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Robert Logan
Scottish Government | Energy Consents & Deployment Unit
5 Atlantic Quay | 150 Broomielaw | Glasgow G2 8LU

6th December 2012

Dear Sir,
Section 36 Kilgallioch 99 turbines

Further to my objection of 2nd March 2012 and the subsequent documents on the 2nd July 2012, I would like to make the following observations and requests for information.

1. Since this application was submitted by Scottish Power there have been important changes to the designation of the area in question. The Galloway and Southern Ayrshire Biosphere has been awarded UNESCO status. Kilgallioch lies in the transition zone:

<http://www.unesco.org/new/en/natural-sciences/environment/ecological-sciences/biosphere-reserves/europe-north-america/united-kingdom-of-great-britain-and-northern-ireland/galloway-and-southern-ayrshire-biosphere/>

“The high ground has a variety of acidic habitats, predominantly heathland and mires with some patterned bogs (Silver Flowe being a prime example) unusual in Britain for their upland location. These habitats are valuable for the species they support, such as raptors, including golden eagle (*Aquila chrysaetos*). They are also important carbon stores and have some of the longest records of pre history stored in the peat.

The lower ground has a range of habitats including native broadleaved woodlands, fens, marshes, rush pasture, unimproved lowland grassland, raised and blanket mires and moorland. There are extensive remnants of native woodlands in the wet hollows amongst the glacial landforms and in the river valleys.”

Kilgallioch will encroach on the buffer and core zones of the Biosphere.
The transition zone is an important part of the biosphere providing



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- Conservation – to preserve genetic resources, species, ecosystems and landscapes
- Learning and research – to support research, monitoring, education and information exchange related to local, national and global issues of conservation and development
- Sustainable Development – to foster sustainable economic and human development

I have been told by someone in SNH that there are: “Old landscapes - large chunks of moorland which have not been afforested or improved too much and where you can still find the remains of mediaeval farm steadings, rig and furrow, field boundaries, sheep pens etc., alongside even older standing stones and Bronze Age burial cairns, where you can have a real sense of place and of the people who have gone before.” – these will be destroyed forever if Kilgallioch goes ahead.

There is real concern about subsidised jobs (to kick start economy) versus real jobs. The jobs and economy argument for subsidies in renewables comes more to fore every day. A subsidised job replacing unsubsidised one is bad news and the fragile rural economy bears the brunt. UNESCO status for Galloway and South Ayrshire should preserve local culture, food, crafts, art and respect local heritage and cultural traditions, including the preservation, protection and enhancement of heritage sites throughout the region. This is the area the train runs through from Kilwinning. It already passes Hadyard Hill then runs between Mark Hill and Arecleoch; there is still unspoilt scenery for passengers to enjoy before views of Artfield Fell intrude. If section 36 Kilgallioch -99 turbines are permitted it will be the final nail in the coffin for this beautiful journey enjoyed by many travellers. I have a number of train enthusiasts who come especially to make the journey from Girvan to Stranraer and back again. When the steam train runs it is packed with enthusiasts who pay a lot of money for the pleasure. This provides real jobs necessary to keep the rural communities alive.

Through MEP Struan Stevenson’s office the Chair of the Sustainable Mountain Development which covers the UK’s UNESCO Biosphere reserves has been asked to find out how the designation fits in with the EU’s Natura 200 network?

I would also like evidence that the Scottish Government has taken this into consideration.

2. I would like evidence that the Scottish Government has acknowledged the latest findings in the UGov survey by the John Muir Trust. This survey reflects what my guests are telling me. <http://www.jmt.org/news.asp?s=2&nid=JMT-N10737>
 - A poll commissioned by the John Muir Trust found that large-scale turbine developments deter visitors, with 36 per cent of people saying they would be “less likely to visit a scenic area with a large concentration of wind farms”.

The trust said it showed that pursuing the development of large-scale wind farms in some of Scotland’s most scenic landscapes could have “potentially catastrophic consequences” for tourism.

“This poll shows that up to 20 million adults across the UK may think twice about visiting areas where the landscape is blighted by turbines. That represents a serious long-term threat to those areas whose economic lifeblood is tourism.”

The survey also showed that the majority of respondents believed the government should prioritise the protection of Scotland’s landscapes over the development of wind power.

Stuart Brooks, trust chief executive, said: “There is a growing groundswell of opposition to the siting of large-scale wind farms on wild land – much of which is in Scotland. This sends a clear



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message to politicians of all parties who have supported policies to industrialise our landscapes with wind turbines double the height of the Scott Monument.”

It is the first national poll to measure the level of public support for large-scale wind farms in the UK.

- Visit Scotland treated their survey findings as a political vote - in other words if a majority think windfarms are okay, then they are. In fact with economic decisions 'every vote counts' so if 20% dislike windfarms then that's 20% of revenue potentially lost.
- A new survey by the Association for the Protection of Rural Scotland Claims to be the first survey of its type to be based on the responses of operators rather than tourists, the report – The Economic Value Of Landscape In The Scottish Borders.
The survey, which received a high (64%) response rate from 57 local tourism businesses, finds that 76% of respondents found large-scale turbines "unhelpful" to marketing the area, with 69% saying they would be "unhelpful" in generating repeat business.
One-third (33%) of respondents had discussed wind farms with customers and reported negative views. They believe it is the first survey to ask tourism business owners (those actually trying to make a living from our countryside) - rather than tourists - how they think wind turbines might impact on their businesses, and the high response rate and operators' comments suggest the 'tipping point' for turbine saturation in the country's wild and unspoilt areas may already have been reached.
- Similarly, some local surveys show that tourists are put off by them. Again, these need to be much more comprehensively collated. But the existing evidence showing tourists unfazed by windfarms is misleading. Participants are usually asked misleading questions about whether their future intentions would be affected by windfarms, which invites the answer 'no'. A region's tourism potential is based on the actual experience of visitors over a quite long period of time. It's not going to be fully apparent for many years what damage is done by windfarms on this basis. A better approach is to look at surveys of what visitor's value in Scottish tourism and ask whether these are compatible with an industrialisation of the countryside. The answer is, of course, no. Visitors from abroad are here to see ruined castles in wild, romantic settings. It's similarly misleading to rely on survey evidence from local people visiting wind farms. If you live in East Kilbride you may well be intrigued by a wind farm as a novelty on your doorstep such as Whitelees. That doesn't mean to say that if you're from Holland you're going to appreciate them.

Neither evidence from property prices, nor from tourism surveys, nor even from compensation payments, will capture the full cost of the damage done. The beauty of views and the sense of peace and quiet in rural settings is a classic 'positive externality' in economists jargon. It has value that is very difficult to measure because it is not fully reflected (if at all) in a cash flow. For example, if someone walks from Cosses Country House up Beneraird for an afternoon his enjoyment will be incrementally decreased if what was once a bucolic 360 degree view of landscapes and seascapes has become filled with turbines. What is the value of his experience before and after the development? At the moment it is still possible to enjoy part of this bucolic 360 degree view and look towards the Firth of Clyde, the Merrick, the Lake District, and the Isle of Man without turbines completely obliterating the view for the visitor. If Kilgallioch (and also Stranoch) are permitted, then this will not be the case. Already Carscreugh, Glenchambers and other wind turbines have been approved against the wishes of the local people. All views from the coast just East of Girvan round to the southwest where there is the North Rhins windfarm at Port Patrick will be contaminated by turbines. If turbines are allowed in the Solway and the Clyde Coast then there will be nothing left for anyone (except those getting the subsidies) and Galloway and South Ayrshire tourism will be dead and buried for generations to come. What a terrible legacy this government is enforcing on the people of Scotland.



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3. This is a request for information under the Environmental Information (Scotland) Regulations, 2004, regulation 5.*

Please make available to me the following information within the statutory period.

I would like to be sent a copy of your independent Environmental Impact Assessment. Under Article 3 of the Environmental Impact Assessment Directive, now codified as Directive 2011/92/EC, in order to justify a decision on a wind farm (Annex II 3 (i)), the competent authority is required to complete its own environmental impact assessment, in the light of each individual case, of the direct and indirect effects of the project on the specified environmental factors. Therefore I am requesting that this environmental assessment and its supporting environmental information be made available to me, as soon as it is completed by the Scottish Government. If such supporting environmental information has already been made publicly available in a previous public participation step, then this does not need to be repeated only referred to.

I have been advised that early in the decision making after the developer's Environmental Impact Statement (EIS) has been made available and in adequate time before the period for submission of public comments has expired, the main reports and advice issued to the competent authority(s), should have been made available to the public. In this case, the Scottish Government is the competent authority, which is responsible for the decision

Therefore as somebody who is wishing to engage in the public participation exercise, I am entitled to have that information made available to me both under Article 6(6) of the Aarhus Convention and Article 6 (3) of the Environmental Impact Assessment Directive. As such for a wind farm, it is expected there has to be defined assessment methodologies, policies/plans with associated Strategic Environmental Assessments, technical guidance notes, etc. In this regard I am drawing your attention to:

- The Aarhus Convention: <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>
- The excellent "Aarhus Convention: An Implementation Guide", which explains it all in plain English: <http://www.unece.org/fileadmin/DAM/env/pp/acig.pdf>
- The Environmental Impact Assessment Directive, which can be found at: <http://ec.europa.eu/environment/eia/eia-legalcontext.htm>
- Scottish Regulations on Environmental Impact Assessment of 2011: In relation to Parts 5 and Part 7, it appears that the above sections of Article 6 of the Environmental Impact Assessment Directive and the Aarhus Convention have not been transposed. To make it clear to all concerned, this does not mean these obligations do not apply to Scottish Authorities, they do, as EU law takes precedence and both the EU and the UK are Parties to the Convention: <http://www.legislation.gov.uk/ssi/2011/139/contents/made>

Note: The Aarhus Convention defines in Article 6 that the public concerned have access upon request to all information relevant to the decision-making referred to in this article at the time of the public participation procedure. The UK and the EU are Parties to the Aarhus Convention, as:

- Article 1 of Decision 2005/370 provides: 'The UNECE Convention on access to information, public participation in decision-making and access to justice in environmental matters, (Aarhus Convention) is hereby approved on behalf of the Community.
- Recital 7 of Decision 2005/370 states: 'The objective of the Aarhus Convention, as set forth in its Article 1 thereof, is consistent with the objectives of the Community's environmental policy, listed in Article 174 of the Treaty, pursuant to which the Community, which shares competence with its Member States, has already adopted a comprehensive set of legislation which is evolving and



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contributes to the achievement of the objective of the Convention, not only by its own institutions, but also by public authorities in its Member States'.

In relation to the renewable energy programme, the UNECE Aarhus Convention Compliance Committee has already ruled in Communication ACCC/C/2010/54 that the implementation of Directive 2009/28/EC (20% renewable energy target by 2020) in the 27 Member States has by-passed the provisions of the Convention.

- <http://www.unece.org/env/pp/compliance/Compliancecommittee/54TableEU.html>

In Communication ACCC/C/2012/68, the Compliance Committee is investigating failures by the UK / EU to comply with the Convention, in particular the documentation submitted on the 24.09.2012, in relation to how the UK specifically by-passed the Convention in adopting its Renewable Energy Action Plan (NREAP) and how both the UK / EU have failed to possess and ensure transparency in relation to information on alleged emissions savings from wind farms.

- <http://www.unece.org/env/pp/compliance/compliancecommittee/68tableeuuk.html>

In relation to the Environmental Impact Assessment Directive itself, which implements particular requirements of the Aarhus Convention into Member State law, Scotland is not in compliance. With regard to the Scottish Environmental Impact Assessment Regulations of 2011 there are transposition failures in relation not only to making available the main reports and advice, but also with regard to completion of the Environmental Assessment required by Article 3 of the Directive and finally failures with regard to transposing into Scottish law the relevant provisions and rights in relation to Access to Justice.

This is not only unfortunate in that it is not only leading to systematic bad planning, but in that it is a direct violation of the procedural rights of the citizen to participate in the decision-making. However, there are well established rights in relation to how 'Member States are obliged to make good loss and damage caused to individuals by breaches of Community law for which they can be held responsible'.

- http://ec.europa.eu/eu_law/infringements/infringements_dommmages_en.htm

With regard to wind farms in Scotland, it is very clear from the above that systematic breaches of Community law are occurring, which have violated the Rights of the Citizens. There are also damages occurring, such as to loss of amenity, health impacts from turbines, loss of property values, increased electricity charges associated with alleged environmental protection benefits, which not only have never been verified, but are simply not occurring at anything approaching the claims made by the authorities, etc. There is no doubt that Scottish authorities will in future face not only Judicial Review proceedings in relation to wind farms they have approved, but also in relation to damages with regard to breaches of Community law for which they are responsible. It is also clear with regard to the current state of legal compliance of these authorities in relation to wind farm approvals, that it would be very difficult to defend such legal actions, in other words there are major liabilities under current circumstances.

Finally, in addition to the above requested information, in advance of completion of your own environmental impact assessment under Article 3 of the environmental Impact Assessment Directive, I am requesting the methodology which you will use to complete this obligation.

Thank you for your early attention to this request.

Yours faithfully
Susan Crosthwaite

Susan Crosthwaite



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Sent separately are:
Photograph 1 image 1689
Photograph 2 image 1698
Photograph 3 image 1705

Copied to:

South Ayrshire Council - Lesley Bloomer and Mike Newal
Dumfries and Galloway Council – Peter Barker
Brendan Turvey SNH
Graeme Purves Scottish Government
Struan Stephenson MEP
Alex Fergusson MSP
Graeme Pearson MSP
Euan Duguid Sunday Post
And others.



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