

Reply from Minister O'Dowd.

Dear Mr

I refer to your recent correspondence regarding hydraulic fracturing (“fracking”). Your correspondence has been passed on to me for direct reply as I now have responsibility in this area.

I am aware that there has been a good deal of public interest recently on the topic of onshore gas exploration. While there has been considerable focus on the possibility of the technology of hydraulic fracturing being used, the authorisations that have been granted by my Department do not permit exploration drilling of any kind at this point in time and do not provide for fracking. These authorisations are called “licensing options” and were granted for a two-year period from 1<sup>st</sup> March 2011. Exploration drilling, including drilling that involves hydraulic fracking is not permitted under these licensing options. Before the companies concerned can apply for an exploration licence and proceed to an exploration drilling phase, they must first complete the licensing option work programme agreed with my Department.

These work programmes are primarily based on desktop studies of existing data and should be completed by February 2013. When the work programmes have been completed, each company will then have to decide if it wishes to proceed to the next stage and apply for an exploration licence. Any application for an exploration licence that would involve exploration drilling, including drilling that proposed using hydraulic fracturing, would likely involve 1-3 exploration wells and would require:

- A consent from the Minister for Communications, Energy and Natural Resources (who would be advised by the Environmental Protection Agency (EPA) and the National Parks and Wildlife Service (NPWS)); and
- Planning Permission for the well pads from the Local Authority.

Planning consent would be subject to the requirements of the Environmental Impact Assessment (EIS) Directive. Such an assessment would entail consideration of the potential impacts of the project on population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors. This process would

also include a Public Consultation Phase, of at least 8 weeks, which would be advertised on my Department's website and in the local press. This would provide an opportunity for the public to input into the decision making process. My Department would also seek and be guided by the expert advice of other relevant statutory authorities such as the EPA, the NPWS and the relevant Local Authorities. The outcome of the EIA would help determine whether or not an Exploration Licence would be granted.

In the event that at some point in the future a commercial discovery of natural gas is made and an onshore gas extraction project is proposed then there is a comprehensive regulatory framework in place that would apply to any such proposal. Any potential development would require a number of statutory consents including:

- a planning consent from An Bord Pleanála under the Strategic Infrastructure Act, 2006;
- an Integrated Pollution Prevention Control Licence from the EPA under the Directive on the management of waste from extractive industries (Mining Waste Directive) - applies to all onshore "extractive industries";
- a Petroleum Lease, a Plan of Development consent and a Gas Pipeline consent from the Minister for Communications, Energy and Natural Resources;
- a Gas Act consent from the Commission for Energy Regulation (to bring gas to the national grid).

Proposals for the use of hydraulic fracturing would also be subject to robust assessment under the Commission for Energy Regulation's recently published Petroleum Safety Framework and could not come into operation without having been granted a safety permit.

### **European Commission Guidance on Regulation**

In 2011, the European Commission issued a Guidance Note<sup>[1]</sup> confirming that the exploration and exploitation of unconventional hydrocarbons has to comply with the requirements of EU legislation. The Guidance note identified the following Directives that could apply through the life cycle of a shale gas production project:

- Environmental Impact Assessment Directive
- Mining Waste Directive
- Water Framework Directive
- REACH<sup>[2]</sup> Directive
- Biocidal Products Directive
- SEVESO II Directive
- Habitats Directive
- Environmental Liability Directive

A core element of these consent processes would be to consider the potential environmental impact of any proposed development.

While it is too early for a formal public consultation at this point as too many factors have as yet to be decided, including whether or not drilling will actually be proposed, I am aware that public bodies that would have roles were there to be an application for exploration or production that involved hydraulic fracturing, are seeking more information on the issues involved. As you are aware, Minister Rabbitte requested that the EPA conduct research and advise on the environmental implications of hydraulic fracturing as a means of extracting natural gas from underground reserves.

In May, 2012, the EPA published its preliminary research which was conducted in the form of a small desk based study by the University of Aberdeen. The study provides an introduction to the environmental aspects of fracking including a review of regulatory approaches used in other countries and areas for further investigation and research such as Geological Principles of Relevance in Fracking and Shale Gas Extraction, Potential Environmental Impacts and Establishing Best Environmental Practice

The study is helpful in that it is a peer reviewed report that sets out basic background information in relation to the technology and to the associated issues and concerns. While the study is a preliminary piece of work it will inform the development of the terms of reference for a much more detailed piece of research to be commissioned by

the EPA later this year. The terms of reference for this more extensive research will be drawn up by a steering group including representatives from the EPA my Department and other relevant bodies. The outcome of the further research to be commissioned by the EPA will assist in a robust scientific based assessment of any future application proposing the use of this technology. Until there has been time to consider the second stage of the EPA research, the use of hydraulic fracturing in exploration drilling will not be authorised.

I trust this clarifies the position.

Yours sincerely,

Fergus

Fergus O'Dowd, T.D.

Minister of State

Department of Communications,

Energy and Natural Resources