted]
Murray Sinclair
[redacted]
[redacted]

BRIEFING NOTE FOR:**UNCONVENTIONAL OIL AND GAS – PRE-CONSULTATION MEETING WITH COSLA**

<i>Date and Time of Engagement</i>	24 June 2015. 10-11am.
<i>Where</i>	TG22 Parliament
<i>Key Message</i>	The Scottish Government announced a moratorium on unconventional oil & gas planning consents on 28 January. This is a continuation of our cautious, evidence-based approach.
<i>Who</i>	[redacted] , Policy Officer Climate and Energy
<i>Why</i>	<p>This meeting will provide RSPB with an opportunity to put their views to Ministers on the public consultation. As such, Ministers may wish to set this out as a key listening opportunity for the Scottish Government.</p> <p>It may be helpful for Ministers to set out some introductory background on the Government's policy approach, principally that we have and will continue to follow the evidence, but that it is important our position also takes account of community opinion as well as technical assessments.</p> <p>We envisage that the bulk of the meeting will be occupied by RSPB giving Ministers their views on the consultation process, and how best to engage the public and other interested groups.</p> <p>There may be an expectation that the consultation will start soon. Minister are still considering the breadth of evidence gathering required and consultation timetable. Therefore you should not discuss the timing.</p>
<i>Official Support Required</i>	<p>[redacted]- Onshore Oil and Gas ([redacted], ext [redacted])</p> <p>[redacted]- Natural Assets and Flooding ([redacted] ext [redacted])</p>

Annex A	PURPOSE OF MEETING AND KEY ISSUES
Annex B	LIKELY DISCUSSION POINTS
Annex C	CORE BRIEFS- PLANNING AND ENERGY
Annex D	PROPOSED PRE-CONSULTATION RESEARCH

PURPOSE OF MEETING OF KEY ISSUES

PURPOSE OF MEETING:

- Ministers invited RSPB to a meeting to give them an opportunity to put their views to Ministers on the public consultation. As such, Ministers may wish to set this out as a key listening opportunity for the Scottish Government.
- The meeting is also an opportunity to outline Scottish Government's policy approach to unconventional oil & gas and discuss (at a high level) our proposals for consultation and further work during the moratorium on unconventional oil & gas.

Key Issues:

- RSPB may press their case for an outright ban on unconventional oil & gas and underground coal gasification.
- They are also likely to call on the Scottish Government to include underground coal gasification in the current moratorium.

TOP LINES

- Scottish Government has taken a cautious and evidence-based approach to unconventional oil & gas. Our moratorium and plans for further work are a continuation of that sensible approach.
- The publication of the Smith Commission Command Paper on 22 January confirmed that licensing powers for onshore oil and gas will be devolved to Scotland. This gives Scotland the ability to consider the challenges, concerns and opportunities of unconventional oil and gas developments in Scotland.
- The consultation will allow everyone with a view on this issue to feed it into government. It is a logical next step in the careful and evidence based approach we have demonstrated to date, and is an example of our commitment to the community engagement which this Government believes in.

ISSUES TO AVOID

- *Specific timings of the public consultation and further work.*
- *Whether Underground Coal Gasification falls within the scope of the moratorium*
- *Whether exploratory boreholes fall within the scope of the moratorium*

Ministers are considering their position on boreholes and Underground Coal Gasification. There are also a series of unanswered PQs seeking details of proposed pre-consultation work. We expect further details of the consultation and the scope of the moratorium will be announced soon.

POTENTIAL DISCUSSION POINTS

Consultation process and engagement

- Scottish Government is committed to involving communities and other stakeholders in the decisions that matter to them.
- The design of our approach to consulting on this important issue is key and we be looking to stakeholders to guide us on the issues that matter to them and how these issues can be framed to support an informed discussion.

Scottish Government pre- consultation evidence-gathering

- We are currently examining evidence-gathering needs and gaps, and the meeting is an opportunity to gain early views on the issues that should be examined.
- We are currently focusing on following research themes:
 - impacts of transport on communities;
 - monitoring of induced seismic activity; and
 - decommissioning and site restoration.

Climate change

- RSPB may wish to discuss the potential impacts of unconventional oil and gas on climate change targets and commitments.
- UK Committee on Climate Change has a statutory duty to examine the impact of unconventional oil and gas on carbon emissions. A report will be produced next year.
- UK Department for Energy and Climate change also commissioned work to examine the potential impact of the industry on carbon emissions, which concluded that:
 - if adequately regulated, local GHG emissions from shale gas operations should represent only a small proportion of the total carbon footprint of shale gas;
 - the carbon footprint of shale gas is similar to gas extracted from conventional sources.

Participation in Public Health Impact Assessment (PHIA)

- WWF may press for details of the Public Health Impact Assessment and for establishment of an independent panel or other stakeholder forum to guide the work.
- The scope of the PHIA has been agreed by Ministers, but the work has not been publically announced. Details of the PHIA will be announced alongside other details of the consultation.
- It may be helpful to share the following information on the PHIA:
 - Health Protection Scotland intend to organise workshops (industry, community and health professionals) to allow stakeholders to feed in their views.
 - We would expect the PHIA to be subject to peer review.

CORE BRIEF- PLANNING

Updated Scottish Planning Policy

23 June 2014 – Minister for Planning and Local Government introduced 5 main changes that strengthen planning policies for unconventional oil & gas:

- Confirmation that buffer zones should be applied to all proposals for the first time
- Additional requirement for risk assessments to be prepared, using a source-pathway-receptor model, to ensure a transparent and evidence-based approach to assessing whether proposed buffer zones are acceptable
- Making explicit that buffer zones will be assessed by the planning authority and statutory consultees, with a strong expectation that planning permission should be refused if they are unacceptable
- Ensuring that operators are upfront about their plans and that communities are consulted on all unconventional gas developments, including close involvement in the risk assessment process
- Requiring a fresh planning application (and public consultation) if permission was not sought for hydraulic fracturing but developers subsequently intend to undertake this process.

Valuing the Natural Environment

- Scottish Planning Policy sets out how the Scottish Government expect the planning system to protect Scotland's key environmental resources.
- SPP is clear that planning permission should be refused where the nature and scale of proposed development would have an unacceptable impact on the natural environment.
- The moratorium provides an opportunity to consider whether existing guidance and regulation provides sufficient protection to the natural environment.

Dart Energy Ltd Planning appeal

- The moratorium covers the current planning appeals at Airth. Reporters have therefore suspended work on their report to Ministers and the appeals have been sisted during the moratorium period.

Coalbed Methane projects at Canonbie

- Members of the local community have criticised historical planning and environmental permissions for coal bed methane projects in the Canonbie area, culminating in an official complaint against D&G Council to the Scottish Public Services Ombudsman. The complaint was not upheld by the Ombudsman.
- The boreholes at Canonbie have all been sealed and the risks of saline intrusion and other contamination has been removed.

CORE BRIEF- UNCONVENTIONAL OIL AND GAS- BRIEF

Our moratorium on unconventional oil and gas has been welcomed by industry and environmentalists.

Key Quotes

- **Richard Dixon, Director, Friends of the Earth Scotland:** “a halt on the industry while a full examination of health and environmental impacts is carried out is very welcome”. PR, 28 Jan.
- **Ken Cronin, Chief Exec of the UK Onshore Operators Group:** “*We recognise that the general public have concerns about the issues around fracking and we welcome this opportunity to present the facts to the Scottish people.*”

Media coverage and Scottish Government plans for unconventional oil & gas

- 29 April - BBC Documentary “War Over Fracking”, quoted Energy Minister saying ““Hydraulic fracturing has been carried out in the USA on a very large scale..... It is different and we need to think how [fracking] will be, how it may be, applied to Scotland.” – interpreted by Frack Off Scotland as the moratorium being a ‘temporary fix’ that will be lifted after Scottish Parliament Election.
- 29 April – reported in the Herald that SNP are ‘misleading the public over fracking’ – cite Lewis Macdonald PQs on the matter not being answered and anti-fracking badges being handed out by the SNP to activists
- **Scottish Labour fail to back moratorium in Commons (26 Jan 2015)** - SNP MPs backed an amendment to the UK Infrastructure Bill to implement a moratorium - Scottish Labour MPs had the chance to support it, but did not.
- Friends of the Earth tweeted “*SNP done good, Scottish Labour very puzzling in fracking vote at Westminster*” (tweet 26 Jan).

Scottish Government announcement of moratorium (28 Jan 2015)

- Fracking issues should be based on the facts – which is why we have taken an evidence-based approach to the development of unconventional oil & gas
- The Minister for Energy has announced to Parliament plans for a wide public consultation on the issue, further research into unconventional oil and gas, including a public health impact assessment and plans to further strengthen planning and regulatory procedures.
- Ministers are holding pre-consultation meetings with interested stakeholders as part of our commitment to fully engaging and listening to the diversity of views on this subject (Ministers have met with Broad Alliance Against Unconventional Oil & Gas, INEOS, Friends of the Earth Scotland, UK Onshore Operators Group)
- **23 Jan 2015** – Minister for Energy wrote to DECC requesting they do not issue onshore oil and gas licences in Scotland as powers are being devolved. DECC have agreed in principle and are consulting applicants. **Another victory over UKG’s ‘gung-ho’ approach to unconventional.**

Underground coal gasification a concern for community groups

- The moratorium announced by the Minister for Energy was specifically about onshore technologies involving fracking and coalbed methane.
- Underground coal gasification requires employs a different technology and is not covered by the Moratorium. **Ministers have asked for advice from officials on issuing a moratorium on underground coal gasification.**
- 'Broad Alliance' of concerned community groups, academics and trade unions, wrote to Mr Ewing, asking for underground coal gasification to be included in the scope of the moratorium (19 Feb 2015). The letter has received wide media exposure (e.g. BBC News website, the Scotsman, the Herald (all 22 Feb), The Times 23 Feb).

INEOS announce plans to invest £640 million in shale gas exploration and production

- **10 March 2015** – INEOS announce it is acquiring an interest in a number of IGas onshore oil & gas licences across UK and is purchasing the entire interest in PEDL 133. This is in addition to the 80% share it has in PEDL 162, purchased from Reach Coal Seam Gas Ltd on 16 October. Deal makes INEOS third biggest shale gas player in UK.
- **20 November 2014** – INEOS announce plans to invest £640 million (\$1 billion) in shale gas exploration in the UK – no details given of how much investment in Scotland, but suggests that hydrocarbons would be used for chemical feedstock.
- **28 September 2014** – INEOS announces plans to give 6% of its shale gas revenues to homeowners, landowners & communities close to its wells, estimating that it will give away over £2.5 billion from its new shale gas business.

Scotland Bill

- The Scotland Bill was published on 28 May and includes clauses to devolve the licensing of onshore oil and gas exploration to the Scottish Parliament.
- Minister are considering their position on the Bill and whether the clauses fully reflect the recommendations of the Smith Commission.

PROPOSED PRE-CONSULTATION RESEARCH

PUBLIC HEALTH IMPACT ASSESSMENT

A Public Health Impact Assessment will be undertaken by Health Protection Scotland to:

- examine the potential risks to health associated with exploration for and exploitation of shale oil and gas and coal bed methane
- examine the wider health implications of deploying the technology necessary for the exploration and exploitation of shale oil and gas and coal bed methane.
- examine options could there be to mitigate any potential adverse impacts that are identified.

A final report drawing together the findings of the work will be peer reviewed and made publically available.

A ROBUST REGULATORY AND PLANNING FRAMEWORK

We are considering a set of independently facilitated stakeholder workshops to examine:

- creation of an integrated regulatory approach and new exploration licencing powers;
- fugitive emissions and decommissioning;
- how best to ensure that meaningful and early engagement takes place with communities;
- relevant findings from the commissioned research projects.

COMMISSIONED RESEARCH PROJECTS - DRAFT AIMS

Understanding and mitigating community impacts from transport:

- Examine the scope and scale of the increased traffic volumes in communities around specific site(s) during the four stages of unconventional oil and gas development.
- The impact (and duration of impact) of these traffic volumes and regulatory and other options that could mitigate impacts for communities.

Monitoring induced seismic activity:

- This research will improve our understanding and communication of induced seismic activity associated with any future unconventional oil and gas exploration in Scotland, and regulatory options to mitigate any noticeable effects on communities.

Decommissioning, Site Restoration and Long Term Monitoring:

- Consider the issues and liabilities associated with decommissioning, site restoration, and long-term monitoring of potential environmental and social impacts of unconventional oil and gas developments including regulatory options to minimise future risks to communities, industry and the state;
- Assess different models of financial guarantee, considering the effectiveness in different industries, and how best to implement these to protect communities and the state, while providing for proportionate compliance costs for operators.