

By email to: radioactivewaste@decc.qsi.gov.uk

Date: 10 June 2013

Dear Sir/Madam

Call for Evidence on Managing Radioactive Waste Safely: Review of the Siting Process for a Geological Facility

Introduction

I write on behalf of NuLeAF (Nuclear Legacy Advisory Forum), which is a Special Interest Group of the Local Government Association. We represent the views of our member local authorities in England and Wales on nuclear legacy management issues and developments that may impact on that management.

The comments below are based on NuLeAF's letter to DECC dated 27 March 2013 and further discussion at NuLeAF's Radioactive Waste Planning Officers Group meeting on 5 June 2013. The following comments are submitted with the agreement of NuLeAF's Acting Chair. Because of the short timescale for this consultation, which falls significantly short of Cabinet guidance on consultation practice, it has not been possible to agree these comments at the NuLeAF Steering Group in the usual way before your submission deadline.

So far as possible, comments are structured around your consultation questions with additional observations e.g. on consultation process, included at the end of this document.

Qu 1: What aspects of the site selection process in the MRWS White Paper do you think could be improved and how?

Chapter 6 of the 'MRWS White Paper' sets out: how a voluntarism and partnership approach would work; what are communities in this context; issuing invitations; the early process; who can express an interest; moving to a decision to participate; community siting partnerships; right of withdrawal; and, engagement packages and community benefits packages.

NuLeAF would comment as follows on the above matters:

How a voluntarism and partnership approach would work

NuLeAF agrees that the principles of voluntarism and partnership continue to provide the right underpinning for the MRWS policy but more clarity needs to be brought to working arrangements particularly where there are two principal local authorities ('decision making bodies') representing the interests of a local area. DECC should consult on whether principal authorities in two tier areas should agree and declare how they will work in partnership in the early stages of any future MRWS process, and how they should engage with their communities and take decisions, *before* taking soundings within their local community about making any formal expression of interest.

For example, the agreement on decision making developed by the three councils for West Cumbria, and endorsed by DECC, identified important confidence building principles that could be incorporated, subject to review and consultation, earlier and more centrally into any future MRWS decision making process. DECC should invite views on this approach.

Since the publication of the MRWS White Paper the Localism Act has come into force which establishes a duty to cooperate between local authorities and with other organisations. DECC should consult upon how it sees the provisions of the Localism Act applying to any future MRWS process, and provide guidance in any revised MRWS policy on the actions required to fulfil the provisions of the Localism Act.

Generally, it is NuLeAF's view that more clarity at the outset about how principal authorities and other organisations propose to work in partnership *before* taking soundings on any proposed expression of interest, should help build public confidence in any early local authority engagement with MRWS policy.

What are communities in this context?

If greater clarity can be brought to expectations about partnership and decision making at an early stage then NuLeAF sees no case for revising the definitions and roles in the current MRWS White Paper. Nonetheless, DECC should take the opportunity to invite views on whether any improvements can be made to better facilitate voluntarism and partnership in any future MRWS process.

Issuing invitations

DECC should invite views on the information it should make available when inviting local authorities to engage with the MRWS process. Some indicative issues, that NuLeAF considers are important to local authorities, are set out under Qu.3 below.

The early process

DECC should invite views on whether the current formal stages of decision making within the MRWS policy will best help build and sustain confidence between partners in any future MRWS process. NuLeAF believes that there needs to be a formal commitment to initial engagement from a decision making body/ies, but evidently, in the Cumbria case, confusion arose about the purpose of a 'decision to participate' which was characterised in some quarters as the last opportunity to withdraw from MRWS. This clearly, and publicly, misrepresented the factual position creating confusion. Within the West Cumbria MRWS Partnership some partners wanted more information about the prospects for identifying potentially suitable geology before committing to MRWS Stage 4 and site investigation and this placed the Partnership at the time under some strain. The 'decision to participate' also placed the decision making bodies under enormous pressure which possibly, in a differently structured MRWS implementation framework, might have been avoidable.

Who can express an interest?

NuLeAF considers the broad approach within the current MRWS policy remains valid, particularly the need for any local interest in MRWS to be directed initially to the relevant local authority/ies (and devolved administrations in Wales and Northern Ireland). Nonetheless, it is appropriate for DECC to test through consultation whether any case can be made for amending existing policy guidance.

Moving to a decision to participate

Under current MRWS policy, an 'expression of interest' triggers a) the engagement of the British Geological Survey (BGS) in sub-surface screening of an area put forward for consideration in order to eliminate any part of that area that is obviously geologically unsuitable, and b) establishment of a process of engagement between key stakeholders and the wider community to evaluate the generic case for geological disposal and whether or not a credible level of support exists for commencing a GDF siting process.

In NuLeAF's view both the above steps will continue to be required. The West Cumbria MRWS Partnership provided an exemplary model of public and stakeholder engagement that could be emulated by any area that may in future wish to engage with MRWS policy. However, NuLeAF considers DECC should consult on the point at which available information about potential geological suitability of an area should be made available.

Questions were raised during the MRWS process in West Cumbria about whether or not geological screening nationally should take place first, so that Government efforts could be focused on areas with geological potential. Whilst both geological suitability and a volunteer community will remain necessary conditions for any MRWS process to progress, there may be a case for reviewing the approach to successful programmes overseas where identification of geology preceded identification of volunteer communities. Some members of the West Cumbria MRWS Partnership considered this the right approach.

NuLeAF's own research conducted in 2006¹, at the time when MRWS policy was being developed, recommended national high level screening to identify areas of geological potential, to be followed by more focused engagement by Government with communities in areas of potential. NuLeAF recognises that a case can be made for both 'geology' and 'community' led approaches, and would recommend that the strengths and weaknesses of both approaches are set out in any review and consultation on MRWS policy.

Community siting partnerships

NuLeAF considers the broad approach within the current MRWS policy remains valid. Nonetheless, it is appropriate for DECC to test through consultation whether any case can be made for amending the existing policy guidance.

Clarity, transparency and balance in decision making arrangements from the outset of any new MRWS process will be essential to give confidence to any area that may be willing to consider engagement with MRWS. Government should consider the decision making model for a siting process proposed by the West Cumbria MRWS Partnership as a mature basis for review and consultation prior to commencing any new MRWS process.

¹ The Implementation of a National Radioactive Waste Management Programme in the UK: Implications for Local Communities and Local Authorities, B Miller, P Richardson, R Wylie & A Bond, Enviro, June 2006

Right of Withdrawal

Again, NuLeAF considers the broad approach to exercising a right of withdrawal from the MRWS process within the current MRWS policy remains valid. However, as indicated under Qu. 2 below, NuLeAF considers DECC should consult on how the right of withdrawal, held by decision making bodies on behalf of the whole community that they represent, can be strengthened to sustain local authority and community confidence in voluntarism.

Engagement packages and community benefits packages

NuLeAF believes that the provision of engagement packages to local authorities in areas that are willing to consider engagement with MRWS continues to be the right approach. However, to reduce barriers to engagement NuLeAF considers that Government must be ready to reimburse MRWS related expenditure incurred by local authorities (via an approval mechanism) before any formal decision is taken about engagement. This would become particularly important if, as suggested in this submission, that areas considering engagement with MRWS do more preparatory work before a formal 'EoI'.

DECC should consult on the future approach towards Community Benefits additional to investments that would flow from GDF development. In NuLeAF's view, much more clarity will be needed around the tangible benefits available for delivery to an area, and how these can outweigh any potential negative impacts of participating in a GDF siting process and possible GDF development. Negative impacts from engagement with MRWS were felt in West Cumbria, and the MRWS Partnership pressed DECC for clarity on the scope and scale of support that could be provided to the area before, as well as after, GDF construction. Good principles to underpin future discussions were agreed but in future much more clarity much earlier will be needed. NuLeAF would suggest DECC consults on the approach taken to the provision of community benefits in Canada where a high value Government bond is agreed at an early stage with a potential host area, which is then deliverable if and when GDF development takes place. Views on other models for community benefit delivery, from other successful overseas GDF siting programmes such as Sweden, would also be worth consulting upon.

Qu 2: What do you think could be done to attract communities into the MRWS site selection process?

NuLeAF considers that the key issues for DECC and NDA to consider are a) how to reduce uncertainties associated with GDF implementation b) how to communicate more proactively the case for geological disposal over alternatives e.g. indefinite above ground storage, and c) how to convince any local authority that hosting a GDF will deliver tangible benefits to an immediate host community and the wider community.

Reducing uncertainties

Significant uncertainties exist about the 'footprint' of any future GDF and its environmental impact. Whether DECC and NDA's Radioactive Waste Management Directorate can bring greater clarity to the inventory of wastes earmarked for disposal, and wastes that could be diverted from GDF disposal, should be considered with a view to minimising the 'footprint' and impacts. Whether it is reasonable to expect any community to make an open ended commitment to accepting all wastes and SNF, existing and potential, for geological disposal, should also be reviewed and consulted upon.

In any review of MRWS the options for phased waste emplacement linked to on-going rock characterisation and predictive modelling, and phased permissioning, should be considered in the context of the opportunities to build shared confidence in, and community control over, any future GDF development.

The scope for waste retrieval (to allay public concern about the irrevocability of decision making for deep disposal based on imperfect information, albeit the best available at the time) should also be reviewed and consulted upon. Regulators should assist in such a review and should consider whether there is anything in their own guidance that could be improved to build overall confidence in any new MRWS process.

Other generic work, identified by the West Cumbria MRWS Partnership, to reduce uncertainties and improve understanding through generic R&D, risk reduction, and clarification of the risks and benefits attached to the alternatives to GDF development, should continue to be progressed in the near term by DECC and NDA in the absence of an actively engaged local authority and host community.

In the lead up to the decisions in Cumbria it was clear that the County Council remained concerned about the legal underpinning to both the right of withdrawal and community benefits. Copeland Borough Council also expressed concern on this point. NuLeAF is aware that DECC provided reassurance in this regard to the three authorities for West Cumbria prior to their decisions. Nonetheless, before any new MRWS process is initiated, NuLeAF considers that it would be prudent for DECC to consult on how it can reduce uncertainties by providing firmer guarantees that any future prospective decision making body will retain a right of withdrawal up to the point of GDF construction and that any agreed community benefits package will be delivered over the many political cycles spanned by a GDF project. A hybrid bill is one mechanism that has been suggested. Another is to designate GDF development as a national infrastructure project under the terms of the Planning Act 2008, and accordingly consult upon and develop a National Policy Statement for higher activity waste management that embeds commitments to 'right of withdrawal' and 'community benefits'.

However, NuLeAF is mindful that such an approach would appear counter to the broad thrust of Government's localism agenda. The removal of powers over GDF development from waste planning authorities may deter some areas from engaging with MRWS policy.

Proactive communication

Copeland Borough Council has called for a 'national advocate body' with adequate expertise to make the case for geological disposal. This proposal should be consulted upon. Clearly in the hiatus between October last year and January this year there was no body 'championing' the case for MRWS. Social media campaigns opposed to MRWS quickly filled the communications vacuum and undermined an outstanding process of community engagement and consultation conducted by the West Cumbria MRWS Partnership. This identified no 'show stoppers' to commencing a site investigation process in West Cumbria, without commitment to eventually hosting a GDF. It included the clear and statistically robust evidence from an IPSOS/MORI poll of local public support for moving to site investigation.

DECC will face understandable pressure to inject some renewed momentum into MRWS policy, particularly from areas where development of new nuclear build is expected, to increase confidence that a disposal route for any future new build wastes will exist. However, the time scales for any GDF development will, as now, inevitably remain long and NuLeAF recommends DECC first consider a renewed information campaign to a) explain any changes to MRWS policy and b) remake the case for geological disposal, so that a receptive environment can be created before proactively encouraging new interest in MRWS across

England and Wales. Government has experience of this. It did it for new nuclear in the context of energy security and carbon emissions reduction. It now needs to do it for MRWS.

DECC should also consider other steps it can take to send the right 'signals' about MRWS. For example, DECC should consider whether locating radioactive waste management policy within the Office for Nuclear Development promotes public confidence in MRWS policy. During the West Cumbria process concerns were raised in some quarters that MRWS policy is a 'means to the end' of new nuclear build, and not, as it should be, an 'end' in itself.

Government determination to 'accelerate' MRWS implementation during the West Cumbria process was not well received. Despite reassurances at the time that this acceleration only applied to technical aspects of the MRWS process it raised concerns about Government's commitment to a voluntary process.

Tangible community benefits

As indicated under Qu.1 above, NuLeAF would suggest DECC consults on the approach taken to the provision of community benefits in comparable successful overseas GDF siting programmes, and consider adopting elements of overseas practice that builds community confidence. In NuLeAF's view, Government could also build confidence, and demonstrate its commitment to community benefits more clearly, by taking a more inter-departmental approach to community benefit delivery. For example, DECC could consider creating a community benefits task force from Treasury, DCLG, DoT and possibly other Departments, as well as DECC, to scope out with a locally engaged area a positive vision for the future.

Qu 3: What information do you think would help communities engage with the MRWS site selection process?

NuLeAF has not attempted to be comprehensive in the following comments and clearly there is substantial information already available at <https://www.gov.uk/managing-radioactive-waste-safely-a-guide-for-communities> and <http://www.westcumbriamrws.org.uk/>. The West Cumbria MRWS Partnership's work streams covering three years of investigation were largely developed around the key issues that the decision making bodies and other partners considered important. These same issues are likely to be priority concerns for any area engaging with MRWS.

An example of the type of information any decision making body might reasonably be expected to seek before volunteering to participate in a site selection process include:

- A clear explanation of national **need**. Why is geological disposal a better approach to long term radioactive waste management than indefinite above ground storage?
- A clear statement of the **key dimensions and impacts** of a geological disposal facility. How big will it be? What are the main impacts? What secondary infrastructure will be required? Can any supporting infrastructure bring other benefits to an area (e.g. transport infrastructure)? How long are the construction, operation and closure phases? What employment and economic development will GDF construction bring? What investment in education and training can an area expect to ensure local people have high quality job opportunities?
- A clear statement of the wastes and materials that will constitute an **inventory** and why alternative methods of long term storage or disposal for different waste streams and materials cannot offer the same degree of safe and secure management as a geological disposal facility.

- A clear statement of the **geological potential** of an area. What evidence is there that good prospects exist for GDF development in any given area?
- A clear statement of the approach to **regulation, security and safety** and the role of, and confidence in, a multi-barrier system to retard the release of radionuclides to the biosphere.
- A clear statement about why the general public should have confidence in the **safety regulators**.
- A clear statement about why the **future burden of public exposure** from manmade radioactive sources to the most critical group (including any radioactivity escaping from a geological repository in the distant future) is unlikely to be greater than the burden on current generations and, if the evidence supports it, might even be lower.
- A clear statement of the Government's **commitment to voluntarism** and why decision making bodies that represent their local communities can have confidence in their **right of withdrawal** from the MRWS process at any time up to the point where Government consents to the development of any geological repository.
- A clear statement that the national service performed by any decision making bodies on behalf of any local communities that accept a geological repository within their area will be rewarded through an agreed package of **substantial community benefits** additional to any investment and employment directly associated with GDF development.

Additional Observations

Consultation scope

It is vital to maintain confidence in the MRWS process and continue to consistently apply the values of openness and transparency which have underpinned the MRWS process to date, and which helped to generate the constructive work in West Cumbria. Nothing should be 'out of scope' in considering measures that could build public confidence in the Government's approach.

Consultation process

NuLeAF supports a thorough, iterative, wide ranging, transparent, and considered approach during this evidence gathering consultation and future consultative processes. It is important that DECC upholds the rigour and standards which characterised the work of the West Cumbria Partnership. If corners are cut or transparency is lost, then the credibility of the MRWS process will suffer.

DECC should consider convening evidence gathering workshops around different topics or with specific stakeholder groups, like members of the West Cumbria MRWS Partnership who gained a wealth of MRWS related experience. DECC should also consider establishing an independent panel, or use CoRWM's services, to help evaluate evidence gathered and to inform the content of future stages of the MRWS review.

Post consultation, NuLeAF would support the establishment of, and welcome the opportunity to participate in, a new MRWS delivery group that can oversee any work streams that may develop from this review process.

We trust the above comments are helpful to you.

Yours faithfully