DECOMMISSIONING ARRANGEMENTS FOR HYDRAULIC FRACTURING

Following the Committee's report HC 1742 'Public cost of decommissioning oil and gas infrastructure', I wrote to you on 21 May and 6 September of this year to explain the decommissioning arrangements for hydraulic fracturing. As previously stated, I am grateful to the Committee for highlighting the issue of the onshore decommissioning regime at the meeting I attended on 11 February.

As I set out in my most recent letter, the Department for Business, Energy and Industrial Strategy has been conducting a review of the current decommissioning regime for onshore oil and gas. This has involved ongoing work with our colleagues in other government departments, the regulators and industry to examine the extent of existing powers, as well as potential options for strengthening the regime. Since existing laws are relatively untested for the enforcement of decommissioning of onshore gas wells, we have worked with our respective lawyers to analyse and test how these might work in practice. Following on from this analysis, I would like to take this opportunity ahead of our next hearing to update you on the most recent developments on this important issue.

Since I wrote to you on 6 September, the Environment Agency has concluded that the Environmental Damage Regulations would not be used in cases of insolvency, where the operator has disclaimed the environmental permit as onerous property, or against the landowner.

Where an operator becomes insolvent and the permit is disclaimed, the Environment Agency has identified that there are other statutory powers it can apply, under specific circumstances, to the landowner to require the remediation of contaminated surface water, groundwater and land, as well as powers in relation to unlawfully deposited waste. These powers are applied through the Water Resources Act 1991, Contaminated Land regime (Part 2A Environmental Protection Act 1990) and sections 59 and 59A Environmental Protection Act 1990.
However, it is the case that the Environmental Damage Regulations may be applied, after permit surrender, where an historic operator is still in existence and a causal link can be proved between the environmental damage and the activities of that operator on that site.

I hope you find this further clarification helpful. I have written separately to the National Audit Office's Comptroller and Auditor General, Gareth Davies, to thank him for the work that his team has undertaken in producing its report on 'Fracking for shale gas in England'. I look forward to our next Public Accounts Committee hearing on 13 November to discuss the findings from the report in more detail.

Yours faithfully,

Alex Chisholm