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Dear Mr Eyles

**Response to Office of Rail Regulation Consultation Document on the Office of Rail Regulation's Sustainable Development and Environment Duties**

I am pleased to enclose Natural England's response to this consultation. I am proposing just to send this electronically to the email address you supplied, but let me know if you need a paper copy.

Please contact David Markham in the first instance if you wish to have any follow up discussions on this. He can be contacted at [david.markham@naturalengland.org.uk](mailto:david.markham@naturalengland.org.uk) (Tel: 01733 455212).

Yours sincerely,

A handwritten signature in black ink that reads "James Marsden". The signature is written in a cursive style with a large initial 'J'.

James Marsden  
Acting Director of Policy

Enc

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# Natural England

## Response to the Office of Rail Regulation's Sustainable Development and Environment Duties – A Consultation Document (October 2006)

### 1. Introduction

- 1.1 Natural England is a new organisation which has been established under the Natural Environment and Rural Communities Act 2006. It is a non-departmental public body. It has been formed by bringing together English Nature and parts of the Rural Development Service and the Countryside Agency.
- 1.2 Natural England has been charged with the responsibility to ensure that England's unique natural environment including its flora and fauna, land and seascapes, geology and soils are protected and improved.
- 1.3 Natural England's purpose as outlined in the Act is to *ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.*

### 2. General comments

- 2.1 Natural England welcomes this consultation and we are pleased to take this opportunity to 'flag' our interest in engaging with the rail sector. Rail is one of the more sustainable forms of transport and there is scope for the sector to make a greater contribution to sustainable business and leisure travel, as well as helping take freight off the roads. The railway network has a close interaction with the natural environment and, in particular, the rail sector has responsibility for a significant number of Sites of Special Scientific Interest (SSSI) - see below.
- 2.2 We welcome the lead which is being taken by the Office of Rail Regulation (ORR) in developing a range of measures to improve the environmental performance of the rail industry. Although rail as a mode of travel is environmentally superior to other forms of travel, there is more that the industry can do to enhance its environmental credentials. Improvements have recently been taking place in the environmental performance of other modes of transport and this means that the rail industry cannot afford to sit on its laurels. It needs to enhance its investment in the latest technologies in order to maintain its current environmental advantage.

### 3. Detailed response to the consultation questions raised in Annex A

**Question 1(d):** Consultees are invited to comment on whether the publication of Key Performance Indicators (KPIs) would be beneficial in both encouraging environmental improvements across the industry and promoting the benefits of rail travel to the general

**public. Are there any other specific KPIs additional to those listed in chapter 3 that should be considered? In populating these KPIs, do consultees consider that the information that might be required is already available (to be produced either on a quarterly or annual basis) (paragraph 3.24)?**

- 3.1 In response to this question, we would support the view that the publication of a set of Key Performance Indicators (KPIs) is beneficial in encouraging environmental improvements across the rail industry and we endorse the preparatory work already undertaken by the Rail Safety and Standards Board. We would also see it as a useful way of underpinning the benefits of rail travel to the general public, although not necessarily a direct means of promoting the benefits. A comparison with other modes and other parts of the transport industry as a whole is necessary, so as to provide evidence of rail's environmental superiority.
- 3.2 In terms of biodiversity, we would welcome the inclusion of an indicator or metric to measure delivery by Network Rail of the Public Service Agreement target relating to SSSIs (the precise target is for 95% of these sites, by area, to be in 'favourable condition' by 2010). Network Rail owns and manages all or part of 147 SSSIs in England covering 658.99 hectares and currently 53.4% of this area is in 'favourable' or 'recovering condition'. Natural England maintains, and publishes on a regular basis, data on the condition of SSSIs. It is also worth noting that if, in the future, any new rail projects lead to loss or damage to protected areas (SSSIs, National Parks and Areas of Outstanding Natural Beauty), through landtake or fragmentation, then this would also serve to act as a measure of the industry's environmental performance.
- 3.3 If there is scope to broaden the set of KPIs over time, and introduce a greater level of refinement, we would recommend the inclusion of an indicator related to Network Rail's Biodiversity Action Plan which records details of the priority habitats and species on its soft estate. This would be another measure of the positive steps being taken by Network Rail to protect and enhance biodiversity on its land within or near to the railway network. Data to record progress against such an indicator should be readily available from Network Rail, either quarterly or annually.
- 3.4 In the longer-term, we consider that there is the potential to develop a further indicator to measure the extent of investment by the rail industry in environmental projects. An indicator linked to this would need to be considered in some detail and scoped out but could measure, for example, the amount of any investment or research into issues affecting the natural environment or the amount of environmental information or interpretation provided by Network Rail and the train operating companies.

**Question 1(k) (i): Consultees are asked to suggest which KPIs, eg those areas set out in paragraph 3.17 or otherwise, might usefully form the basis for a financial incentive.**

4.1 We would like to highlight that Network Rail requires more dedicated funding and/or a financial incentive to undertake the necessary works to ensure 'favourable condition' of the SSSIs within its management, and thus help contribute to delivery of the relevant PSA target. For example, in many instances, the sites in question require grazing to deliver the required level of conservation management and this can only be achieved by the use of fencing which has a high capital cost. Network Rail has done some analysis of the management work required and the estimated costs of carrying this out but is constrained by not being able to link any business case for extra funding from the ORR to any legislation as the PSA targets are not enshrined in any Acts of Parliament. However, Network Rail does have a statutory duty under Section 28G of the Countryside and Rights of Way Act 2000 to protect SSSIs through its operational activities and so we would expect to see full compliance and implementation of schemes to achieve favourable condition.

For further enquiries please contact [david.markham@naturalengland.org.uk](mailto:david.markham@naturalengland.org.uk) or direct line 01733 455212.

Natural England  
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