Dear Franck

CONSIDERATION OF PETITION PE1277

Thank you for your e-mail of 3rd February 2011 requesting the Scottish Government response to the questions raised by the Committee on Petition PE1277. The Committee suspended consideration of the Petition on 9th Feb 2010 pending completion of the joint study by Scottish Natural Heritage and the British Geological Survey to establish the evidence base for a geodiversity framework for Scotland. We received a copy of the report “Scotland’s Geodiversity: Development of the Basis for a National Framework” on 31 January 2011.

I set out below our response to the Committee’s questions following receipt of the joint study:

What detailed actions will you take, once the joint study by British Geological Survey and Scottish National Heritage to establish the evidence base for a geodiversity framework for Scotland is completed, that will directly address all the issues raised in the petition?

This is a comprehensive report which assesses the value and status of geodiversity in Scotland and develops a case for a national strategic framework to enable better recognition of geodiversity within relevant policy areas. It identifies research needs and evidence gaps and recommends development of a framework for geodiversity, using the study’s outline framework proposals as a starting point, through the mechanism of a “Scottish Geodiversity Forum” or Working Group who would also be tasked with preparing an implementation plan, targets and actions.

I have circulated the joint study widely in the Scottish Government for comment as its proposals impact on many policy areas. Once we have considered the study’s recommendations we plan to meet with its authors’ and others to discuss these and the issues raised in the petition. The creation of a Forum or Working Group would of course have resource implications as would the delivery of any actions arising from its proposals.
Will you act upon the recommendation made in the British Geological Survey’s submission (PE1277/D) that “all Scottish site investigation records should be legally required to be deposited with the BGS to ensure their preservation for the long-term public good, as currently happens in Northern Ireland”. If not, why not?

It may be helpful to the Committee if I set out the existing arrangements allowing British Geological Survey (BGS) access to geological data.

BGS’s rights to data derive from Acts of Parliament going back as far as the Geological Survey Act of 1845. This gave rights of access “for the purpose of making and completing a geological survey of Great Britain”, which means the onshore area and to the edge of the 3-mile limit out to sea. Furthermore, The Mining Industry Act 1926 (section 26), as amended by the Science and Technology Act 1965, requires those sinking boreholes for mineral exploration to give prior notification to the National Environment Research Council (NERC) of their intention to drill holes deeper than 30 metres, giving BGS access to these borehole records. In addition, the Water Resources Act 1991 (section 198) and the Water (Scotland) Act 1946 requires records of drilling made for water for all boreholes drilled over 15 metres, or 50 feet to be deposited with NERC together with any test results of water flow.

The provisions for Northern Ireland are similar but wider in nature to those in the Mining Industry and Water Acts. These are intended to ensure that all information from the sinking of all shafts and boreholes or excavations for minerals, water, or engineering works reaching a depth of more than 15 metres are made available to the Geological Survey of Northern Ireland (GSNI). Data can be required to be sent to the GSNI and information from carrying out geochemical and geophysical surveys and the production of geophysical logs are covered by the provisions.

GSNI is an office of the Department of Enterprise, Trade and Investment (DETI) who regulate the legislation governing exploration and mining in Northern Ireland. One important difference with the rest of the UK is that The Mineral Development Act (Northern Ireland) 1969 vested most minerals in Northern Ireland in the DETI. This enables the DETI to grant prospecting and mining licenses to commercial companies for exploration and development of minerals with 3 main exceptions i.e. gold and silver, as they are already vested in the Crown; minerals which were being worked at the time of the 1969 Act; and common substances, including aggregate sand and gravels are excluded. In the rest of the UK including Scotland, and with the exception of oil, gas, coal, gold and silver which are vested in the Crown, the state does not own mineral rights. Generally minerals are held in private ownership, and information on mineral rights, where available, is held by the Register of Sasines (in Scotland) together with details of land surface ownership.

The extension of existing provisions for BGS to access geological data in Scotland to match those in Northern Ireland may require legislative changes, and given the reserved nature of much of this legislation, will require consultation with colleagues from NERC, as the sponsoring department for BGS in the UK, including Scotland. These discussions are at an early stage.

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1 NERC are the sponsoring department for BGS in the UK
Do you agree with the benefits of having a geodiversity duty as identified by Scottish Natural Heritage (PE1277/C) and how are these benefits being realised?

In their letter to the Committee dated 27 November 2009 SNH identify the benefits of a geodiversity duty which would help bridge the gap between the current focus on statutory protected sites and Scotland’s wider geodiversity, as well as providing more effective linkages with the 5 Strategic Objectives of the Scottish Government. It would place a duty on all local authorities, agencies and other public bodies to further the conservation and enhancement of geodiversity and to recognise its wider economic, social, cultural and environmental values. It would thus underpin a Scottish Geodiversity Framework that would sit within the developing UK Geodiversity Action plan (UKGAP).

However, the joint study states that a geodiversity duty should not be regarded as essential to the development and implementation of a geodiversity framework (see at section 7.3.1 of the report). Clearly this is an issue which requires further discussions with both SNH and BGS and we hope that this will form part of the discussions we plan to have with them.

I trust this provides a helpful response to the Committees questions. Please do contact me if I can be of further assistance.

Yours sincerely

Bob McNeill