



**Friends of  
the Earth  
Scotland**

## **Response to the Department for Energy and Climate Change consultation on Proposal for Underground Access for the Extraction of Gas, Oil or Geothermal Energy**

**August 2014**

The consultation purports to cover proposed legislation to enable shale gas, oil and geothermal companies to access resources underground. Given that the application of proposals on deep geothermal energy will be the subject of a separate consultation within Scotland, in this response we limit our comments to the proposal in relation to shale gas and oil.

On that point, we wish to note that there is insufficient detail in the consultation paper as to which, if any, of the changes proposed would require the scrutiny of the Scottish Parliament.

We object to the basic premise of the Government's proposal to remove property owners' rights in order to speed up the exploration and extraction of shale gas and oil. DECC's own Chief Scientist has said "*without global climate policies ... new fossil fuel exploitation is likely to lead to an increase in cumulative GHG emissions and the risk of climate change*"<sup>1</sup> In the context of the latest climate science and the lack of a global deal to limit warming, it is irresponsible in the extreme to pursue a new source of fossil fuel such as shale gas and oil. We note that the forecast that "*in 2030, the UK's gas consumption will be around the same level as it is today*"<sup>2</sup> ignores the repeated recommendation of the UK Committee on Climate Change that the UK power sector must be largely decarbonised by 2030 in order to meet domestic climate targets, and the Scottish Government's commitment to this effect.<sup>3</sup>

We strongly reject the assumption that "*in practice, we expect a court is always going to grant access because granting access to enable these projects to take place would always be expedient in the national interest*".<sup>4</sup> The existing framework that allows the operator to apply to the courts for ancillary rights is untested in Scotland. Further, as per above, it is difficult to see how granting access to extract more fossil in the context of climate change could be deemed to always be in the national interest.

---

<sup>1</sup> DECC 'Potential Greenhouse Gas Emissions Associated with Shale Gas Extraction and Use'

<sup>2</sup> DECC Underground Drilling Access Consultation page 9

<sup>3</sup> <http://www.scotland.gov.uk/News/Releases/2013/01/vision-to-cut-power-sector-emissions29012013>

<sup>4</sup> Consultation page 20

We strongly dispute the assertion that *“the existing system does not strike the right balance between the legitimate interests and concerns of landowners, and the benefits to the community and nation at large of permitting development”*.<sup>5</sup> Given the potential for harm to human health and the environment from drilling and fracking for shale gas and oil, and the lack of clarity over liability for clean up and restoration, these proposals tip the balance between the rights of individuals and communities and the needs of companies considerably too far in favour of commercial interests.

We disagree with the Government’s assumption that *“some landowners are likely to want to use this process to delay shale development in their local area, despite the fact that the community as a whole may be supportive”*.<sup>6</sup> We do not recognise this situation: wherever shale gas or oil drilling is being proposed, there has been strong opposition. Indeed, we note that the Energy Minister was unable to name a single community that supported fracking.<sup>7</sup> We note also strong opposition to the proposed law change, with 74% of those questioned in a recent opinion poll opposing changes.<sup>8</sup>

We believe the Government should abandon the changes proposed in this consultation document. We are very pleased to see, and fully support, the Scottish Government’s view that this matter should not be legislated for Scotland at the UK level and should be decided by the Scotland Parliament. At part of his response Scottish Energy Minister Fergus Ewing said: *“the gung-ho approach of the UK Government to the whole issue of unconventional oil and gas – often without any consultation with the Scottish Government at all – contrasts with our approach.”*<sup>9</sup>

## **About Friends of the Earth Scotland**

Friends of the Earth Scotland is an independent Scottish charity with a network of thousands of supporters, and active local groups across Scotland. We are part of Friends of the Earth International, the largest grassroots environmental network in the world, uniting over 2 million supporters, 76 national member groups, and some 5,000 local activist groups - covering every continent. We campaign for environmental justice: no less than a decent environment for all; no more than a fair share of the Earth’s resources.

## **Contact**

Mary Church, Head of Campaigns, Friends of the Earth Scotland  
e: [mchurch@foe-scotland.org.uk](mailto:mchurch@foe-scotland.org.uk) t: 0131 243 2716

---

<sup>5</sup> Ibid page 24

<sup>6</sup> Consultation page 21

<sup>7</sup> <http://www.telegraph.co.uk/earth/energy/fracking/10995052/Fracking-Matthew-Hancock-fails-to-name-a-single-village-that-supports-it.html>

<sup>8</sup> The Guardian 6<sup>th</sup> May 2014 ‘Fracking trespass law change opposed by 74% of British public, poll finds’

<http://www.theguardian.com/environment/2014/may/06/fracking-trespass-law-changes-opposed-by-74-of-britons>

<sup>9</sup> “Ewing objects to UK plan to drill under homes without consent” <http://news.scotland.gov.uk/News/Ewing-objects-to-UK-plan-to-drill-under-homes-without-consent-fd1.aspx>