Dear Mary

Thank you for your letter of 22 October following the introduction of the Environment Bill and the government's response to your Committee's report on pre-legislative scrutiny.

Your letter raises a number of important points to be considered during the passage of the Bill through Parliament. However I'd like to take the opportunity before second reading to clarify the position on a number of the issues raised.

Environmental principles

As you're aware from the government's response to your PLS report, the duty on the use of the environmental principles is applied through a policy statement as opposed to the principles themselves. This ensures a clear and transparent process for policy-makers to follow.

In the EU, with low transparency around the policy-making procedure, there has been inconsistent and unclear application of the principles which has meant they are not fully embedded across all policy. In addition, there is no possibility for poor or inconsistent application of the principles by Commission policy-makers to be challenged. As applied to domestic legislation and policies, the duty on the environmental principles is stronger in this Bill than in the EU Treaties. This is because treaties are high-level guiding documents which drive approach, but do not necessarily need to be considered in the development of every policy as is the way with the policy statement which will embed the principles across all government policy-making.

Furthermore, the EU Treaties only apply in the development of policy on the environment, whereas our approach applies to all policies across government. This means the breadth of the duty has been significantly extended and a supporting document is needed to set out what the principles mean and how they should be applied in this very different context.

It is therefore important that we get this right, and that the policy statement is drafted with care and in a considered way. This means we need to engage across government to ensure that the approach is effective for all policy areas. At this stage I am unable to publish
imminently but aim to publish during the passage of the Bill ahead of formal consultation at a later stage.

**Independence of the OEP**

We remain fully committed to establishing the OEP as an independent body, reflected in the additional measures we have introduced. The OEP will be operationally independent from government, and Ministers will not be able to set its programme of activity or improperly influence its decision-making.

On public appointments, final decisions need to be made by Ministers, as they are accountable and responsible for the decisions and actions of their department’s arms length bodies. This follows a fair and open process regulated by Her Majesty’s Commissioner for Public Appointments, in accordance with the Governance Code. The proper role of Parliament in making key appointments is through pre-appointment scrutiny, which ensures fairness, transparency, and a sufficient level of independence.

On your point about joint scrutiny of the Chair appointment, I wrote to the Chair of the EFRA Committee on 16 October requesting that the Committee confirms that the appointment of the OEP Chair requires pre-appointment scrutiny. It is down to the Committees to decide whether this is undertaken jointly.

**Targets**

I am grateful for your thoughts on the targets framework. The four priority areas reflect other chapters of the Bill and were derived from the goals of the 25 Year Environment Plan (25YEP). These are four of the most pressing and far-reaching environmental challenges and where targets will drive long-lasting, significant improvement in the natural environment.

The power to set targets is not limited to these priority areas. The government will be able to set environmental targets on other aspects in the future. The deadline of October 2022 allows for sufficient time to set targets based on robust, scientifically credible evidence and economic analysis, and effective engagement and consultation with stakeholders.

This Bill ensures that the Government takes early, regular steps to achieve the long-term targets, and can be held to account by the OEP and Parliament if it fails to do so. In particular, the Bill obliges Government to set 5-yearly interim targets in its Environmental Improvement Plan, and must report annually on whether the natural environment has improved, including on whether progress on those targets has been made.

The OEP will provide its own independent annual scrutiny of progress, including recommendations on how progress could be improved, to which the Government must respond. The Bill further requires that, at the 5-yearly EIP review, the Government must ensure there is a new interim target in place, and consider whether any new measures are needed to ensure that the interim and long-term targets are met. These requirements will be part of environmental law. If the OEP felt the Government had breached any of its environmental law duties in relation to targets it would be able to commence enforcement action, possibly culminating in an environmental review.

Finally, as it stands the Environment Bill provides a robust framework for maintaining and strengthening environmental standards as the UK leaves the EU. The Prime Minister made a statement during the Withdrawal Agreement debate regarding a possible non-regression provision on environmental protections in the Withdrawal Agreement Bill. We will be looking
to see what further reassurances on environmental protections may be needed when the Withdrawal Bill proceeds.

I look forward to your Committee's helpful contributions on these, and other points, during the passage of the Bill.

Regards,

[Signature]

Theresa Villiers