

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 10 May 2000
(Morning)

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TRANSPORT AND THE ENVIRONMENT COMMITTEE

† 11th Meeting 2000, Session 1

CONVENER

*Mr Andy Kerr (East Kilbride) (Lab)

DEPUTY CONVENER

*Nora Radcliffe (Gordon) LD)

COMMITTEE MEMBERS

*Helen Eadie (Dunfermline East) (Lab)
*Linda Fabiani (Central Scotland) (SNP)
*Robin Harper (Lothians) (Green)
*Janis Hughes (Glasgow Rutherglen) (Lab)
*Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)
*Mr Kenny MacAskill (Lothians) (SNP)
*Des McNulty (Clydebank and Milngavie) (Lab)
Tavish Scott (Shetland) (LD)
*Mr Murray Tosh (South of Scotland) (Con)

THE FOLLOWING MEMBERS ALSO ATTENDED:

Brian Adam (North-East Scotland) (SNP)
Mr Kenneth Gibson (Glasgow) (SNP)

WITNESSES

Sarah Boyack (Minister for Transport and the Environment)
John Graham (Scottish Executive Rural Affairs Department)
Duncan Gray (Scottish Executive Development Department)
Jim Mackinnon (Scottish Executive Development Department)
Dr Ken Pugh (Scottish Environment Protection Agency)
David Reid (Scottish Executive Finance Department)
David Rogers (Scottish Executive Rural Affairs Department)
Bob Tait (Scottish Executive Development Department)

CLERK TEAM LEADER

Shelagh McKinlay

SENIOR ASSISTANT CLERK

Richard Walsh

ASSISTANT CLERK

Alastair Macfie

LOCATION

The Festival Theatre

† 10th Meeting 2000, Session 1—held in private.

Scottish Parliament

Transport and the Environment Committee

Wednesday 10 May 2000

(Morning)

[THE CONVENER opened the meeting in private at 09:33]

10:03

Meeting continued in public.

The Convener (Mr Andy Kerr): I welcome everyone to the 11th meeting of the Transport and the Environment Committee in 2000. In particular, I welcome again the Minister for Transport and the Environment, Sarah Boyack, and her officials, who will be many and various as we address the different subject matters that they understand.

We are meeting to discuss the draft Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2000, and the Executive's annual budget. I understand that the minister will stay to speak on the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2000 (SSI 2000/96).

No apologies have been received, and I have been advised that Tavish Scott will join us during the meeting.

Subordinate Legislation

The Convener: The first item is consideration of an affirmative statutory instrument, the Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2000. The instrument is accompanied in the committee papers by the usual Executive note and a covering note from the clerks. We will follow our standard procedure for handling affirmative statutory instruments. Members may wish to note that the Subordinate Legislation Committee considered the regulations at its meeting on 25 April and requested information from the Executive on the consultation process preceding the laying of the instrument. The Subordinate Legislation Committee considered the Executive's response at its meeting on 2 May; relevant extracts from the *Official Report* of that meeting were circulated with members' papers.

We will allow time for questions about the regulations and for general discussion. The minister will then move the motion, which may be

debated before a decision is taken, no later than 90 minutes after the motion is moved. First, the minister may wish to make a short opening statement.

The Minister for Transport and the Environment (Sarah Boyack): I will speak briefly about the background to this issue, which I hope will be helpful to members. The regulations introduce new levels of planning fees, which—if they are approved by the committee—will come into effect on 1 June. Since fees were introduced in 1981, they have represented an increasing proportion of the recovery of the costs to local authorities of determining planning applications. They are charged in accordance with the size and nature of development proposals. In line with the United Kingdom Government's policy objective, which was announced in 1990, fee levels are designed to recover fully the costs that are associated with processing planning applications from formal registration to the issue of a decision. The amending regulations demonstrate that we intend to continue that policy commitment. The increase that I am proposing today, which is the first since October 1997, should realise the target recovery rate.

The fees are not intended to recover the full costs of development control, as those include pre-application discussions, appeals and other activities, but are designed to recover the costs only of processing planning applications. The Executive considers that the increase strikes the right balance between full recovery and the likely impact on potential developers. Fees remain a small part of developers' costs—considerably less than 1 per cent—and there is no evidence that they act as deterrence to development. At the domestic property end of the scale, few householders pay fees, because most minor development does not require a planning application.

I will give you some indicative figures to give you a sense of the sums that are involved. The minimum fee for a factory or office development will rise from £190 to £210 on 1 June, and the maximum in those categories will increase by £1,000 from £10,500 for a building of 3,750 sq m. An application to build a new house will attract a fee of £210, whereas an application for substantial alterations to a domestic property will be charged at £105.

We believe that users and potential beneficiaries of the development control system should meet the costs that are incurred in determining planning applications, which would otherwise have to be met by council tax and business rate payers generally. Even when the proposed increases are taken into account, planning application fee levels continue to be modest and to represent a small

proportion of developers' overall costs.

I commend the regulations to the committee. My officials and I will be happy to take questions. Jim Mackinnon is from the planning side of the development department, and Duncan Gray is from the local government finance section.

Mr Murray Tosh (South of Scotland) (Con): I wish to raise a minor matter. The Executive note advises that the regulations propose an increase of approximately 10 per cent since 1997. For future reference, it would be useful to have the rate of inflation since the previous increase, so that we could see whether the increase was broadly in line with rising costs—I assume that it is.

We have had low inflation for quite a few years. Presumably, if the rate of inflation ever rose, there would be pressure on councils if fees did not rise annually. Is it intended to upgrade the scale of fees annually?

Sarah Boyack: That is a relevant point. I will ask Duncan Gray to clarify the position over the past few years and talk about future proposals.

Duncan Gray (Scottish Executive Development Department): I can say something about the change in costs to local authority planning departments, as we gather information from those departments about the costs of dealing with applications. Between 1997-98 and 1998-99—the last two years for which we have information—reported costs rose by about 12 per cent. In the same period, the fees that local authorities received from planning applications did not change, because the underlying fee rate had not changed. Those costs are rising a little bit faster than inflation—I do not have overall inflation figures, but I think that in the past two years, general price inflation has been about 6 per cent. The fee increase is broadly in line with the sort of cost increases that local authorities have faced.

Mr Tosh: Is there any intention to review fees more regularly? A three-year gap seems quite a long period, especially as the major component will be staffing costs. Given the ratios that you have just covered, councils could have difficulties if their costs rose more quickly than their income.

Sarah Boyack: That is a fair point. Our best estimate of the recovery rate for 1998-99 was 91 per cent, so we have not yet achieved full recovery of costs. Ten local authorities are achieving somewhere in the region of 100 per cent recovery, but we want to review that annually to get on to a steady programme, so that local authorities and developers know that it is coming. In a sense, we are catching up this year. We had hoped to bring the matter to the committee annually, so that members could consider the issues formally every year and I could come to a meeting to identify how

costs have changed over the previous year. That would enable appropriate scrutiny.

Des McNulty (Clydebank and Milngavie) (Lab): Is there a pattern in the recovery rate that is achieved by local authorities, in terms of the type and size of authority?

Sarah Boyack: There is. Ten authorities have achieved full recovery, but others have not. The issue needs to be taken up through best value in local authorities. We must examine their costs and consider how each authority processes planning applications. We are considering an average across Scotland; we are not looking at individual local authorities and setting the rates for their full cost recovery. That would require a more hands-on approach. It is an encouragement to local authorities to think about their processes and how they handle planning applications. The indicative set of costs does not include pre-application discussions, which we all regard as being important for the quality of the output from the planning system.

Des McNulty: Are city authorities closer to full recovery than urban authorities or small authorities? Does the size and location of an authority have any implications for the costs of projected development in relation to the planning application?

Jim Mackinnon (Scottish Executive Development Department): I do not have those figures at my fingertips at the moment. As the minister said, we are talking about overall recovery costs, and much depends on the structure of the planning applications that are received. Householder developments are at one end of the spectrum; major retail and industrial development is at the other end. About 40 per cent of all planning applications in Scotland are for householder development, but in authorities such as East Renfrewshire the figure is 64 or 65 per cent. For major housing developments, the average for Scotland as a whole is 10 per cent, but in Glasgow it is 20 per cent. Underlying those statistics is much detail about how individual planning departments are resourced and structured.

The Convener: There are no more questions. I thank you for those comments, and ask the minister to move the motion formally.

Sarah Boyack: I move,

That the Transport and the Environment Committee, in consideration of The Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2000 recommends that the Order be approved.

The Convener: Is that agreed?

Members indicated agreement.

Budget Process

The Convener: We shall now discuss the Executive's annual expenditure report, "Investing in You". I understand that some officials will join us for this part of the meeting.

I refer members to the relevant extracts from "Investing in You" and the committee's covering note on the annual budget process, committee paper TE/00/11/2. Members will recall that, after initial consideration of the draft budget figures before the recess, we sent various questions to the Executive for clarification. We have received a response from the Executive, which has been circulated to members.

The minister is attending today with a number of officials, who will be able to answer any further questions or points of clarification that we may want to raise. We want the Executive to respond to questions on areas of interest to the committee, so that we can have a focused discussion on those issues and other matters that might be raised.

Before inviting comments and questions from the committee, I invite the minister to make a short opening statement.

10:15

Sarah Boyack: I welcome this opportunity to discuss our spending plans with the committee. With me are Bob Tait, from the transport division, David Reid, from the finance department, and John Graham, from the rural affairs department.

Publication of our annual expenditure report, "Investing in You", marked the start of a much more inclusive budgeting process. The report sets out the Scottish Executive's plans for 2000-01, which the Parliament approved earlier this year. It also begins a consultation process to inform the new spending budgeting round that is beginning and, through the process of the spending review, we will set out our spending plans for 2001-02 and 2003-04. We regard the report as a source of information that will allow the Parliament, the committees and interested parties to understand and scrutinise our plans. The report not only seeks to explain the spending, but tries to link explicitly individual spending programmes with individual objectives.

I hope that our replies to the questions that the committee submitted have helped to clarify the background and have provided supplementary information. I hope that we can explain more clearly the strategic policy priorities in the two programmes in my portfolio.

On transport, our spending priorities follow our

strategic priorities. We want a transport system that protects and improves the competitiveness of our economy, puts the needs of people first, and recognises the needs of the pedestrian, the cyclist, the public transport user, the motorcyclist and the car user. We want the system to provide choice for all people, whether they live in large urban communities or remote rural communities. We also want it to protect the health of people and the environment.

On roads, I announced last month our plans for £444 million of investment on our trunk roads and motorways over the next two years, leading to March 2002. That is an increase of 22 per cent on the past two years. There will be 49 projects costing £500,000 or more across the country and many others costing less. We will also repair and maintain our network, after years of neglect.

Links to the south of Scotland are important, so I am pleased that Gus Macdonald has confirmed that the Department of the Environment, Transport and the Regions is to build the last remaining section of the M6 to motorway standard. That completes the motorway route from Scotland to the south.

We are supporting public transport with £55 million from the public transport fund, which has funded 33 public transport improvement schemes across Scotland, many of which are designed to increase the attractiveness of alternatives to the car. Bids for the third round have been invited. Bus operators now get back 70 per cent of the fuel duty that they pay. That is a record level of subsidy for us in Scotland.

We are implementing the devolution settlement on rail, which will include new powers for defining the requirements for the Scottish franchise. Rail investment is on the increase, largely due to funding from Westminster and the private sector. The results of that are already evident: the Glasgow-Edinburgh train travels every 15 minutes; there are new stations in Fife and new trains across the network; and passenger numbers are on the increase.

We have allocated £15 million for projects to take freight off roads and on to rail or inland waterways. That should lead to the removal of nearly 6 million lorry miles from our roads in the year to March 2001. There are more awards in the pipeline.

We are trying to keep rural Scotland connected. We want to keep our most remote and vulnerable communities in touch through our lifeline ferry and air services, in which we have invested at record levels. We have allocated £22 million for new Caledonian MacBrayne ferries, the first of which I launched on Monday in Troon. We recently purchased Stornoway airport.

Our rural transport fund works with £14 million. It has enhanced public transport across Scotland, community transport projects and new petrol station projects. We are also committed to widening accessibility. In total, we plan to spend £370 million this year.

Protection is an integral part of our commitment to place sustainable development at the heart of our policy framework. Part of our environmental protection agenda is driven by our domestic needs and priorities, and part by the obligations and commitments that we have as part of the European Union.

I want to highlight some key issues. Our programme for government gave us domestic commitments on improving access to the countryside and establishing the first national parks in Scotland. The plans in the report provide a start for both those projects.

In financial terms, our work is dominated by our obligations to Europe. There are a range of environmental commitments; I am determined that we should be diligent in their implementation, because they will have a major impact on safeguarding and improving our environment.

On water, the need to implement speedily our key directives and catch up on maintaining our infrastructure means that the pace of investment cannot be relaxed, as I recognised in the recent water charges review. It is unacceptable that 65 per cent of sewage in the north of Scotland flows directly, untreated, into the sea, so water industry finance will continue to make a large call on the environmental programme.

On environmental protection, the larger part of our spending consists of grant to the Scottish Environment Protection Agency. As the committee's question noted, the grant has been progressively reduced, because income from charging schemes has increased. Full cost recovery will, in the main, be achieved from this year, 2000-01. We are giving SEPA additional tasks—implementing the water framework directive, the landfill directive and other aspects of our national waste strategy—for which we need to make appropriate provision.

On natural heritage, we are providing for Scottish Natural Heritage's steadily increasing work in implementing nature conservation commitments. As I have mentioned, there will be spending in the early years of national parks to allow park authorities to create visitor facilities and, more generally, to encourage access to the countryside, so providing the opportunity for people to take part in recreation without spoiling our natural heritage.

In all, we will provide some £280 million from the assigned budget in support of our environmental

policies.

That has taken some time, convener, but it was a rapid summary of where we intend to spend. I hope that it will be useful in informing discussion of the detail of our programme.

The Convener: Thank you. That will be useful in our questioning. It was somewhat remiss of me not to introduce Kenny Gibson to the minister and the rest of the committee. He is here from the Finance Committee.

Mr Kenneth Gibson (Glasgow) (SNP): The Local Government Committee.

The Convener: Sorry, he is here from the Local Government Committee. He is interested in the issues raised in our questions. I welcome him and apologise for not introducing him earlier. The floor is open for questions to the minister.

Helen Eadie (Dunfermline East) (Lab): I thank the minister for her introduction. My question relates to equality of opportunity. When reading the committee papers, I came across Engender's response to the consultation document. Section 4.6 of their submission says

"The category 'Motorways and Trunk roads' needs to distinguish between on road safety schemes and maintenance, and between new roads and existing roads.

We are concerned that expenditure on roads continues to dwarf spending on public transport, presumably included under 'Other Transport', despite the stated priorities. Due to the fact that women are more frequent users of public transport than men, and have less frequent access to a private car, this balance disproportionately benefits men."

Will you comment on that point?

Sarah Boyack: The research programme that is under way in the transport division includes research on the transport needs of women, to discover whether there are gender issues that need to be addressed in our mainstream policies.

On the balance of expenditure, the £444 million on roads and motorways is over a two-year period. We also spend something in the region of £200 million on rail through the ScotRail franchise.

Money is also coming through the rural transport fund. Yesterday, I launched the project Teviot wheels, in Jedburgh, which is specifically for providing accessible transport. Some 72 rural transport schemes and 350 extra public transport services are being supported in rural Scotland through the rural transport fund.

It is important to add together all the facts and figures. I am not saying that we could not do more, or that we do not need to review our policies, but it would be helpful to indicate that there is a balance between public transport investment and investment in our roads. Of course, buses use roads as well. The issue is how we implement our

approach across these policies. I welcome the greater scrutiny that Engender is putting us through, which is healthy.

Janis Hughes (Glasgow Rutherglen) (Lab): You will not be surprised to learn that I want to ask you a question about the M74 northern extension. The discussions that you have had with local authorities concern whether the Scottish Executive will be able to assist with funding. Has that been taken into consideration in this budget proposal?

Sarah Boyack: I shall ask Bob Tait to update us in a minute. This budget does not include an allocation for that. We are now at the stage of discussions with the relevant local authorities; discussions are on-going at an official level. We are entering into a comprehensive spending review for subsequent financial years in which we are considering many priority issues. However, there is nothing programmed in for this budget. Bob, can you say a few words about where we are with the M74 northern extension?

Bob Tait (Scottish Executive Development Department): The decision in the strategic roads review was to ask Glasgow City Council and South Lanarkshire Council to progress the scheme. They have chosen to do that by establishing two working groups: one to examine technical issues, such as the size of the proposal, and the other to consider affordability and the financial issues. Good progress has been made by both groups and I expect the councils to have a report from the consultants, KPMG, by the end of this month. That report will take into account both the size and the affordability of the proposal.

When the minister met Councillor Gordon and colleagues in December, she made clear that the Executive would make a contribution to the overall scheme in respect of that part at the Fullarton Road end that connects to the existing motorway. During the working group discussions, I have been able to confirm that.

Janis Hughes: Thanks for your answer. That is useful information. As the proposal stands, planning permission for the extension runs out this year. If no provision is made in this budget, will that create problems with planning permission?

Sarah Boyack: The issue of planning permission is not directly related to the budget. We can provide a detailed answer to that question in writing, after today's meeting, if that would be helpful.

Janis Hughes: Okay. Thanks.

Mr Tosh: I have lots of detailed questions to ask. If I am not able to do so today, I shall lodge some parliamentary questions—I know that the minister always looks forward to those. First, does "Investing in You" include the budget

consequential in its figures?

Sarah Boyack: No.

Mr Tosh: I presume that you will give us an update at some stage, when you have fully worked them into the accounts.

Sarah Boyack *indicated agreement.*

Mr Tosh: Secondly, towards the beginning of that document, resource accounting and budgeting are mentioned. The proposal is to incur the capital expenditure over the life cycle of the assets. I imagine that that would make little practical difference to roads construction or local authority expenditure, which is broadly similar from one year to another, although it surely should have made a significant difference to the way in which we treat investment in water and sewerage, which is clustered around the first few years of the new century because of the EC deadlines. However, the presentation of the information seems to focus on the expenditure in those years rather than on making capital provision over the 40 or 50 years for which the assets might exist. That has forced the water boards to rely on the consumer to generate income for them. At the moment, consumers' bills are increasing sharply, essentially because of conventional capital budgeting. Why has there not been an attempt to build in the resource accounting and budgeting process for water and sewerage at this stage, to spread the cost to consumers and not hit them with historically unique levels of investment and expenditure?

My third question relates to the capital expenditure that is set out in these tables. Much of the roads expenditure would more properly be treated as capital expenditure than as current revenue expenditure, but it is all being funded from revenue. I understand that that may relate to the fact that the block grant for the Scottish Executive comes in the form of a revenue grant from Westminster. Can that be tracked back somehow to the borrowing practices of central Government? It seems strange that we should be funding major capital works from revenue.

10:30

Fourthly, how precisely can this committee get at the substantive figures for the Strathclyde Passenger Transport Executive payments, which are now included in "Investing in You", and the ScotRail payments, which will be available in next year's budget? How do we work out how you establish the annual payments? It seems to me that the figures for those are just given to us—from the document, I could not determine a formula for calculating the annual payments.

Finally, at a previous meeting I asked about the

location of the challenge fund for transport for local authorities. I have read "Investing in You" fairly carefully, and I could not find the figures in the transport section. Neither could I find them explicitly in the local government section. I assume that they are contained somewhere in the local government section, but I would like that to be spelled out. For future reference, wherever the aggregate figures are placed, they should be disaggregated so that someone looking for challenge fund figures can find them easily.

As a postscript to that, I should say that one of the link groups wrote to me asking a question about challenge funding for transport, but I could not find the figures. I had to advise my correspondent that they were probably located somewhere in the local government section. That shows that people are interested in that level of detail; it would be helpful if it could be spelled out more clearly.

Sarah Boyack: This is the first time that we have done this exercise; the feedback and questions we have this year will inform next year's budget process. The questions that Murray Tosh has asked are of two types; some relate to the presentation of what is contained in this document, whereas others relate to the detail of how we arrive at the figures.

The location of the SPT payments should have been made relatively clear when at a previous meeting of the committee we discussed the Special Grant Report No 4 on Grant in Aid of Expenditure on Rural Public Passenger Transport for 2000-01.

I ask David Reid to respond to Murray Tosh's second, third and fifth questions, which were about accounting processes.

David Reid (Scottish Executive Finance Department): Mr Tosh's questions arise from the move from cash budgeting to resource budgeting. This year's report has been produced in the old cash terms, because the transition from a cash budget to a resource budget is not yet complete. As part of the conclusion of this year's spending review, we will change the baseline numbers from their current presentation to a resource-budget presentation. This committee will have a particular interest in resource budgeting and accounting when it is finally adopted because, as Mr Tosh pointed out, it has an interest in two substantial capital programmes: the Executive's trunk roads programme, which involves not only capital spending but maintenance of our substantial roads network; and the investment programme for the water authorities.

The changeover from cash budgeting to resource budgeting should not have an impact on the outside world. This is about the way in which

we present budgets, take decisions on them and manage them in the future.

However, as for the charges that are paid to water authorities and how the investment programme is funded, the charges should not be significantly affected, apart from some technical changes at the margin. It might be useful if, at some point, we provide the committee with further specific information on how resource budgeting will operate. We are still developing the process and have still to make a number of decisions about the details of the system.

John Graham (Scottish Executive Rural Affairs Department): The increase in water charges is not driven just by the Government accounting system that is currently in operation. English water companies use broadly the accounting system to which we are moving and charges had to rise substantially over a period to meet the same investment demands that we are now confronting in Scotland.

The Convener: Murray, do you want to pick up on any points?

Mr Tosh: No, I am quite happy that we will receive further explanation. I do not really see the benefits of moving on to the new style of accounting if it will not spread the costs over a longer period of time. However, that is more a general financial issue than a matter relevant to the committee this morning. The question of the challenge fund money has not yet been addressed.

David Reid: The challenge fund money, the public transport fund money and the remainder of the previous challenge funds that are going through the system are covered in the local authority capital spending programme, which is dealt with on pages 110 and 111 of the report. At the bottom of page 111, there is a reference to the fact that the two funds are included in what is called the single allocation to local authorities. The single allocation is top-sliced to make provision for those funds and the rest is distributed on a formula basis.

Mr Tosh: I knew that, but my point—which is not unduly critical, as I acknowledge that this is the first go at the budget process—is that anyone reading the document will find neither that reference nor the figures. Although we discussed the SPT payments at one of our previous meetings, members of the public who read the budget document might not have access to that material; there is a need to provide more customer-friendly information. A glossary of some of the terms and acronyms might also be helpful. For example, I did not know what appropriation-in-aid or EYF were. Those aspects of the document might defeat the interested reader.

Sarah Boyack: Features such as glossaries are precisely what we will have to address for future years. Furthermore, people should have an idea of the documents in which financial issues are addressed.

Mr Kenny MacAskill (Lothians) (SNP): My first question refers to table 7.9 on page 100 of the document, which shows that between 1997-98 and 1999-2000 passenger numbers are down; air movements are down; the cost for arriving passengers is up; the revenue for arriving passengers is neutral; and the capital grant and the revenue grant are substantially up. Where is the £1 million payment to the Ministry of Defence for Stornoway airport? What is going wrong?

My next question relates to table 7.2 on page 94 of the document. In 2000-01, payments for the M6 will be £26 million; in 2001-02, they will be £24 million. New construction improvements for the same years will be £29 million and £49 million, while routine cyclical and winter maintenance will be £55 million and £57 million. Is not it the case that the M6 payments are a proverbial ball and chain in terms of the opportunity for highway maintenance and the expansion of the highway network? For how many years have these payments been made? I know that the matter has been addressed by another committee.

That takes me to page 95 of "Investing in You" and table 7.3, which lists the estimated capital cost for the M77 as £60 million. It has been suggested that that project might use a private finance initiative. Will £60 million be the total cost for the M77, or will we face annual costs like those for the M6, which go on and on? If so, can we have a realistic figure for the cost of the M77?

Finally, on fuel duty rebate, there seems to be an agency scheme with the Department of the Environment, Transport and the Regions. Is an agency fee charged by DETR, and what is the position regarding the VAT that is paid? Is there an opportunity for it to be rebated back to Scotland?

Sarah Boyack: I will ask Bob to comment on Highlands and Islands Airport Ltd. More generally, the decision on Stornoway was taken recently. Do you wish to answer the HIAL questions first, Bob?

Bob Tait: Yes, minister. Table 7.10 shows the capital and current expenditure. The payment in respect of Stornoway airport would be from the line for the year 1999-2000. It was paid in the last financial year, and so would be out of the sum of £2.9 million.

Sarah Boyack: The M6 payments were inherited, and we are continuing to pay them. On the M77, the scheme is costed at £60 million. On several occasions in the chamber I have said that we are looking at a public-private partnership

scheme; until we have explored that fully, it is not possible to answer Mr MacAskill's question. On the fuel duty rebate scheme, we have an agency agreement with DETR. Bob, can you talk briefly about that?

Bob Tait: This will be very brief. My understanding is that there is no charge for DETR making the payments on the Executive's behalf. That is part of the transitional arrangements. We will be taking that over in due course. I was not clear whether the question on VAT related to bus fuel duty rebate or to VAT generally.

Mr MacAskill: Fuel duty rebate.

Bob Tait: I do not have that information. I would need to provide it to Mr MacAskill later.

Sarah Boyack: We make a commitment to provide that information in writing to Mr MacAskill.

The Convener: Do you have a supplementary, Kenny?

Mr MacAskill: Yes. I wish to clarify two points. First, on HIAL, am I right to say that, if the £1 million is coming out of the 1999-2000 budget, one third of the capital grant is being used to acquire Stornoway airport from the Ministry of Defence? Secondly, on the PPP for the M77, is it the case that the £60 million expenditure could in fact be substantially more, as is the case with the cost of the M6?

Sarah Boyack: On HIAL, it was considered vital to secure the long-term future of Stornoway airport. The airport needed to be brought under HIAL's control. That is why it was seen as such an important purchase, which was indeed welcomed in the communities that are served by the airport. It gives a long-term future to the airport and it means that there is now no question of the integrity of the airport over the long run. On the second question, do you wish to answer, Bob?

Bob Tait: Yes, minister. Perhaps I could add a little to the answer to the question on HIAL and draw the committee's attention to the fact that the capital expenditure for 1999-2000 is £2.9 million. It was only £0.7 million in the previous year and £1.8 million the year before that. There is a substantial increase in provision, but it is arithmetically correct to say that a third of the capital expenditure is being devoted to Stornoway.

On the M77, the £60 million in the table is the figure for the estimated cost of the capital works on a conventional procurement. That was the figure that was used in the strategic roads review.

If we choose the PFI route, the convention is to include the future maintenance costs of the road over 30 years in the risk transfer to the private sector. That would add to the costs that were to be recovered in the contract. There would be a

service payment to the contractor for the duration of the contract. The M74 contract and the Skye bridge contracts are for a maximum of about 27 years.

There will be a service charge, which would relate to the overall costs, but we have not reached that stage in the M77 procurement.

10:45

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I want clarification on the answer to Kenny MacAskill's question about the M6. Page 95 of "Investing in You" mentions the contractual obligation to pay the service charge for the next 27 years. Can you clarify what that amount is for the next 27 years and whether it is related to the figures—£24.7 million, £26.1 million and £24.2 million—that are given in table 7.2?

Bob Tait: Yes, it is related to those figures.

The future level of payments will depend on future usage of the road. Part of the contract with the concessionaire sets out a payment mechanism. The figures for the early years are shown in table 7.2. The later years' figures will depend on road use and will be worked out in accordance with the formula in the contract.

Cathy Jamieson: Is that likely to be the ballpark figure for the next 27 years?

Bob Tait: Use of the road and the fact that the figures for 1999-2000, 2000-01 and 2001-02 are in the same ballpark suggest that future payments would be no lower than that. They would probably be slightly higher.

Robin Harper (Lothians) (Green): My question is on the Scottish renewables obligation. I have asked—and had answered—my first question in Parliament previously, although I did not agree with the answer. My view—and that of Friends of the Earth who recently lobbied you on this—is that a renewable is an energy source that does not contribute CO₂ to the atmosphere. Is the Executive's position still that waste-to-energy projects will qualify for support under the Scottish renewables obligation? I expect you to confirm that.

More importantly, does the Executive intend to strike a balance in the competition between wave power, wind power and solar power? Will you consider ring-fencing funds for those important developments, or will the applications that arrive first be the ones that are most likely to get support?

Sarah Boyack: On the future of the SRO and how it operates, to examine the whole picture we are currently in discussion with the Department of the Environment, Transport and the Regions and

the Department of Trade and Industry. The issue does not affect only Scotland, but the whole UK. I am aware that a number of views have been submitted to the Executive—those views are being considered.

Cathy Jamieson: On the freight facilities grant, I am pleased that an amount has been set for the next three years. However, on the basis of the interest that has already been shown in the grant, do you anticipate that it will be difficult to meet the requirements of all the projects that people would like grants for? A number of people know about the grant and I doubt whether the amount of money that has been allocated would be enough to see all their projects through to fruition. How will priorities be decided?

Sarah Boyack: You are right to say that the increased level of awareness about the freight facilities grant has generated interest in the industry.

I will make two points. First, the fact that we have established new freight facilities means that those facilities can, potentially, be used by other operators. In a sense, the heavy capital costs for construction can be of benefit to future users. One of the conditions for winning a freight facilities grant is that the facilities must be potentially open to other users, so that they do not have similar high costs. I hope that such new facilities will be more available to other users.

On Cathy Jamieson's second point, the fact that we want to continue the freight facilities grant scheme illustrates our recognition that there is further to go. We had a conference this week with the Rail Freight Group. One of the issues that we examined was the extent to which the Executive and the industry can work together to make the most of the freight facilities grant and encourage more partnerships between companies. There is a lot of work that we need to continue. The stability of the freight facilities grant is a signal to the freight industry that the Executive regards it as important. In order to meet our environmental objectives, it is crucial that we give the scheme long-term stability.

Des McNulty: I will follow Murray Tosh's practice of asking three or four questions at the same time so that I do not have to come in again.

First, much of the information that we receive in relation to environmental expenditure is big figures that are linked to European targets. Is it possible for future documents to be more explicit about how quickly spending will enable us to meet targets? Clearly, as a minister, you have choices to make about how much to invest and how quickly particular targets should be achieved. It would be helpful to know what choice has been made and what effect that that will have on the speed with

which European obligations are met.

"Investing in You" says:

"The operational and capital investment costs"—
of water authorities—

"are met by a combination of charge income from customers, and grants and loans from the Scottish Ministers."

Could the balance between those sources be set out for each of the three water authorities? That would, perhaps, allow us to understand the pattern over three, four or five years.

My third point is on expenditure on environmental improvements in urban fringe areas. There is, perhaps, a parallel between such areas and river valleys in more urbanised areas, such as the west of Scotland, on which a lot of work was done by Strathclyde Regional Council. It is difficult to identify how the budget proposals would develop that programme because the money for environmental improvements is being handled by several agencies.

In particular, will you consider the Executive's appropriations from the Erskine bridge tolls in the context of the immediate urban environment that surrounds the bridge, one side of which is in my constituency? I receive constant complaints about the scale of plant growth, litter and so on, but I have never found out why—given that the tolls produce financial benefits—those problems cannot be dealt with.

Finally, is there any information on progress toward the reduction of landfill and the Executive's targets on that? I could not identify anything in the budget document about the progress that is being made or about investment in alternative methods of disposal.

Sarah Boyack: I will address the four key points that you raised. We will want to examine your first point in future. I have said that we are trying to be more explicit about how the programme for government is addressed through the budget. A key target of the programme for government is that we meet European requirements and obligations. We have tried to be more explicit about water expenditure in the quality and standards paper, but you make a fair point that we should try to be more rigorous in all areas.

We can provide the information that you request about grants and loans from the Scottish Executive for the three water authorities, so that the priorities can be seen.

On your comments on environmental improvement—especially in urban fringes in the central belt—the best place to find information about that is in the Central Scotland Countryside Trust allocation, which can be found in the

Scottish Natural Heritage programme. That programme is a dedicated stream of expenditure.

In response to your point about the Erskine bridge, I hope that a biodiversity action plan for trunk roads and motorways will be produced. We have made a commitment that we will also consider the impact on the surrounding area when we consider where to spend money on roads infrastructure. Foliage is an issue for drivers, and we will log it for future reference.

I have discussed landfill with the Convention of Scottish Local Authorities in the past couple of months, when I addressed conferences and meetings of local authority chief executives and leaders. We discussed the £2.5 million that has gone into their budgets for preparatory work on the national waste strategy, which is in its first stage. We know that we have an enormous task ahead of us and we will consider landfill during this summer's comprehensive spending review, when we will consider priorities for future investment.

There is no instant solution to the problem—it requires major expenditure over the next few years. We have worked on identifying the future costs to local authorities for meeting the landfill directive's requirements and we will make that work available to local authorities. Work is in progress on the issue, which will be considered in future years through the budget process.

John Graham: On the water question, the broad picture is that just less than half of the investment programme is being funded by the Executive from grants and borrowing consents. The balance will come from charging.

Nora Radcliffe (Gordon) (LD): I want to pick up on a couple of points from the question and answer paper, which I found helpful.

On page 5, you mentioned the agreement between the Executive and COSLA for funding

"flood prevention and coast protection schemes"—

which will allow for

"a proportion of non-housing capital expenditure to be top sliced for support of major FP/CP schemes".

We have recognised global warming by imposing taxes. Are we at the stage where we should make more provision for flood prevention schemes and so on? Is the Executive thinking along such lines?

Sarah Boyack: We address that issue in the climate change consultation paper, which considers the possible costs of climate change and the extent to which we can mitigate its potential impact. We are almost coming at the issue from both angles: we are considering the impact of climate change and trying to shape the level of change that might take place in future. We

are aware of the issues.

Nora Radcliffe: So, that work is coming down the track.

On page 12, the question is asked:

“Why is spending on local authority grants falling and what is the expected impact, particularly in relation to SPT?”

The question was answered in relation to SPT, but the part that dealt with the expected impact of the fall in spending on local authority grants was not. Could you elaborate on that?

David Reid: The answer is that local authority grants are almost entirely taken up by Strathclyde Passenger Transport Executive. The figures are in table 7.11 on page 101 of the report. The principal reduction concerns the SPTE and there is a small reduction in capital grants to local authorities, which is because that is made up of specific projects. To the extent that one can identify what is coming, one can anticipate the need. Other than for SPTE, the change is negligible. The figure of £5.2 million for 1999-2000 is high, but that amount relates to particular projects. The line then carries forward at £4.7 million for this year and next year.

Nora Radcliffe: So, does that money relate to projects, rather than a general grant for roads and road maintenance?

David Reid: Yes. It will be for particular projects that local authorities are undertaking on roads or piers and harbours.

Nora Radcliffe: Does it cover the Executive's general allocation to roads and road maintenance?

David Reid: No.

Linda Fabiani (Central Scotland) (SNP): The last wee bit of Nora's question covered what I was going to ask.

The Convener: A number of members want a second attempt at asking questions; I am happy to allow that as long as members are fairly brief and to the point.

Helen Eadie: I want to go back to the issue of freight facilities grant in table 7.4. The minister and her colleagues deserve to be congratulated on the work that they have done. However, I am concerned about the amount of future moneys and would have hoped that the forecast figures would increase. The minister might not be able to respond to that point now, but it is an area of work that is warmly welcomed by the community.

In written answers to our questions, the minister said that support is available nationally under the infrastructure investment fund. What is happening about the capacity issues surrounding the development of freight and how will that be

financed in future? It is a tremendous piece of work.

Sarah Boyack: There are two answers to that question. First, there will be discussion, through the comprehensive spending review this summer, of the Executive's future priorities. Secondly, we want to ensure that the rail industry also invests in infrastructure. There are discussions with the strategic rail authority and Railtrack to discuss priorities throughout the network. There are constraints and there are issues about how to achieve the improvements in the infrastructure that will enable the projected increases in freight and passenger transport.

11:00

Mr Tosh: I have a few questions about the environment section of the statement. Is there a case for picking out what might be called new policy initiatives in future reports? For example, on page 104, reference is made to the pending access legislation and the related increase in allocation to Scottish Natural Heritage. However, no amount is quoted that might be available to local authorities or SNH to carry out detailed work. Councils, in particular, might welcome such money—they are about to be charged with additional responsibilities in that area.

I do not know what the implications will be, but on the following page we might have expected to see some reference to contaminated land, on which there will be major developments later this year. SEPA will have additional obligations and, although I do not know how onerous they will be, it might have been reasonable to flag them up.

On page 106, I did not understand the footnote at the bottom of table 7.17, which seems to imply that the allocations will be found from all the other headings. Also, table 7.17 is a level III table, but I could not read back from those figures to any of the level II tables. The presentation sometimes makes it difficult to track expenditure from one level to another. For example, I found great difficulty in reconciling tables 7.12 and 7.13. I thought that £10 million for water was missing and that perhaps the minister had left it to the committee to allocate it.

Sarah Boyack: No such luck.

Mr Tosh: With the help of the clerks, I worked out what EYF is—it is obviously all in the rounding of the figures. Nevertheless, a health warning to say that the figures do not add up absolutely would have been of assistance to the ordinary reader.

Finally, may I say that Bob Tait made everyone's day at this end of the table when he said, “Yes, minister.”

Sarah Boyack: I was not going to comment on that, but I did note it.

Murray Tosh's point about presentation and being able to track how all the bits of money add up is a fair one. This is the first time that the budget has been subject to this level of scrutiny and we are in a learning process. Terms such as EYF would be included in a glossary, so that people would know that different types of money are available in the system. I will ask John Graham to comment on the point about contaminated land.

John Graham: Mr Tosh is quite right that contaminated land is one of several pressures on SEPA, which accounts for the rising gross provision for SEPA in the plans. Like SNH, SEPA produces a corporate plan each year, which will come out within the next month or two. It sets out the full background to its funding. As Mr Tosh points out, the contaminated land will also have implications for local authorities. That will need to be taken into account by the Scottish Executive in the spending review discussions with COSLA about the single capital allocation.

Mr Tosh: That might raise questions about whether the document should contain links to other reports or the websites of various agencies. It might also include information on the time scale of the availability of further information. That would mean that people would recognise the limitations of the document, but would know where to go to get more detailed information. I take it that the same point applies to the access issue—one would go to the SNH report for that information.

Sarah Boyack: I acknowledged that earlier when I accepted your points about a glossary. We need to consider where people should go to find information about different elements of our expenditure. It will not necessarily all be covered in the document, although that will provide a clear structure.

Mr MacAskill: I want to pick up where Nora Radcliffe and Murray Tosh left off. On page 106, in table 7.17 on flood prevention, the estimate for 1999-2000 is £6.1 million reducing to £6 million for the following two years. In view of the fact that that predates the serious flooding in Aberdeenshire, Moray and the city of Edinburgh, do you anticipate any increased funds being made available, or are local authorities in danger of losing out?

Sarah Boyack: No. The figures represent projects that the local authorities have already identified as important and have therefore included in the budget process. Clearly, in response to recent experiences, local authorities will make further submissions to the Scottish Executive that we will have to consider and programme into future budgeting.

Mr MacAskill: Will funds be available?

Sarah Boyack: I refer you to the points that I made earlier about the comprehensive spending review. In the light of pressure on all our budgets, we will have to prioritise. We will get some fairly strong feedback from local authorities about which schemes they want to implement. That is something that the Executive will have to consider.

Robin Harper: Landfill tax was mentioned and the minister will be aware that there is considerable disquiet about the rules and regulations applying to the disbursement of landfill tax, particularly in relation to the development of small local recycling businesses. Is there any intention, at any level of government, to review those rules and regulations? For the record, could I also add biomass and hydro to the renewables that I listed earlier? I am always getting told off for forgetting them.

Sarah Boyack: There is an on-going review of landfill tax that is examining its current effectiveness and future direction.

Mr Gibson: I would like to thank the convener for welcoming me to the Transport and the Environment Committee. As I am the reporter from the Local Government Committee, I thought that I should wait until the other members had asked their questions before I asked mine. I am pleased to say that members have already raised many of the issues that I would have raised, such as the landfill directive, water and the M74. The minister's answers have been very helpful, as were the papers from the Executive. I hope to come back in a couple of weeks with a list of questions from my colleagues on the Local Government Committee; however, I have a few points that I would like to raise today.

The bottom of page 19 of the Executive clarification refers to funding allowed for roads and transport. It says:

"The funding level for roads and transport is declining in real terms because these are in part budget influenced services. The level of funding is partly based on councils' previous expenditure."

Could you tell us about those budget-influenced services and why, for example, in table 8.2 on page 109 of "Investing in You" there is no allowance for inflation in the money available under roads and transport? That is of great concern to many members of the Local Government Committee.

David Reid: I will answer as best I can. I am not involved in the detailed calculation of the distribution of the local government finance settlement. We should possibly provide further information to the committee in consultation with local government finance colleagues. It would probably be most helpful, in fact, if we simply got

back to the committee in writing with an answer to that question.

Mr Gibson: The other matter is in regard to water. I noticed that, on page 103 of "Investing in You", the allocations appear to vary considerably between 1999-2000 and 2000-01, for example. The figures for East of Scotland Water and West of Scotland Water appear to show significant decreases over those two financial years, although the figure for North of Scotland Water shows an increase. I have an idea why that is the case, but I wonder if the minister could respond on that.

Sarah Boyack: John could deal with that.

John Graham: Essentially, that flows from differing investment needs. In general, those needs are higher in the north, which is why it has been given greater priority in distribution.

Mr Gibson: Is that to ensure that the increase in water and sewerage charges is not as high as it would otherwise be in the north of Scotland? Is it a matter of trying to level it out?

John Graham: Given that the investment needs are higher in the north, if the Executive had not made extra funds available to the north, the charges there would have had to rise.

Sarah Boyack: We were very conscious of that when the decision was taken.

Mr Tosh: I hate to be too persistent, convener—

The Convener: You do not hate to be persistent at all.

Mr Tosh: I asked a question about table 7.17 and wanted to be advised on where its figures fed backwards into a level II line. That point was not picked up—because I asked too many questions.

David Reid: Table 7.17 relates to the local authority single allocation, shown in chapter 8.

Mr Tosh: Is it covered by specific grants or by the capital expenditure allowance?

David Reid: It is a combination of both. Flood prevention expenditure is assisted by a 50 per cent capital grant.

The Convener: I thank the minister and her team: that was a comprehensive and useful session for us, and our preparatory work paid dividends on the level and depth of questions that we were able to follow up. I appreciate the time and effort put into that. As members are aware, the Minister for Transport and the Environment is staying with us for our discussion on the statutory instrument on nitrate vulnerable zones.

While the officials are coming to the table, I would like to establish the committee's view on further evidence on the budget process. Arguably, the session that we have just had was substantial,

and I am minded to say that we are relatively satisfied with the evidence that we have gathered so far and with the discussions that we have had. Is that a fair and accurate reflection?

Members indicated agreement.

Subordinate Legislation

The Convener: We now come to consider agenda item 4, a negative statutory instrument, the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2000 (SSI 2000/96), as shown on committee paper TE/00/11/6. The regulations are accompanied, as normal, by an Executive covering note and a committee covering note, papers TE/00/11/7 and TE/00/11/8 respectively.

Two annexes to the regulations and a submission from Nora Radcliffe have also recently been circulated to members. The Subordinate Legislation Committee considered the instrument at its meeting on 20 April, and requested further information from the Executive. The response was considered by that committee on 2 May, and extracts from the committee's subsequent report and the Executive's response are attached to the committee covering note on the regulations.

Members will be aware that a motion to annul the instrument has been lodged by Nora Radcliffe. Brian Adam has joined us for this agenda item, and we welcome him. Members may have technical points of clarification or other questions to raise with the minister or her officials in advance of debate of the motion. I remind members that the minister's officials may not participate during the formal debate.

We will begin with a brief introductory statement from the Minister for Transport and the Environment, and then I will ask committee members if they have any technical matters to raise with the officials.

11:15

Sarah Boyack: With me are Bridget Campbell from the Executive's environmental protection unit, David Rogers, who has been handling this issue in the Scottish Executive, and Dr Ken Pugh from the Scottish Environment Protection Agency. I hope that we will be able to answer all the questions that you want to ask us.

The regulations designate an area draining into the Ythan estuary in Aberdeenshire as a nitrate vulnerable zone in which farmers will have to follow rules to reduce water pollution. It is the second such area that we have identified in Scotland. There is already one at Balmacollm in Fife. There are likely to be further designations in Scotland and south of the border over the next few years.

We have made the regulations to fulfil our obligations under the European Community nitrates directive, which aims to protect waters

from nitrate pollution from agriculture. Diffuse pollution from agriculture, such as slurry washed from fields, is one of the most important causes of water pollution in Scotland. Current projections suggest that, by 2010, when planned improvements in sewerage are in place, farm pollution will be the most important cause of river pollution.

Like other EC directives, the nitrates directive places binding obligations on member states. In Scotland, that obligation falls on the Scottish Executive. The directive requires action on three fronts. First, it requires the establishment of codes of good agricultural practice; in Scotland, that is our statutory code of practice on the prevention of environmental pollution from agriculture activities, which I shall refer to as the PEPFAA code. Secondly, it requires monitoring of nitrates pollution, which in Scotland is carried out by SEPA. Thirdly, it requires nitrate vulnerable zones to be designated for waters needing particular protection.

There are two broad circumstances in which we are required to designate NVZs: first, where rivers, lakes, lochs or ground waters contain more than 50 milligrams per litre of nitrates or where they could do so if protective action were not taken; secondly, where waters are eutrophic or may become eutrophic in the near future if protective action is not taken. Eutrophic waters are waters enriched by nutrients. The directive defines eutrophication as the enrichment of water by nitrogen compounds, causing an accelerated growth of algae and higher forms of plant life to produce an undesirable disturbance of the balance of organisms present in the water and to the quality of the waters. It is important that we have that on the record. The designation of the Ythan NVZ was based on the second criterion on advice from SEPA about eutrophication in the estuary. High nitrate levels in fresh waters of the Ythan and its tributaries would, in any case, require designation of at least parts of the catchment.

Let me give you a sense of the considerable history that we have had to deal with in considering the Ythan as a candidate for NVZ designation. The former North East River Purification Board recommended designation in 1993, as did SEPA in 1997, on the basis of the condition of the estuary, and SEPA's report is publicly available. The main evidence related to the increased and extensive growth of Enteromorpha algae disturbing the ecological balance in the estuary, and to the rising levels of nitrate pollution in the river system. Farming is the preponderant source of nitrate pollution in the Ythan and inputs from other sources are trivial. Only around 2 per cent of the total nitrate load is from sewage. The view taken by Government in 1996 and again in 1998 was that there was not

conclusive evidence that nitrogen levels were upsetting the natural balance of aquatic life, but it was made very clear that we would regularly review that position. A number of developments led to my decision to move forward to designation.

Infraction proceedings were initiated by the European Commission in spring last year, where it was alleged that the area should have been designated on the basis of the evidence that had been received by SEPA and which had been published. We then reviewed that position, and the legal advice that we were given was that there was a high probability of a link between agricultural nitrates pollution and eutrophication phenomena in the estuary, which requires designation, and that we had to consider the application of the precautionary principle.

In the circumstances, it was our view that we had no choice but to designate. If we attempted to argue otherwise in the European Court of Justice we could expect to lose. Ultimately, we could face large fines of tens of thousands of pounds per day, which would have to be paid out of the Scottish consolidated fund. Since then, the Commission has issued a reasoned opinion—in effect a public warning—about non-designation. In essence, that is the last stage of infraction before referral to the European Court of Justice, so we are quite far down the route with regard to this issue. In addition, in a separate case already before the European Court, the UK has acknowledged that the directive does require monitoring of all surface and ground waters. It had previously been the view that fresh water needed to be monitored only if it was used for drinking water.

Several tributaries of the Ythan have shown nitrate levels above the limit of 50 milligrams to one litre, and nearly all have shown readings above 40 milligrams to one litre. Overall, monitoring has revealed high and rising levels of nitrate in the river system, which would in any case require designation of at least part of the catchment. It has been suggested that *Enteromorpha* should be dealt with by dredging or chemicals, but our advice from SEPA is that that would be unlikely to solve the problem: the algal mats would grow back. In any case, we would still need to designate a nitrate vulnerable zone, because the algal mats are a symptom of eutrophication.

Another implication is that SEPA is having to expand monitoring for nitrates pollution. I announced in November that I am considering evidence of high levels of nitrates in rivers in Angus, Fife and the Borders, and it is likely that ground water monitoring will also reveal pollution. We expect to have to make further designations, but we are not yet in a position to move to that stage. The situation is paralleled south of the

border, where there are already 60 NVZs, with significant expansion likely in future.

We acknowledge that this designation has implications for farmers. The directive requires us to establish statutory rules—the action programme—to be followed by farmers. We have some flexibility about how we apply those rules, but the rules must include limits and close periods for the application of fertiliser manure, and a requirement for adequate manure storage for the close periods. The rules must also include measures in our code of practice, and there will also be requirements for record keeping.

The rules will, in large part, be consistent with the code of practice, but we recognise that for some farmers there is a significant impact. The most significant financial impact is likely to be the cost of slurry storage. The agricultural support package, which was announced by my colleague Ross Finnie on 30 March, includes a 40 per cent grant scheme to help farmers in NVZs. That is state aid, which requires the approval of the European Commission, but there is already a scheme south of the border that we regard as setting a precedent. The Scottish Executive will also continue to fund advice on nutrient budgeting to farmers, which is a key component in managing this issue, via the Scottish Agricultural College.

The action programme rules for the Ythan have yet to be drawn up, but we intend to carry out a full consultation process with interested parties, which would of course include the agricultural community. We will be doing that later this year. It is important that where the directive provides flexibility, the action programme reflects the circumstances of the Ythan area and does not impose any unnecessary burdens on farmers. We will consider that when we take into account the experience of the voluntary measures that are already being looked at by the farming industry. Subsequent to that process of consultation and discussion, I will bring forward further regulations.

If I may sum up, the regulations designating the Ythan NVZ have been made in order to comply with the EC nitrates directive. We would expect a further period of consultation on the statutory rules that will have to be followed by farmers later this year. We have already consulted on the boundaries and have made some adjustments in the light of comments that were received. There will be a financial impact on some farmers, but the capital grant scheme should go some way to soften that impact. The voluntary measures to tackle agricultural pollution are to be commended, but we are not allowed to use them by EC law in place of designation. With that explanation, I invite the committee to oppose the motion for annulment.

The Convener: I invite members to ask

questions of the minister and her officials on the subject matter before I ask Nora Radcliffe to move the motion. Are there any questions?

Robin Harper: I have a couple of questions that members of the team might be able to answer. First, there is a nature reserve in the vicinity of the mouth of the Ythan. Have you received any comments from organisations such as the Royal Society for the Protection of Birds or the Scottish Wildlife Trust?

Secondly, on the issue of better management of nitrate applications, some countries such as Sweden put a 50 per cent tax on nitrates to encourage farmers to save money by using nitrates more carefully. Are there any figures that you can give to persuade farmers that they would save a lot of money by better management of nitrate applications? I know that you are saying that nitrate application is not the principal cause of the problem, and that the principal cause is slurry management, but presumably run-off from fields from the application of nitrate may or may not be part of the problem. Is it part of the problem, and if so, what part does that play in the argument?

Sarah Boyack: On the first point, we have received submissions on this issue. Can you clarify, David?

David Rogers (Scottish Executive Rural Affairs Department): In response to the formal consultation late last year and earlier this year, we received representations from the RSPB and from other environmental organisations. I could not list them off the top of my head. I could also not tell you off the top of my head whether we received anything from the people who are responsible for the nature reserve, but we received representations from environmental non-governmental organisations that were supportive of the principle of designation, and quite detailed suggestions for the form of the action programme regulations. We will take account of that as we will of the representations from the National Farmers Union and others.

The Convener: Do you have a question, Murray?

Sarah Boyack: We have not answered Robin Harper's second question, which is about the management of nitrates and slurry. We see the prevention of environmental pollution from agricultural activity code as the starting point for that. In fact, some farmers in the area have already been trying to apply the PEPFAA code. We would be keen to use the work from the Scottish Agricultural College to help inform the community, so that we assist those farmers in that process, and use the prospect of the 40 per cent grant for slurry storage as a positive incentive. We are keen to focus on what can positively be done

to help the agricultural community, because we recognise that help is sorely needed.

David Rogers: I would add that the Scottish Agricultural College has been working with farmers in the Ythan area to try out nutrient budgeting, which is demonstrating that some farmers are making better use of nitrate inputs than others are, so there are farming benefits as well as environmental benefits.

Mr Tosh: I understand that research is being carried out by the Scottish Crop Research Institute into the origin, movement and effects of nitrate in the catchment area, and that that research is on-going and is not yet concluded. In her comments, the minister said that there was a high probability of an agricultural link to eutrophication, but it strikes me that to move at this stage on a high probability before the research is completed is potentially premature. To a degree, it rules out the possibility of voluntary approaches, such as David Rogers just outlined, being a natural remedy for the problem.

Can we be certain that there are not high natural nitrate levels in the area anyway? Are we sure that taking measures in agriculture will have the desired impact? I have been to a farm in the Borders where soil precision techniques are being pioneered. Are we sure that those approaches in themselves are not adequate, particularly in the context in which the river readings have not prompted the order, but the eutrophication at the outfall has?

Sarah Boyack: Our legal advice is that the high probability of a link between agricultural pollution and eutrophication phenomena in the estuary requires us to designate. I should stress that, as discussions were held in 1993, 1996 and 1998, there has been lengthy debate about designation and we have not moved precipitately or prematurely. We now believe that such a link requires us to address the issue.

The Scottish Crop Research Institute project will help us to trace the origins of nitrogen through factors such as the time of year, spatial patterns of occurrence and the biochemical process that generated it. Although that information will be very helpful for the whole issue of management in the Ythan, we should not forget that our monitoring identified the problem and was the trigger for our decision to designate. David Rogers will briefly explain what monitoring has been carried out and the readings we have received from different rivers.

David Rogers: SEPA and its predecessor, the North East River Purification Board, have been monitoring the Ythan and its tributaries for almost three decades. Obviously, the trends in nitrate levels fluctuate from year to year, but the overall

trend is upward. We can pass graphs and other information to the committee if that would be helpful.

11:30

Brian Adam (North-East Scotland) (SNP): I have a few questions. I understand that monitoring has taken place throughout the river system and that nitrate levels at Ythanwells—where the Ythan starts—are much the same as those at Newburgh, where the river reaches the sea. Is that correct?

Dr Ken Pugh (Scottish Environment Protection Agency): Yes. The Ythan catchment is peculiar among catchments in the north as there is a high level of nitrate from the top of the catchment to the bottom.

Brian Adam: Does that not cast significant doubt on the suggestion that the eutrophication is caused by agriculture? There is fairly intensive agriculture all the way down the river; the area contains a quarter of the country's pig breeding, with all the slurry that that activity involves.

The Convener: Brian, can you stick to the question areas for the moment.

Brian Adam: Can you explain why you think there is a high probability that eutrophication is associated with agriculture if the evidence suggests that nitrate levels are the same at the start and at the end of the river?

Dr Pugh: The monitoring programmes of the North East River Purification Board and now SEPA have allowed us to assess the nitrogen status throughout the catchment. We have measured not only nitrogen concentrations in the river but the nitrogen and nitrates discharged from the sewage works in the catchment. By calculating the relative inputs down the catchment, we can estimate that only 2 per cent of the nitrogen that enters the estuary comes from the sewage treatment processes, which leaves 98 per cent to be accounted for. As there is no major industry in the catchment, we must assume that the nitrogen comes from soil-mediated processes and therefore, presumably, from agricultural activities.

Cathy Jamieson: I have a technical question about the position with European legislation. I understand that there was a challenge in the European Court of Justice and that the ruling, in May 1999, stated clearly that land from which nitrates are leaching into rivers has to be designated as vulnerable if agricultural activities are a substantial—even if only a partial—cause of pollution. Is that correct? If so, does the ruling mean that there is not a great deal of flexibility?

Sarah Boyack: That is absolutely right.

Mr Tosh: I did not really understand the answer

to Brian Adam's question. In his response, Dr Pugh translated the phrase "high probability" in the minister's statement to "assumption". Perhaps I am not grasping something here, but if the nitrate level is the same at the source as at the estuary, what is the evidence that agriculture is adding to the process? If A equals A, where does B come in?

Sarah Boyack: Perhaps Dr Pugh can clarify the point, because the issue of tributaries needs to be taken into account as well.

Dr Pugh: Throughout the catchment, there is a consistency in contributions from agricultural practices in the tributaries, the main spine area and down into the estuary, which is where eutrophication has been evidenced through the growth of the weed *Enteromorpha*.

Sarah Boyack: It is important to stress that we are also monitoring the river systems that feed into the estuary, not just the estuary itself.

Mr Tosh: Are you saying that although the other tributaries might be relatively nitrate free at their sources, they have accumulated levels of nitrate by the time they flow into the Ythan?

Dr Pugh: No. This catchment is quite different because of the intensity of agriculture right up to its watershed; it is a very low-lying catchment. It is also very different from adjacent catchments. For example, in the Don catchment, which is the nearest catchment to the south, there is still agriculture in the central area, but the upper part is bounded by mountainous areas and low-nitrate water comes down from the mountains and dilutes the nitrate effect in the catchment. Farther south, the water in the Dee catchment is even more nitrate depleted because of the lack of agricultural activity. As a result, there are very low concentrations of nitrogen in the Dee, slightly higher concentrations in the Don and very high concentrations in the Ythan. We must compare the circumstances of the Ythan catchment with other catchments as well as understand the processes in estuary systems that generate the *Enteromorpha*, which demonstrates eutrophication.

Mr MacAskill: You used the word "assumption" in connection with the cause of eutrophication. Has that assumption been made on the balance of probability that a particular cause is more likely than not? What are the levels of criteria on which your assumption is based?

Dr Pugh: I used the word "assumption" because one cannot go into court and state categorically that one plus one equals two, chapter and verse proven. However, if one gathers all the information from the literature and all the evidence from local circumstances, one arrives at a very high probability for a particular cause.

Robin Harper: Before a misconception takes hold, I just want to clarify a point—perhaps with these two glasses of water. One glass represents a tributary—tributary 1—with a concentration of nitrates. The other represents tributary 2, also with a concentration of nitrates. If we tip both glasses into the same bucket, the water contains the same concentration of nitrates. As a result, we should not expect the concentration to increase at any point throughout the river flow—all the water entering the catchment has the same nitrate level. Therefore, we should be examining conditions of flow, warmth and other factors at the estuary level that are conducive to the growth of algal blooms. Is that correct?

Dr Pugh: That is correct.

The Convener: Robin's former pupils at Boroughmuir High School would be proud of him.

Brian Adam: Without accepting in any way Mr Harper's argument—

The Convener: But your question is?

Brian Adam: My question is, how many of the 60 or so nitrate vulnerable zones that have been designated elsewhere have been designated on the basis that the nitrate level is greater than 50 mg and how many have been designated on your suggested basis of eutrophication?

Sarah Boyack: We do not have that information because the designation regulations are not predicated on a comparison with other NVZs; they are predicated on whether there is a need to designate in this area. We are happy to provide supplementary information after the committee meeting, if members so wish, but I do not think that that is a critical issue for the designation regulations that we are considering.

Linda Fabiani: I want to move slightly away from that subject.

Your report says that Scotland has one NVZ, at Balmacoll in Fife. I know nothing about it. Could there be a farming or agriculture comparison with that NVZ? When was the Balmacoll zone designated? How has it been monitored since? Has its application been successful?

David Rogers: It was designated in 1996 and the action programme rules came into force the year before last—at least, that is my understanding. SEPA has continued to monitor the waters—in this case, it is a borehole. SERAD staff enforce the action programme regulations, inspecting farm records and so on. However, it is too early to give the outcome of that designation.

Linda Fabiani: How have the farmers in the area reacted? Do they feel that they are financially disadvantaged by the designation, or is it too soon to tell?

David Rogers: I do not have any information on that point.

Sarah Boyack: Linda Fabiani raises the critical issue of future monitoring, which we have not really explored. To date, our discussions have dealt with the evidence in front of us. As reported to the committee, those discussions took place in 1993, 1996 and 1998. It is important that I tell the committee that we will continue to monitor the river Ythan and to assess the levels of nitrates identified. Under the designation regulations and under EC rules, we are required formally to consider the issue at least every four years. It is our intention to continue to monitor regularly. Should the levels drop as a result of the application of the PEPFAA code and the action programme, we will review the situation.

We will keep the issue under review. We have not taken this action without a great deal of thought and monitoring. This is not the end of the process. De-designation is possible in future, should the code and the action programme kick in as we intend that they should. We will keep monitoring throughout that process, which will be highly transparent. The monitoring information that we have discussed this morning is publicly available from SEPA. It is important that we reassure the farming community that this is not the last that we will hear of this issue. Consultation, the action programme and subsequent monitoring will take place, and we will review the matter in future. We must go through this critical stage as a result of EC law, but this is not the end stage. We will continue to monitor the situation and the questions that have been asked today are on precisely the issues that we will continue to consider.

Brian Adam: Does the minister agree that concerns about the river Ythan are probably related to the algal bloom that is found in the river? There is some debate about whether that is due to nitrate levels or otherwise. Can the minister assure us that the algal bloom will be monitored? Perhaps the work of the Scottish Crop Research Institute could be included in the monitoring. We do not have levels that would support designation—

Sarah Boyack: I can reassure you that we will monitor all the issues that we have discussed today. Ken Pugh may wish to add something on the detail of the process.

Dr Pugh: I want to assure Mr Adam that we will monitor both nitrate concentrations through the river and its tributaries and the distribution of Enteromorpha in the estuary. SEPA will undertake that work in collaboration with the Culterty field station in Newburgh.

The Convener: As there are no other technical questions, I invite Nora Radcliffe to move motion

S1M-804, which is in her name.

Nora Radcliffe: I did not lodge this motion lightly or without considerable thought. These are the first designation regulations to be proposed since the establishment of the Scottish Parliament and they will have a fairly weighty effect on the farming population in the area. It seemed to me that it behoved the Scottish Parliament not simply to agree the regulations on the nod but to debate their implications, the reasons for them, and the effect they will have on farmers.

People have known about the rising levels of nitrates in the River Ythan and the Ythan estuary for years. There has been considerable research activity in the Ythan estuary—Dr Pugh mentioned the Culterty research station. The estuary is an important habitat for wading birds and has one of the major breeding colonies of eider ducks.

A lot of scientific work has been done on the estuary for many years—for 30 years at least and probably for half a century. The North East River Purification Board and SEPA have also monitored the situation over many years. It has been said that the river Ythan is unusual in that pretty well all of its catchment area is farmed, much of it intensive livestock farming. In some ways, therefore, it is a one-off.

11:45

The other reason it is important to have this debate is, as the minister said, because monitoring demonstrates that rising nitrate levels have been found in other rivers on the east coast—in Fife and the Borders in particular—which also have farming in their catchment areas.

The growth of the algal weed *Enteromorpha* in the estuary has a long history. I am told by those who remember when sea-trout fishing was important to the local estate that people used to go out with horses and harrows to clear the weed. Therefore the weed, as a natural phenomenon, has been evident for a long time. The levels of the weed fluctuate, as do the levels of nitrates.

The trigger used as a benchmark for nitrate levels is 50 mg per litre. To put it in context, that is regarded as a high level; below that level, water is regarded as safe to drink. The high level may therefore sound worse than it is.

The consultation paper that was published when designation was proposed itemised the three EU criteria for designation: that nitrate levels of 50 mg per litre had been found in surface freshwaters, or in ground waters and that the estuary may be, or may become, eutrophic. The paper said that consideration of

“the current understanding of the behaviour of nitrogen compounds in the environment (water and soil)”

should be taken into account. That is quite an important factor in our consideration of what is happening in the Ythan estuary. The mechanism of how nitrates are stored in the soil, how they move through the environment and so on is not fully understood.

I wish to quote from a research paper produced by the Macaulay Land Use Research Institute to demonstrate the long-term nature of the problem and the factors that will feed into how we will deal with it, if and when the designation regulations are agreed.

“A nitrogen budget based on data from 1994 showed a surplus of some 5500 tonnes of nitrogen in the catchment (inputs-outputs) that year (compared with 1500 lost to the estuary). Therefore, some 3000 tonnes of surplus nitrogen accumulated in the soil in that year.”

Therefore, we are not sure of all the mechanisms involved in how nitrogen comes to be stored in the soil, or how it leeches out. We must bear that in mind when we talk about how to tackle nitrate pollution.

I want to move on now to the concerns of farmers in the catchment area. There are around 1,000 farms, with quite intensive arable farming and a lot of intensive stock rearing. Where you get stock you get slurry. Farmers are worried about the inflexibility of designation; they feel that there is no exit strategy—although the minister mentioned that it would be possible to de-designate.

If farmers have to meet quite stringent requirements on the way they farm, there may be an effect on land values. Farmers are currently borrowed up to the hilt and land farm values affect borrowing capacity. If the value of the land is perceived to have diminished, farmers' borrowing capacity will diminish too. In the current climate, that is a very serious consideration for them.

Farmers are also worried about the sorts of restrictions that might be placed on them—for example, a closed period for spreading slurry. Obviously, livestock produce slurry at a fairly constant rate, but designation would necessitate a closed period for spreading slurry. That would have cost implications. Farmers are worried about the long-term effects of designation. They feel that this is a long-term problem, although the initial requirements on them may not be too onerous and will be in line with the sort of best practice that they use already. Dr Pugh has been studying the Ythan catchment for 30 or 40 years. Nitrate levels have been a factor in his studies throughout that time. It is a long-term problem; any solution will have to be a long-term solution. Farmers are worried that if there are no demonstrable results within a time frame that may be unreasonably short, unreasonable expectations will be placed on the practices they use on their farms.

Farmers would obviously prefer voluntary and co-operative action. A local Formartin partnership has been set up, involving local farmers, the local council and environmental groups. It has been considering the effects of eutrophication in the estuary and what can be done about it. A lot of work is being done voluntarily. In Ugie, which is slightly further north, they had a concerted voluntary attack on farming practices. By giving advice to farmers on the nitrogen budget, and by tree planting and so on, they reduced nitrogen levels in the area considerably.

The farmers' worry is that under designation and with a compulsory action plan, if things are not seen to change quickly, what is expected of them might become more onerous than is reasonable. It must be recognised that designation is a long-term project and that any action plan should not place unreasonable demands on farmers. The long history of nitrates in the estuary should be taken into account. It may be that we do not know enough to go for designation at this point—that is the point the farmers are making.

I move,

That the Transport and the Environment Committee recommends that nothing further be done under the Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2000 (SSI 2000/96).

The Convener: Minister, would you like to respond to the motion?

Sarah Boyack: I wholeheartedly agree with Nora on the importance of this debate: it is the first time in the Scottish Parliament that we have debated designation regulations. It has been extremely helpful to run through the issues and put them on the record so that people can understand them. I fully understand why Nora has felt it important to move her motion.

The designation of the Ythan NVZ is an obligation under the European Commission nitrates directive. If we were to argue otherwise in the European courts we could expect to lose. The European Commission has initiated infraction proceedings against us already; we are now immediately before the stage of referral to the European courts. That process has required me to consider all the evidence anew, including scientific evidence on the condition of the estuary and the detailed results of SEPA's surface water monitoring, which were reported to us in 1999. Clear legal advice states that the precautionary principle must be followed.

Nora is right to say that this issue has a long history in the Ythan. The directive requires us to designate if an estuary is eutrophic—or if, in the near future, it may become eutrophic. That is the basis for this designation. We have evidence of high levels of nitrates pollution in the rivers that

feed into the estuary, and that, in itself, would require designation of at least parts of the catchment area. Levels of nitrates are specified in the directive. We could debate endlessly over averages and over figures such as 50 mg per litre, but we have evidence of the levels and we have to act on the directive.

I expect to consult later this year on the detail of the action programme that farmers would have to follow in the NVZ. From representations, we are aware that there will be a financial impact on some farmers—especially because of the requirement for slurry storage. I hope that the 40 per cent grant scheme that Ross Finnie has announced will help with that.

The European Union sets down requirements for action programmes, covering issues such as closed periods for the application of fertilisers, limits to the application of fertiliser including specific limits for livestock manure, and a requirement for adequate manure storage capacity to allow for closed periods. Those requirements have informed the development of the 40 per cent scheme.

Of course we will consult the farming community and, where there is scope for flexibility, we will try to build that in to the action programme. I assure members of that. However, the European Commission wants us to demonstrate that in designating a nitrate-vulnerable zone we also have a programme of measures to tackle the problem. I emphasise that the Executive is sympathetic to farmers' concerns. The choice of the area that we identified for the designation was arrived at through consultation, when we were able to take on board some of the comments of the farming community.

We will continue to encourage the voluntary measures that Nora Radcliffe has urged on us. We will promote the PEPFAA code and the work with the Scottish Agricultural College. However, the bottom line is that European law requires us to designate an NVZ. We will continue to monitor the area and there is the option of de-designation in future. We are required to consider the situation at least every four years, but we will continue to monitor annually. We will ensure that all feedback from that monitoring is publicly available and that the farming community can follow the process. There is an exit strategy, but only if we can demonstrate that the levels of nitrates have dropped as required by European directives on NVZs. I therefore urge members to oppose the annulment that has been proposed by Nora.

Robin Harper: The World Wide Fund for Nature has been doing some interesting work on preventing nitrates getting into rivers—for example by keeping cattle up to 200 yd from river banks and by planting with plants that will take up

nitrogen. I presume that some of that work will qualify for aid under agri-environment schemes. Has any thought been given to targeting agri-environment support in river catchment areas such as the Ythan to reduce nitrate load?

12:00

The Convener: With respect, we are discussing the motion at this point. I want members to make points and ask for clarification; the minister and Nora Radcliffe can sum up later—that is the phase we are at.

Robin Harper: I will express my question as a view, in that case. Things can be done to help us get back to a level at which the area can have its nitrogen vulnerable zone designation taken away. The evidence before us shows that the principle involved is not precautionary. Dr Pugh said that he could not lay his hand on his heart and say that the nitrate was the cause of the algal bloom. He could not be 100 per cent sure. However, that level of certainty, while required in a criminal case in a court of law, is not required in this case. I think that there is overwhelming evidence of a connection between the nitrate loading and the algal bloom. Nora Radcliffe said that it has been noticed that the bloom has increased when nitrate levels have risen and has gone down when nitrate levels have fallen. That suggests—

Nora Radcliffe: May I correct you? There is no evidence that the nitrate levels have changed the—

The Convener: Hang on, Nora. You will have an opportunity to respond in your summation.

Robin Harper: I am sorry. I thought that Nora Radcliffe's evidence suggested that there was a connection. Perhaps further research will reveal that there is a connection.

The Convener: A number of members have indicated that they want to leave the committee soon. I therefore ask members to make their points as quickly as possible.

Brian Adam: My family farmed in the Wells of Ythan area, and I know that there is a major difference between that area and Newburgh. Members might have heard that, during the winter, the A96 is closed at the Glens of Foudland. That is where Ythanwells is and, because it is a hilly area, a different kind of agriculture is practised there than further down the river. That will produce a different nitrate load. For that reason, I do not accept the point that Robin Harper was making with his two glasses.

Nora Radcliffe referred to the fact that the algal bloom is significant in some years and not so in other years. That probably reflects the kind of winter that there has been—whether there are

great spring floods and so on. There appears to be no direct link between nitrate levels and the amount of algal bloom.

The science is not strong on this point, which is why the minister has talked about the potential eutrophic problems. The nitrate level is not always more than 50 mg per litre in the Ythan—it varies throughout the year—whereas, as far as I understand, the level is always more than 50 mg per litre in other nitrate vulnerable zones. The scheme is not only the first to be designated by the Scottish Parliament, but is the first to be designated on that basis. Because of that, we should be cautious. We need to ensure that any management system that is put in place can make a difference. There is a chance that research done by the Scottish Crop Research Institute in the near future will have a bearing on the situation.

The agriculture community in the area is fragile. It contains a large part of Scotland's pig-breeding population. Pig farmers are already at the economic margins and a 40 per cent grant to put in slurry pits will not solve their problem as it will be hard for them to find the other 60 per cent. If their land values go down as a result of the situation that we are discussing, it will be hard for them to borrow more money. That could cause a major reduction in pig farming and dairy farming in the area.

At the end of the day, we must do what is right. I am not convinced that the science supports the argument put forward by the minister.

Cathy Jamieson: We are in a difficult situation because of decisions that have been taken in Europe. The boundaries within which we are operating have been made clear to us. I understand that the European Commission was to review the relevant directives but did not do so because it was felt that insufficient progress had been made. At the point, infraction proceedings were begun against 13 of the member states. If we do not go ahead with this designation, we will risk proceedings being instituted against us.

Nora Radcliffe talked about the farming industry and the need for support. I would like the minister to clarify whether there is an intention to create a scheme similar to the nitrate sensitive areas scheme that operated south of the border or whether support for the farming industry would be ensured through other financial assistance. If the latter is the case, the committee could recommend that a sympathetic approach be taken to the industry in that area.

Mr Tosh: I understand the issue and the broad principles that are at stake, but I have not followed much of what has been said in this discussion. I did not understand the point that Robin Harper made with his glasses or the point about the

changing nitrate levels at different points of the river. I respect the fact that the minister has been involved in the process for a while, but I do not think that the committee is ready to handle the matter yet. I am not confident that I understand the matter absolutely. Reference has been made to evidence that I have not seen and to graphs that could have been circulated but which have not been. I am impressed by what Cathy Jamieson said—it seemed to be sensible—but she seems to have been better briefed than I have.

Cathy Jamieson: It was off the internet.

Mr Tosh: If members feel that the back-up papers are so scant that they have to scour the internet to get a handle on the situation, that makes the point that we are not yet ready to deal with the matter. I would not for a moment suggest that we should take on the EU, but I want more briefing and a greater understanding of the issues before I support the minister's position. She might be right, but I would like to be more convinced. At this point, however, I support Nora Radcliffe's position.

Sarah Boyack: The Scottish Executive rural affairs department has already supplied money to support farmers in nutrient budgeting. We have done work to manage the issue of nitrates and that has been of benefit to the farmers.

It is too early for us to say what the action plan will be, but we will consult on the content of that plan.

We are engaged in discussions with the Scottish Agricultural College. There have also been discussions with the Scottish farming unions. I know that this measure is not welcomed by the agriculture community, but a great deal of work has been done on what it will mean in practice. We have tried to provide the right amount of information, as there are many issues that could be gone into.

As is apparent from Nora Radcliffe's and Brian Adam's comments, people who know the farming community know precisely what the background to the measure is. It is difficult to know whether we are providing too much or too little in the way of background briefing. We had hoped that this information would be sufficient. If people would like more information on particular issues, we would be happy to provide it. Much of the information is already publicly available through SEPA. Those who have researched the issue to the extent that Brian Adam and Nora Radcliffe have will be able to debate the fine detail of the instrument. I accept that not all members have been able to do that.

I hope that I have succeeded in making it clear that, given the advice that I have received from SEPA, the history of the issue, and the fact that

infraction proceedings are currently being initiated against us, I do not feel that I have any choice in the matter. We need to try to manage the process through monitoring, the PEPFAA code and work with the farming communities. I know that this is a matter of great concern to people in the Ythan area, and we will provide them with every possible assistance. Earlier I outlined the form that I envisaged the assistance would take. I hope that the committee will not support Nora Radcliffe's annulment motion, although I acknowledge that we will continue to act with the farming community on many of the points that she has made.

Nora Radcliffe: The algal bloom has been in the estuary as long as anybody can remember. It comes and goes. It used to be disturbed physically when sea-trout fishing was carried out by local estates. People used to harrow out the weed and, as Brian Adam said, occasionally it would be swept away by spring spates. There is a long history of *Enteromorpha* in the estuary.

The farming community is concerned that if there is no short-term change in the eutrophication of the estuary—the bloom has been there for 30, 40 or 50 years—the screws will be tightened. Over the past couple of years, there has been evidence of a fall in the rate of increase in nitrate levels, possibly resulting from changes in farming practices.

The farming community would like people to understand that the Ythan is almost unique in the fact that all its catchment area is agricultural land, and to recognise that the process of nitrate build-up in the river and the growth of *Enteromorpha* is a long-term one. We are not altogether sure to what extent farming practices have contributed to that and to what extent this is a natural growth of weed in a slow-flowing river. The farming community accepts that designation is inevitable, but it would like people to understand that this is a long-term problem to which there may never be a complete solution, because of the nature of the catchment area and the fact that this is a tidal estuary that is not scoured out by the tides in the way that, for example, the Montrose basin is. The farming community is concerned that inappropriate measures should not be taken to make farmers change their practices in ways that cannot be demonstrated to be necessary.

The Convener: Do you wish to press your motion to a vote or to withdraw it?

Nora Radcliffe: I would like to press it to a vote.

The Convener: The question is, that motion S1M-804, in the name of Nora Radcliffe, be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Mr Kenny MacAskill (Lothians) (SNP)
 Nora Radcliffe (Gordon) (LD)
 Mr Murray Tosh (South of Scotland) (Con)

AGAINST

Helen Eadie (Dunfermline East) (Lab)
 Linda Fabiani (Central Scotland) (SNP)
 Robin Harper (Lothians) (Green)
 Janis Hughes (Glasgow Rutherglen) (Lab)
 Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)
 Des McNulty (Clydebank and Milngavie) (Lab)

ABSTENTIONS

Mr Andy Kerr (East Kilbride) (Lab)

The Convener: The result of the division is: For 3, Against 6, Abstentions 1.

Motion disagreed to.

12:15

The Convener: The committee has decided not to recommend annulment of the instrument. Although that means that there will be no debate in the chamber, the committee must still report to the Parliament on the instrument.

Nora Radcliffe: It has been valuable to have the issue aired, as it is important to the farming community all along the east coast.

The Convener: I agree. The committee is required to report its decision on the instrument. I suggest that we follow the usual format of such reports, report the result of the committee's debate on Nora Radcliffe's motion and confirm that we are content with the instrument. Is that agreed?

Members indicated agreement.

The Convener: I thank the minister and her colleagues for attending a very long session.

We have a second instrument under the negative procedure to consider today, the Radioactive Substances (Basic Safety Standards) (Scotland) Regulations 2000. I refer members to committee paper TE/00/11/09 and to the accompanying documents TE/00/11/10 and TE/00/11/11—the Executive covering note and the committee covering note.

The regulations that we are considering come into force on 13 May 2000 and the deadline for parliamentary action on them is 30 May. We are required to report on the instrument by 22 May. The Subordinate Legislation Committee considered the instrument on 25 April and sought further information from the Executive. The Executive's response was considered by the Subordinate Legislation Committee on 2 May; extracts from the committee's subsequent report and the Executive's response are attached to the committee covering note on the regulations. No member has indicated that they wish to comment

on the instrument, which is less controversial than the one that we have just considered. Do we agree to report that we have no objection to the instrument?

Members indicated agreement.

The Convener: We have agreed to take the last item on our agenda, which is consideration of our draft report on the general principles of the National Parks (Scotland) Bill, in private. I thank members of the public for attending.

12:17

Meeting continued in private until 12:52.

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