Subject: Fw: Review of the Siting Process for a Geological Disposal Facility

Subject: Review of the Siting Process for a Geological Disposal Facility

Please find my response to the the above Consultation. I have included excerpts from the enclosed letter within my response but just in case the image is not clear have enclosed the whole letter as a pdf.

Please acknowledge receipt.

PS an earlier email bounced as you have the wrong email address in the Consultation Response!!!! gsi is missing.

JOHN WILSON
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1.Do you agree that a test of public support should be taken before the representative authority loses the Right of Withdrawal?

Yes most definitely.

But I believe that concerns over safety are paramount with regard to public support.

So before the “national process” proceeds any further and before any more “volunteers” are sought I believe DECC should effect as an immediate priority an independent (namely involving international experts), national geological assessment/survey which identifies the safest and most suitable areas for a GDF in line with the accepted international criteria broadly simple geology and low relief.

The British Geological Society should not be the independent body given they have been involved thus far. We need a new body.

Nirex had previously stated that 30% of the UK had suitable geology but none of it is in the two areas which previously volunteered in West Cumbria. No wonder doubts over safety and the bona fide nature of the process have arisen. This can only be avoided by such a national geological survey/assessment.

Without this first happening no one will have any confidence in the process. One the geology has been so assessed communities in suitable geology can be asked if they want to proceed with the GDF process.

There must be a high level of engagement, openness and complete transparency.

Decision making within the process should involve as broad a group as is democratically practical.

There must be enshrined the legitimate and democratic **Right of Withdrawal** by potential host communities, parish councils, district councils and the county council (or unitary authority).

Any test of public support should be by way of referendum and should be taken on a County wide basis. It is also imperative that no local community could have a GDF forced on them by a wider area.

In other words two levels of support may be needed ie wide public support through a county wide referendum (or similar) and local support at GDF site level.

It is imperative that given the scale and impact of GDF that community support is tested not just before the ROW is lost but also at a much earlier stage given the potential for blight and uncertainty a GDF will bring to a community.

2.Do you agree with the proposed amendments to decision-making within the MRWS siting process? If not how would you modify the proposed phased approach or alternatively, what different approach would you propose?

No I don’t agree.

59% of those replying to the earlier Call for evidence advocated a national geological survey (which DECC has ignored thus far) but only 3% advocated vesting decision making in District Councils. Yet DECC has opted for the latter. The explanation given is risible.

This is not rational and it is this type of behaviour which loses any public trust in the process.

District Councils do not have the expertise or resources available to County Councils and to exclude the expertise and resources of the latter is irrational. Also a GDF will affect a much wider area than that governed by any given District so County Councils have to be involved in decision making as do all of those living in such an area – see question 1. County Councils must be involved in key decision making.

In Cumbria the previous process came to an end when the County Council said no. Central Government and the two tiers of local government in Cumbria had previously agreed that all three needed to agree. This was the so called “Three Green Lights” agreement.

To exclude Cumbria County Council and other County Councils from the decision making process, whilst at the same time vesting decision making in District Councils (or where there are none then unitary authorities) evidences, in my view, a shameless and outrageous attempt to usurp democracy so as to clear the path for the decision DECC wants in Cumbria. And if that is not DECC's intention then they could not have picked a better way of suggesting that this was their intent.

However, I also note that if the Government does proceed to exclude Cumbria County Council from decision making under Managing Radioactive Waste Safely then not only will it leave itself open to the prospect of Judicial Review and maybe other legal action but also will immediately remove West Cumbria from the process going forward.

This is because if DECC eliminates all County Councils from the process then it excludes Cumbria County Council and so eliminates West Cumbria entirely from the process as it can't proceed in West Cumbria without Cumbria County Council's consent.

I attach some excerpts from letter sent by Baroness Verma to Alan Smith leader of Allerdale Council on 19th December 2012 from which you will see that it is clear that DECC has agreed the MRWS process cannot and will not proceed in West Cumbria without the "Three Green Lights".

DEPARTMENT OF ENERGY & CLIMATE CHANGE

Baroness Verma of Leicester
Parliamentary Under Secretary of State

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Your ref:
Our ref:

Councillor Alan Smith
Leader
Allerdale Borough Council
Allerdale House
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Cumbria
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19th December 2012

Dear Alan

MANAGING RADIOACTIVE WASTE SAFELY (MRWS) – RESPONSE TO ISSUES RAISED AND DECISION MAKING PROCESS

Thank you for your letter of 1 October, which set out a number of issues on which you were seeking clarification, during the three month period in which you decided, collectively, to defer your decisions about whether to proceed to the next stage of the MRWS process. I would like to thank you for the constructive approach that the Councils have taken in exploring these issues during this period.

In order to set out our responses to the substantive issues raised clearly and concisely, I have presented them in a separate annex to this letter (Annex A). These outline the actions that Government is committing to taking forward in the next stage of the MRWS process, in the event of a positive Decision to Participate, to ensure that decisions continue to be made on the basis of the best information and evidence available.

I am also writing to set out what I believe can be a mutually agreed position between the three Councils and the Government over taking forward the MRWS decision making process. I would like to stress my and the Government's firm support for the process, and to the principle of voluntarism, and my determination to drive forward the process effectively.

In the light of the concerns which have been raised about the right of withdrawal, I am keen to find the most satisfactory way of working with local authorities, in which we can all have confidence, and I believe the note attached to this letter (Annex B) represents a good way forward to which we can all agree. This note makes it absolutely clear that, to proceed with the MRWS process, there needs to be three "green lights" reflecting consent at the three levels of Borough Council, County Council, and national

Government. Absent three green lights, the MRWS process cannot continue in west Cumbria.

It is our intention that this agreement should remain in place during the MRWS process until statutory backing for the right of withdrawal, or an alternative legally binding arrangement, has been implemented.

I would be grateful if you could confirm your agreement to the arrangements, as set out in the attached note (Annex B) enabling the arrangements to have continuing effect beyond any Decision to Participate.

I am writing in equivalent terms to the leaders of Copeland Borough Council and Cumbria County Council. I am copying this letter to Harry Dyke, Chief Executive of Allerdale Borough Council.

Kindest regards

Sandy Verma

BARONESS VERMA

Annex B

MANAGING RADIOACTIVE WASTE SAFELY (MRWS) DECISION MAKING PROCESS

The Government understands and welcomes the fact that the three local authorities have agreed to work together constructively to ensure that their decisions are fully considered, take account of the views of the local communities they represent and resolve any concerns which are identified. The Government fully supports the intention to attain a common understanding of the key issues and thus a common view on the key decisions.

For its part, the Government is committed to the principle of voluntarism in the implementation of geological disposal for higher activity radioactive waste, as envisaged in the MRWS White Paper, and specifically to working in partnership with the local authorities. As the process continues, should it become clear, in advance of key decisions, that different local authorities take differing views on key issues or are minded to take different decisions, the Government would expect the local authorities to work together constructively to understand the reasons for this and seek to address these differences so as to achieve a consensus.

If, despite the best endeavours of the local authorities, they are unable to adequately reconcile their differences, and it becomes clear that they take different positions, the Government would expect the process to be paused. In the event of such a pause, the Government will work constructively with the local authorities to explore what can be done to address any concerns raised and to enable a consensus to be reached. However, if it were to become clear that agreement between the local authorities could not be achieved, and no practical changes could be made to the process to enable such an agreement to be reached, the Government would need to consider how or whether the MRWS process could proceed in west Cumbria.

The Government accepts that if we reach that point, and where either a Borough Council (in respect of its area) or the County Council in a Cabinet decision, or the Government, after considering the issues, continues to have genuine concerns and no longer wishes to participate, then the principles of partnership to which we have all been committed cannot be met. Accordingly, we would not proceed with the Managing Radioactive Waste Safely process in west Cumbria.

See also replies to Question 9 for more detail.

Reverting to the DECC proposed new arrangements outlined in the consultation paper, these show a complete lack of independent advice and no genuinely impartial supervision of any of the processes.

I strongly disagree with the changes in arrangements that allow District Councils to act as the Representative Authority. I also strongly disagree with the suggestion that the Leader of the Representative Authority should chair the Steering Group. This should be a paid and genuinely independent and experienced individual perhaps a High Court judge or equivalent.

3.Do you agree with this approach to revising roles in the siting process set out in the White Paper? If not, what alternative approach would you propose and why?

The proposals will allow for a body, most likely to be a Borough or District Council, to express an interest. This body will then be responsible for steering the project and finally, as Representative Authority (RA), it will decide upon a right of withdrawal. These powers should not be held by one body.

A GDF project will cross many service boundaries, highways, minerals, planning, safety and waste disposal. By limiting the County Council to a consultant role it seems that DECC wishes to remove obstacles to the outcome that they want. DECC are not creating a process properly based on voluntarism.

It is vital that any further siting process must include a clear and unambiguous definition of a Host Community.

4.Do you agree with this proposed approach to assessing geological suitability as part of the MRWS siting process? If not, what alternative approach would you propose and why?

No.

Selection of the suitable geology for ***geological*** disposal of nuclear waste must be the number one priority. DECC has chosen in this review to mislead, misrepresent and distort the facts in order to engineer the outcome it wants.

A national geological surveying or screening process for sites with suitable geology is possible and should be an immediate priority – see answer to Question 1.

The data already exists that could be examined and compiled into a national report within a matter of months.

Areas who have been identified with suitable geology could then decide on whether to progress into Learning Phase.

It must be emphasised repeatedly that the long term safety of a GDF depends almost entirely on the geology in which it is placed.

The national process simply cannot be a sensible national process without this exercise being first undertaken. Otherwise we run the risk as a Nation of dealing with less than suitable sites and wasting more time and money on “wild goose chases”.

We have wasted hundreds of millions and decades of time by being obsessed with siting a geological disposal facility next to Sellafield simply because legacy waste is there at the moment. This is madness when the geology is known to be unsuitable and we know we have better and safer geology elsewhere.

In any event the length of time the waste has been at Sellafield is a blip in the overall 100,000 lifespan of radioactivity, it has been moved safely to Sellafield (NDA boasts 10,000,000 nuclear waste incident free miles) and of course now new nuclear waste is going to be created from nuclear sites within England and Wales.

This is a national problem and requires a national geological solution.

5.*Do you agree with this proposed approach to planning for the geological disposal facility?*

No.

The 'representative authority' role should not be delegated to a district council. A County Council must have a participative role rather than merely a consultative one.

There will be conflict of interest if the final decision about a GDF application is adjudicated by the Secretary of State for ENERGY. This is not acceptable.

Furthermore, whilst I do not agree with the idea of a national planning policy or statement for a GDF (simply as I do not trust Central Government to do this objectively given its performance to date) if there is one then it essential that it excludes from the outset all National Parks, AONBs and environmentally sensitive sites egs SACs and SSSIs. Not just for environmental, moral and other obvious reasons but also as from a practical perspective these sites are likely to be undeliverable.

Re the latter – whilst development of a GDF in say a National Park would be virtually impossible for a plethora of reasons, from a planning law perspective it would only be possible if all alternative sites on a national basis had been exhausted. Ditto re SACs. The more astute at DECC may realise that if DECC happened upon a National Park site after say a 10 year process then it would not be able to proceed unless and until it had exhausted all other sites nationally. In this scenario DECC wastes yet more time and money, whilst in the meantime needlessly blighting the site in question when the process then fails. And just to be clear it would fail given the amount of suitable geology outside such sites it will be impossible to say that all alternatives had been exhausted.

6.*Do you agree with this clarification of the inventory for geological disposal – and how this will be communicated with the volunteer host community? If not, what alternative approach would you propose and why?*

DECC appears to be ignoring the government's Committee on Radioactive Waste Management (CoRWM) recommendations by including waste from a new build programme in the revised Baseline Inventory.

Why set up an advisory committee if you choose to ignore inconvenient conclusions?

As far as I am aware no other country is proposing to mix wastes in this way.

This is a major, huge and fundamental departure from what has been stated previously in MRWS. I do not believe that it can now lawfully be done.

New waste is a new development since the 2008 White Paper and requires a new policy.

New waste may well triple the size of a single UK GDF and also increase the radioactivity of our national wastes by huge amounts – perhaps by 400%.

To simply attempt to slip this into this process is not just disingenuous it is unlawful.

7.*Do you endorse the proposed approach to community benefits associated with a GDF. If not what alternative approach would you propose and why?*

No. I don’t agree.

There is no doubt that if a GDF proceeds that there should be meaningful benefits to the affected area in perpetuity. For instance £X for z years for y disposals into a community fund.

Such fund would then finance a variety of “benefits”. As well as local infrastructure and investment these would have to be very significant eg no or significantly reduced rates/Council tax; as well as capital compensation for any reduction in property and business values.

However if the extent of blight and financial uncertainty could be reduced hugely, if not eradicated, if a GDF process only ever started in an area with suitable and safe geology.

A GDF needs to be safe and also PERCEIVED to be safe and if it is not no amount of benefits will suffice. Unless the Government can reintroduce trust and transparency by a truly national process which involves identifying suitable geology up front and in a truly independent way then the concept of benefits is entirely spurious; simply no amount of benefits will suffice.

At the moment the DECC approach seems to be “persuade” communities (especially vulnerable or malleable communities) with the lure of money to accept a GDF in an inappropriate place. That is not right in any country let alone a supposedly civilised democracy.

8.*Do you agree with the proposed approach to addressing potential socio-economic and environmental effects that might come from hosting a GDF? If not, what alternative approach would you propose and why?*

Any socio-economic information presented to a community should be factual, unbiased and delivered by an independent body which is chaired by an independent and properly paid professional.

There should be clear separation of the environmental issues from the economic issues. With regard to environmental issues, it would appear to be illogical and entirely counter-productive to attempt to put a GDF where it could adversely affect any nationally and internationally protected areas (National Parks, Areas of Outstanding Natural Beauty, World Heritage Sites, Special Areas of Conservation, Ramsar Sites, Special Protection Areas).

In MWRS in Cumbria we had the ridiculous situation of over 70% of the area under consideration being in the Lake District National Park. More was in the Solway AONB. No cognisance was taken regarding a plethora of Special Areas of Conservation, Sites of Special Scientific Interest, Special Protection Areas and RAMSAR sites etc etc

Some of these issues could be addressed on a macro level by excluding such sites from the outset.

Clearly any such sites should be the subject of an early environmental assessment if not ruled out nationally. This should be by an independent body and subject to public scrutiny and accountability and chaired by an independent and properly paid professional.

9. Do you have any other comments?

Yes.

Geology

I reiterate that fundamentally the policy of voluntarism first over geological suitability, and therefore safety, is completely irrational.

In fact in the earlier call for evidence year 59% called for this change of approach according to DECC’s own figures – by some margin the biggest call for any particular action.

Its seems entirely self-evident that no sensible local authority would or will ever volunteer its community to the nuclear waste repository process without first knowing its geology was suitable; or at least likely to be so based upon independent peer reviewed evidence.

So any re-launch of a truly national process must involve this step otherwise no other community will volunteer. Which is of course DECC's stated intention....

Nirex concluded that 30% of the UK had suitable geology – but none of this is in Cumbria from where all he previous volunteers came – result process failed. Has DECC learned from this? It seems NO. Why? Only explanation is an irrational desire to site a GDF is less than suitable geology near Sellafield in what DECC believes was a malleable community.

Nuclear waste is a national problem; DECC are re-launching as a national project and anyone with half a brain can see that a national geological assessment/survey is a logical and sensible as an adjunct to this prior to seeking volunteers. This could be done in 2104 at no great cost.

I would remind DECC that Nirex failed was over irrational site selection and geology. It was accepted by all parties to the Nirex enquiry there was better geology elsewhere in the UK. The Nirex Inspector recommended the Nation look at such geology in 1996. When it became apparent what MRWS might involve West Cumbria again, the Nirex Inspector wrote to the the Guardian in 2007 and said this again. See below.

Letter: Flaws in search for nuclear waste site

The Guardian, Thursday 28 June 2007

As the lead inspector (now retired) of the 1995-96 public inquiry into the proposed nuclear waste facility in west Cumbria, I was concerned by a couple of points in your piece on the new site search (Report, June 26). The relevant geology in west Cumbria is apparently now claimed to be "stable, although imperfect". But 10 years ago the nuclear industry had not found a way of maintaining the stability of that geology when physically exploring the underground site.

This difficulty was linked to the second issue of "imperfection", because the imperfection consists of simply failing to meet the internationally agreed criteria on the suitability of rocks for nuclear waste deposit. The site should be in a region of low groundwater flow, and the geology should be readily characterisable and predictable, whereas the rocks there are actually of a complex volcanic nature, with significant faulting. Also, the industry was relying on an overlying layer of sedimentary strata to dilute and disperse any groundwater leakage, when the international criteria require such a layer to act instead as a barrier. The comprehensive assessment that reports the deficiencies in detail is available on the internet (jpb.co.uk/nirexinquiry/nirex.htm). The site is not suitable and investigations should be moved elsewhere.

The site selection process was flawed, not treating safety as the most important factor, and irrationally affected by a strong desire to locate close to Sellafield. A final point - the sketch design for the repository has not been newly revealed. It was submitted to the 1995-96 inquiry, and has subsequently been discussed in technical journals.

Chris McDonald

Camberley, Surrey

DECC's approach appears to be to make do with our Cumbrian dodgy geology, ignore the almost perfect GDF geology elsewhere in the UK and rely on so called engineering solutions – no other country in the world is doing this. All are relying on one form of suitable geology or another and using some of the most appropriate geology their country has to offer.

County Councils and Cumbria County Council

DECC's proposal to exclude County Councils and in particular Cumbria County Council is not just morally reprehensible, disingenuous but it also plain stupid.

However as I have pointed out above if DECC do exclude County Councils then I do not believe it is lawful or possible for DECC to proceed under the 2008 Managing Radioactive Waste Safely White Paper in West Cumbria (ie Allerdale or Copeland) AT ALL.

This is because it STILL cannot do so without Cumbria County Council's consent.

The current approach in the Consultation suggesting variations to aspects of the 2008 White Paper would change nothing at all in this context.

So if the White Paper were varied to exclude County Councils from key decision making as proposed this would be irrelevant to the overarching agreement which has been reached with regard to Managing Radioactive Waste Safely under the Three Green Lights agreement. This would still pertain and DECC simply would have excluded West Cumbria by excluding Cumbria County Council.

Even if DECC attempted to circumvent this problem with a completely new White Paper and process with regard to radioactive waste (which I note it is not suggesting or consulting upon) then such approach would always be (quite rightly) open to legal challenge based upon rationality of such new White Paper and process (or lack thereof) and the legitimate expectation created by the Three Green Lights agreement and arrangements.

Is DECC prepared to waste yet more time and tax payers' money in this respect in the inevitably ensuing lengthy and protracted legal disputes?

The Parliamentary Accounts Committee are quite rightly currently taking an active interest in how taxpayers money is being spent at the Sellafield site and I'm sure would be interested in any such conduct.

Similarly, but more generally, PAC will be interested in wasting tax payers money in pursuing a GDF in unsuitable geological areas – as was the case recently in MRWS in West Cumbria between 08 and 13 and of course prior to that with Nirex which cost £400m in old money.

Reverting to Cumbria County Council DECC has stated in its latest Consultation Paper that Allerdale District Council voted to proceed into Stage 4. This is true but you have omitted to mention the 13 conditions they attached.

Condition 12 stated:

"12 - The role of both District and County Councils continues to be acknowledged in the decision making process i.e. one cannot agree to proceed without the other."

By the time ADC voted (at 3.00pm) Cumbria County Council had earlier that day said no and ADC knew this. So in reality their yes was really a no….

Furthermore it is hard to see how ADC can now support Cumbria County Council's exclusion from the process and also how DECC can claim in its Consultation Paper that ADC wanted to proceed (with Condition 12) and then in the same document propose to exclude Cumbria County Council.