

Response to consultation on: Geological Disposal of Radioactive Waste in West Cumbria.ⁱ

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Summary of key issues discussed in this response

Two nuclear projects - surface facility and repository

The consultation document effectively covers two linked nuclear projects, the surface facilities and the Geological Disposal Facility (GDF or repository). The surface facilities for the GDF could involve not only a spent fuel 'encapsulation' (packaging) plant, as discussed in the consultation, but also a massive central store for thousands of tonnes of spent fuel from new reactors (an option not ruled out by the Government). This latter issue is not discussed in the consultation. By itself an encapsulation plant for spent fuel would add significant environmental risks to what would be a massive nuclear waste disposal project. A spent fuel store would further increase the risks.

Government and industry deal to pre-empt decisions on waste amounts for repository?

Negotiations concerning waste and spent fuel disposal from new reactors are taking place *now* between the Government and a nuclear company (these talks may also include the possibility of central storage of spent fuel at the surface facilities). This matter is not referred to in the consultation. The Managing Radioactive Waste Safely Partnership (MRWSP) is not a party to these behind closed-door discussions. Yet this issue has significant implications for operational time lines, the size of the repository, the amount of spoil removed from it and, of course, the radioactive inventory which would go into any repository sited in West Cumbria.

It is however not too late for the MRWSP to intervene and insist that it has sight of any deals - before they are finalised - and find out precisely what is being discussed on both new build waste management and disposal regarding a GDF. If this is not done, the repository could eventually take all wastes and spent fuel from new reactors created over the next 60-100 years. That would be a repeat of the past several decades, with Cumbria yet again becoming the 'dumping ground' for the UK's nuclear wastes.

Radiological health impacts of waste disposal already determined as acceptable.

Strategic-level decisions on the radiological health impacts of the disposal of legacy and new build waste - set against the potential advantages - have already been made by central government. The risks have been deemed to be 'acceptable.' This decision may have removed the opportunity for this crucial matter to be examined under future planning processes.

MRWS White Paper - policy not legislation

The whole process is based on a policy White Paper - a policy which is liable to be changed substantially during the MRWS processes (if it continues). None of the policy is underpinned by specific legislation. This raises questions over whether any 'decision to participate' (DtP) in siting a repository by the three Decision Making Bodies (DMBs) - Copeland, Allerdale and Cumbria - would be legitimate.

Inequity in the process between DMBs and other MRWS members

As only Copeland and Allerdale Borough Councils and Cumbria County Council have made an 'expression of interest' (EoI) in hosting a repository they are deemed the 'decision making bodies' within the MRWS. This has exposed an inherent flaw: that the only way for a local authority to have any real 'power' within the process is for it to have expressed an interest. The current and proposed process leaves all other local authorities and parties with a similar interest (e.g. Lake District National Park Authority, Cumbria Association of Local Councils) as second-tier parties in the MRWS process.

Transboundary impacts

Local authorities that might be situated close to the surface facilities or repository may be at risk in terms of negative economic or environmental impacts. Under the proposed system these councils would have no control over any compensation to offset these impacts. Nor would they have any real control within the process itself to exercise a 'right to withdrawal'. All such powers rest with the DMBs. The process proposed for any future MRWS work makes no effort to address the inequity in the processes and powers.

Voluntarism and the Right of Withdrawal are being eroded

The future processes put forward in the consultation for siting, as well as the new planning laws which may be amended to cover the GDF project will effectively end the notion of 'voluntarism' and could also see the Right of Withdrawal (RoW) disappear.

The geology of West Cumbria is not suitable

The process risks putting voluntarism first and geology second, whereas if the geology is wrong - and there is much evidence to support this - then no amount of willing communities (if they exist) can make up for this deficiency. The right criteria for screening an area for suitability are not being used in the correct order, geology must come before voluntarism.

Nuclear dump not compatible with World Heritage Status

Questions arise as to how the proposals for the surface facilities and repository 'square' with the proposal to get the Lake District National Park accepted as a World Heritage Site.

Full information on negative impacts not released in time for consultation

The document discusses a 'benefits' package and also potential jobs from a GDF. Yet the full research on the negative impacts will not be published until after the consultation.

The 'decision to participate'

A question hangs over whether the Memorandum of Understanding (MOU) between the DMBs will be honoured in terms of precisely how and when a decision on the next step is made.

Process not transparent

Questions arise over who takes part in key discussions concerning the MRWS e.g. over the proposal to accelerate the time line for disposal. Further, lack of transparency on other discussions impacting on the MRWS work, and the failure to distribute relevant information, has significantly decreased whatever public confidence there might have been in the process.

Conclusion

The repository and associated surface facilities represent a massive combined nuclear project which will have far reaching implications for any 'host' area. It presents major environmental, health and economic risks for future generations.

Unfortunately, despite the best efforts of some MRWSP members, the process has failed to be transparent and inclusive. Too much influence rests with the three DMBs. Important information on other processes, which will significantly impact on the MRWS process, has effectively been withheld from the public through omissions in the consultation document.

Millions of taxpayer's money have already been spent on this process. Millions more could be wasted on a process which does not warrant public confidence. Billions could be allocated to a project based on the wrong use of criteria - voluntarism before suitable geology.

The MRWS must be halted. No 'decision to participate' should be made. Any further consideration of nuclear waste disposal in Cumbria or elsewhere must, at the very least, be put under the oversight of a specially convened independent commission with the necessary expertise covering both physical and social sciences.

Introduction

This response does not attempt to cover every contentious point in the consultation document on disposing of the UK's most radioactive wastes in West Cumbria. It focuses mainly on process, policy and potential legal concerns in the current and proposed MRWS programme. Past and current work must be used to inform the response of the Partnership for its final report on a 'decision to participate' (or not) on siting a nuclear waste repository in Cumbria. A few examples are given of major issues which need full examination.

Two nuclear proposals - not just one

Before making more detailed comments, attention is drawn to the references throughout the consultation document to a 'repository' - the definitions indicate that this means the underground geological disposal facility (GDF).ⁱⁱⁱ

This submission directs attention to the surface facilities for the repository because these could be a substantial and significant hazard in themselves. Understanding the potential scale of the surface facilities *and* the GDF is important in appreciating the possible risk of the project in full. A problem at one of either of these facilities could impact on the other.

In itself the GDF would involve a varied and complex array of long-lived nuclear wastes. It could result in one of the biggest nuclear disposal sites proposed anywhere in terms of the total radioactive inventory. The possible addition of a central store for new build spent fuel, along with an encapsulation plant, adds significantly to the overall risk of what is being proposed.

Waste - how much and what might happen

Current waste - where it is and where it has come from

The document (page 19) notes a large amount of the UK's nuclear waste is already at Sellafield - thus providing a reason why the three councils which 'expressed an interest' got involved in the MRWS process.

The issue at the heart of the difficulties around nuclear waste and spent fuel is not only where it is, but that it is radioactive. It is a necessary reminder that the majority of the radioactivity in wastes at Sellafield is from spent fuel brought into Cumbria from around the UK over the past 50 years. Operations at Sellafield exacerbate the problem through reprocessing spent fuel which massively increases the volume, and creates more types of wastes, to be managed. The central problem - the radioactivity - is not however a Cumbrian 'creation' but a national issue. The repository could see the import of more waste from around to UK, over the next 60-100 years, to be dumped in Cumbria.

Small but vital facts are missing from the consultation e.g. that the first Committee on Radioactive Waste Management (CoRWM) estimated the amount of radioactivity in spent fuel from new build (assuming 10 new reactors) would be *three times* that of all the legacy radioactive wastes and nuclear materials accumulated over the past 60 years.

It is known that new build spent fuel - due to its heat generating properties - also raises issues for both storage (how long need it be stored above ground before it can be packaged for disposal) and underground - where it will significantly increase the size of the 'footprint' of the repository (which in turn impacts above ground due to the amount of spoil which will result). It is strongly recommended the Partnership considers some of the evidence on this - please see references given.^{iv}

All of this is particularly relevant to the discussion around a repository and what wastes may come into Cumbria in the future as a result of siting a repository in the county.

Surface facilities: new build waste - central storage

The surface facilities are 'airbrushed' in the consultation document. The impression given is that these will be relatively 'benign' facilities with little environmental, safety or security implications.

Central storage - at the surface facilities - could see many thousand of tonnes of highly radioactive spent fuel kept above ground for many decades. Amounts of new build spent fuel range from an estimated 14,000 tonnes - 22,000 tonnes (dependent of course on the scale of any new build programme)^v

Disposal depends on the heat/radioactive decay of the spent fuel, when encapsulation (packaging) can take place and the timing of the overall disposal operation. One of the central issues with new build spent fuel, compared to that of existing reactors, is the length of time the fuel is burnt in a reactor as this determines how radioactive it is. In the case of new build spent fuel it will be much more radioactive (and hotter) than existing spent fuel. This presents problems in terms of how long it might have to be stored before it can be packaged and sent for disposal. There are differences of opinion over whether it will have to be stored for 50 years, or 100 years, or even longer after it is taken out of reactor.

Here is an indicative time line. If the first spent fuel from the first new reactor is sent to a central store in approximately 2040 (assuming construction by then), it would have to be stored until 2130 - when the last of the legacy waste will be disposed of (the official time line at present). Spent fuel from the last of the proposed new reactors might be taken out of a reactor around 2090. Storage would be needed for 100-160 years (although the NDA says 50 years might only be needed). However, as radioactive waste and spent fuel disposal is not a speedy operation, surface storage would have to continue while other wastes (legacy and new build) took place. This could mean the last of any new build spent fuel going into the ground by around 2190, or even later.

The scale of the buildings for storage is important too. British Energy has estimated the store for all the spent fuel from the Sizewell B reactor alone is expected to be of the order of 50m wide by 110m long by 23 m high.^{vi} Depending on the scale of any new reactor programme, several stores of the scale proposed at Sizewell might be needed to store spent fuel at the above-ground facilities.

It is extremely remiss of the Partnership to have allowed the document to go out without any information on this matter. There can be no excuses for this kind of omission.

Government and industry negotiations on new build spent fuel underway

The consultation document claims (page 83) that:

Higher activity waste and spent fuel from new nuclear power stations would also need to be disposed of, but DECC has confirmed that this would be discussed with host communities if the process proceeds.

The consultation is silent on the agreements Government and the nuclear industry will decide which will cover new nuclear wastes. The agreements will cover the how and where of waste and spent fuel storage and disposal.

Negotiations on these agreements are underway *now* - as the consultation takes place - between EDF and the Government. The agreements are being discussed under the umbrella of the Funded Decommissioning Programme (FDP) and are to be completed prior to new reactor construction. Under the FDP contracts will also be signed on the Waste Transfer Price (WTP) on disposal costs^{vii}

That the Government and industry would be discussing these agreements was flagged well in advance of this. According to the Office for Nuclear Development (DECC) it is expected the first of

these agreements will be finalised in mid-2012. The OND's main function is to facilitate new build. It is also the unit in DECC which oversees the MRWS process on behalf of the Government^{viii}

The MRWS consultation document (page 17) regarding new build waste and a repository states:

The Government says that, although it is technically possible and desirable from its point of view that a repository would take waste from new UK nuclear power stations, doing so has implications for design and operation and would have to be discussed with any community that has a repository.(my emphasis)

However, the Waste Transfer Price (WTP) document published by the Government on 8th December 2011 states^{ix}:

Geological disposal is the way in which higher activity waste will be managed in the long term. The Government expects to dispose of spent fuel and ILW from new nuclear power stations in the same GDF that will be constructed for the disposal of legacy waste. (my emphasis)

There is then now a clear expectation on behalf of Government, if not industry as well, that new build and legacy waste *will* be disposed of together.

New build waste management and disposal will be determined by agreements reached between the Government and new reactor operators in closed-door meeting. The agreements may be published when they are finalised. There is no mechanism at present for local authorities or communities involved in the MRWS process to be party to the talks.

It has been left to the nuclear companies to make put those parts of the agreements, as they see fit, into the public domain. ^x On this note:

2a.2 The Secretary of State, mindful of the public interest in such arrangements, would expect an Operator to publish as much of its FDP as possible except for material of a sensitive nature. An Operator should, therefore, set out in the FDP proposals regarding publication, clearly identifying those issues that are commercially confidential or may have security sensitivities. The Operator would be expected to publish and make available on the Operator's web site such material on or shortly after approval of the FDP by the Secretary of State. The decision by the Secretary of State will also be published.

Although the Government's current assumptions are that spent fuel will be both stored and encapsulated at reactor sites, it has left definitely left the way open for other 'alternative' management options such as centralised spent fuel storage.

In fact in the past few years there has been lobbying by the nuclear industry for the NDA to take 'title and liability' to new build spent fuel sooner rather than later. The NDA has had talks with the industry over a possible 'interim store' for spent fuel from new build at Sellafield or a GDF^{xi}. The NDA has said it has not had discussions on taking over spent fuel stores at reactor sites - implying perhaps that if it takes over title and liability to new build wastes it will only be at a central site?

This matter was also explored in the NDA's November 2010 report *Geological Disposal Feasibility studies exploring options for storage, transport and disposal of spent fuel from potential new nuclear power stations*. Central storage was not ruled out.

Did the MRWS know of the new wastes deals before the consultation?

The issue of central storage is discussed in a paper from the Nuclear Legacy Advisory Forum (Nuleaf) in February 2012.^{xii} Nuleaf is a body of the Local Government Association. It is noteworthy that Nuleaf has taken the appropriate steps to report on this matter. This begs the question of why the MRWS consultation document does not even raise the possibility of central storage - as Nuleaf is not only an active organisation in the MRWS but the current chair of the MRWS is also chair of Nuleaf.

Copeland and Cumbria are certainly alert to the possibility of proposals over central storage *and* the FDP processes. Both councils put in responses to the original FDP consultation in 2008, but not Allerdale.^{xiii}

Both Copeland and Cumbria made responses to the consultation on the FDP guidance (which ran from December 2010 to March 2011). Allerdale did not make a response even though by this time it was a member of the MRWS.^{xiv} If at least two of the DMBs knew about this why was it left out of the MRWS consultation document?

Spent fuel encapsulation

A central spent fuel store is not the only issue for concern at the surface facilities. The consultation document does however note there could be a spent fuel encapsulation plant. This could involve significant risks, depending on the amount of spent fuel handled, the timescale over which it might operate etc. This process - spent fuel encapsulation - has not yet been performed in this country and nuclear companies and CoRWM have raised issues about it in the past.^{xv}

As noted previously, the Government's present 'base case' is that new build wastes will be stored at new reactor sites and encapsulated there. That a spent fuel encapsulation plant might be built at the repository surface works would also make a central spent fuel store from new reactors more likely - otherwise why build it? At present the places which have spent fuel stored long-term are Sellafield and Sizewell (all other spent fuel is destined for Sellafield for reprocessing or storage pending disposal). Given this is the case, why build a spent fuel encapsulation plant at a West Cumbrian repository when would take spent fuel only from Sellafield - assuming the new reactor and Sizewell encapsulate their own spent fuel?

The draft of the leaflet which would have accompanied the consultation document noted that:

There would also be surface facilities with building such as administration offices, workshops and possibly a waste packaging facility for waste created by any new nuclear reactors. (my emphasis)

The reference, in connection with the encapsulation plant and new reactor wastes was dropped from the final consultation document.

Encapsulated spent fuel is in theory in the safest and most enduring form of spent fuel. The fuel rods would be packaged in materials which are meant to prevent radioactivity for thousands of years after disposal. The idea that spent fuel might be transported 'unencapsulated' and then handled for a second (or a third time, depending on processes at reactor sites) at the surface facilities raises many questions.

In relation to all of the above, no indicative time lines are given for the potential operation times of the combined facilities, yet estimates for these too were available for use in the consultation. There is a very brief discussion on the possibility to accelerate the process (see page 15-16 this submission). Thus the reader is not aware that above ground work may start in 2030; with disposal commencing in 2040 (this allows 10 years for construction). Operations may last anywhere between 2175-2200 (depending on new build spent fuel disposal) plus additional decades for monitoring, to allow for retrievability.

In fairness the consultation does acknowledge some of the potential impact of new build wastes (page 85):

A 10GW(e) new nuclear build programme was assumed in the upper inventory. However currently developers are planning for a 16GW(e) programme, which could mean that the footprint could be as much as 25km².

Yet despite recognised problems created by new build waste e.g. the space required in a repository, it goes on to claim that:

A change in the inventory is not expected to present any new technical challenges for the design and construction of a facility, but there would be a proportionate increase or decrease in the construction and backfill materials required and the spoil generated, as well as changes to the amount of infrastructure required underground.

This downplays the very real impact new build wastes could have on this project.

Excluded or not excluded

It is easy to read the document and not be alerted to the fact that areas excluded as geologically unsuitable for a repository might still be considered suitable for the surface facilities. This should have been made much clearer (in the geology section and other relevant sections but in fact is only briefly touched on e.g. page 30).

Two repositories - one set of surface works?

The consultation document (page 11) notes:

The Government also says that it is possible that more than one facility might be needed depending on the type and amount of waste disposed of, and the location or locations finally decided upon. However, a commitment from a community to have one repository does not automatically mean the same community would have a second one.

There has already been discussion that the surface facilities might be used to service two repositories.

Spoil heaps

Many things will impact on the amount of spoil to be dealt with. The amount of spent fuel from new reactors, and whether more space is needed for such fuel, or whether two repositories will be needed - all of these will have a significant impact and yet these issues are barely touched on.

The consultation does note the project is expected to be on a scale similar to the Channel Tunnel. This will result in huge spoil heaps, arranged in bunds. These could be clearly visible from some of the UK's most iconic mountains, such as Skiddaw or Scafell (depending on where the dump is sited). This kind of visual impact undermines the Lake District National Park's hopes to be designated a World Heritage Site. Neither of the illustrations (page 15 and 74) appears to even attempt to represent the true scale of what is proposed.

The issue of a possible central spent fuel store for spent fuel from both existing nuclear plants - and an encapsulation plant - raises questions over the claim that (page 85):

No matter how much and what type of waste goes into a repository, the surface facilities are expected to cover an area of around 1km².

Security

When nuclear waste and spent fuel are discussed there are understandably questions around security. It is noted (page 37) that:

One of the issues highlighted in our first round of public and stakeholder engagement (PSE1) was security. In response to this we asked for an update from the regulators on

security processes that would apply to a repository. (my emphasis)

Unfortunately the impression is given that security is only a real concern around a repository/GDF - and not perhaps as much for surface facilities. Yet security around the surface plants - in particular a central spent fuel store and/or encapsulation plant - would be significant. Questions arise over civil liberties in securing such a site and how this would impact on local people. In addition, issues such as the size of any emergency planning zone - either for accidents or malicious acts - also becomes more contentious if a central spent fuel store/encapsulation plant is decided on for the surface facilities. Following Fukushima the issue of spent fuel management is now the subject of greater scrutiny, as it should be. These are not matters which can be left until 'later' but should be part of the overall debate now.

MRWS - OND/DECC and new nuclear power.

With regard to the issue of new nuclear reactors, as discussed above, page 11 of the consultation notes:

The MRWS process is an important part of the Government's overall energy policy, which also includes potentially building new nuclear power stations. The relationship between nuclear new build and the potential for a repository in West Cumbria is discussed further in Chapter 9 on Inventory. The Partnership is not looking at whether new power stations should be built or not.

Whilst it is true the Partnership is not considering this issue, there are a number of member organisations of the MRWS which are very much in favour of new build - in particular the three DMBs. Months prior to the MRWS White Paper been published, representatives of the three DMBs took part in closed discussions on how a repository might fit into their plans for new reactors in West Cumbria (this is discussed later in this submission).

In relation to this it is noted that an explanation is given of DECC (page 13), but the role of Office for Nuclear Development is not explained, yet this is the unit of DECC which is oversees the MRWS process and which is charged with facilitating new nuclear reactors. This should have been explained.

Health - and regulatory decisions

Radiological impacts of disposal are 'acceptable' - decision already made

The centre of the concerns about nuclear waste is that it is radioactive - this is the very crux of why this is such a contentious matter. People expect to be able to fully examine the potential radiological health and environmental impacts of a repository, and associated activities, during any MRWS processes.

It is worrying therefore that the process which examines the radiological impacts of nuclear waste disposal versus possible 'advantages' has already taken place and a decision made that the risks are acceptable.

The decision followed a regulatory process known as *Justification*. This effectively covers everything from operating new reactors through to the disposal of new build waste and all steps in between. Here is an explanation of what Justification involves, taken from a Government consultation on new nuclear reactors:

1. Regulatory Justification is a process required under the Justification of Practices Involving Ionising Radiation Regulations 2004 (referred to in this consultation as the Regulations),¹ where the Secretary of State for Energy and Climate Change, as Justifying Authority, must decide whether a new class or type of practice resulting in exposure to ionising radiation is justified by its economic, social or other benefits in relation to the health

detriment it may cause.^{xvi} (my emphasis)

As the 'Justification' for the disposal of new build waste is part justifying a practice which gives rise to the new waste - the new reactors - waste disposal will not be covered as a separate activity.^{xvii} A letter on this from the Environment Agency on this notes:

8.3.21 Defra's guidance (in conjunction with the devolved administrations) on application and administration of the Regulations makes clear that ICRP emphasises that radioactive waste management and disposal operations are an integral part of the practice generating the waste and that it is wrong to regard them as a free-standing practice that requires its own justification (my emphasis)

It is however not only new build waste which is relevant. Justification to dispose of legacy waste has already been agreed to, because the practice which gives rise to it (existing plants) are in operation and because those facilities were never subject to Justification (the legislation coming in after the plants started operating).

DECC has confirmed that the situation regarding Justification, as explained in this submission, is correct. All relevant emails are attached as Appendix 1.^{xviii}

Justification is then a process under which a key public concern over radioactive waste management (including transport, storage and packaging) and disposal (including both the short and long term impacts e.g. leakage of radioactivity into the environment) would be discussed. It would have allowed for the health detriments to be weighed against 'advantages'.

Yet it is noted is noted (in the consultation document (page 35) under 'safety, security, environment and planning) that:

Before the building of any repository, an assessment of the potential risks and impacts to the public, workforce and the environment would have to be undertaken. This would mainly be through the development of a 'safety case', as well as through the statutory planning and permitting processes.

There then follows discussion in the consultation on the regulatory permitting process and planning and notes there is much work to be done under any safety case. In chapter 6, further reference is made to examination of the health impacts of the GDF (para 6.1, page 54) where it is stated:

If a repository were to be sited in West Cumbria it could lead to a number of different negative and positive impacts for the community, the economy and the environment. These might include the effects of construction such as noise and dust; whether there would be any impact on health; changes in investment in the area, employment and population; traffic impacts; and possible effects on the visual or physical environment and on tourism. These impacts, both positive and negative, would need weighing up against the impacts of the waste remaining in its current form and above-ground storage arrangements at Sellafield and elsewhere in the country. (my emphasis)

A paper presented to the MRWSP in February also made reference to examination of health and socio-economic impacts (amongst other issues) as part of any consideration either under the:

"traditional Town and Country Planning Act procedures or via the Major Infrastructure Planning process will necessitate consideration of a range of common planning issues within the following headings."^{xix}

The paper gives list of impacts which the Partnership expects to be able to examine in terms of a repository. One of these is 'Human health and well-being', but there are several other which would also have been included in any overall Justification process - had this not already taken place.

Given the above, the public is probably expecting to be able to discuss the radiological health impacts of the whole repository 'package' - including transport, spent fuel storage, packaging of wastes at the surface facilities as well as disposal. Unfortunately the decision has already been made that these are 'acceptable.'

Why is Justification missing from the MRWS discussions with regulators when it would be expected this process would be part of any permitting or regulatory process for a GDF? The reason is that the Justification process comes under DECC, not the Environment Agency (EA) or the Office of Nuclear Regulation (ONR).

In this case the MRWSP talking to the regulators - the EA and ONR - about their regulatory processes did not capture this matter. DECC representatives did however have more than ample opportunity to explain this to the MRWSP. If at some point it was discussed then the absence of any mention of this matter in the consultation document is all the more inexplicable.

The failure of discussion on Justification calls into question the due diligence expected by the three DMBs. None of the three DMBs/Councils appear to have made a response to the original Justification consultation in 2008^{xx}, or to the second consultation in 2009^{xxi}. This is surprising given that the process concerned new reactors, which the councils are in favour of for West Cumbria.

That Justification has already been decided, raises questions as to how much will be able to be discussed on health - perhaps the non-radiological 'conventional' health impacts will be examined if this process progresses to the relevant stage? These impacts are not to be downplayed but examining them alone would not present the full picture either.

The MRWSP should ask how decisions already made under the 'Justification' process influence planning processes under the existing planning regime (involving Councils or the Lakes District National Park).

Further, it should be noted that if the repository eventually comes under the new planning system and is subject to a National Policy Statement, radiological health issues will not be reexamined as Justification has already taken place for the practice which gives rise to the waste (e.g. new reactors).^{xxii}

Policy and process

Legitimacy of the process

The MRWS process is taking place under the auspices of the 2008 White Paper, *Managing Radioactive Waste Safely*.^{xxiii} The consultation document does not explain that the White Paper is a policy document and the MRWS process is not based on legislation.

The three councils which will decide whether or not to make the 'Decision to Participate' are deemed the DMBs by virtue of the White Paper. No evidence has been provided that a White Paper can actually devolve the powers to the DMBs that they will use in making their decision.

The fact the MRWS comes under a policy document not only calls into question the whole MRWS process but also the validity of this, the only formal consultation which has taken place on this matter.

Three councils decision making bodies - all other Partners 'second tier'.

An inherent problem the MRWS, through the policy of the White Paper, is that the only way for any

council to have any real 'power' within the process is for it to have 'expressed an interest' in hosting a repository: this would make it one of the DMBs. For a council to express an interest also means putting itself forward as a possible site for the repository thereby exposing that area to the expectation of taking a nuclear waste dump - and the problems which go with that.

Councils which did not 'express an interest' are effectively secondary partners in the MRWS process. This raises questions over what influence they might have over right of withdrawal in the future and any compensation package to offset negative impacts on their areas (to give but two examples).

Wider local interests - questions on transboundary issues

What happens if the 'right' geological rock formation chosen for a potential repository crosses into a neighbouring authority and that neighbouring authority has said it does not want to participate (or has never 'expressed an interest')?

What if it is estimated that a repository may legally be 'confined' to one borough, but the scientific projections are that any possible long-term leakage of radioactivity (which has never been absolutely ruled out for any repository) will be into a neighbouring area which is not part of the process?

It should also be asked what happens if the 'willing' community is nowhere near the right geology?

What if the surface facilities are very close to the boundary of a council which is not a DMB and/or does not want the repository?

Some authorities close to the surface facilities and/or repository may be left very much at risk of dealing with both the perceived and real risks and facing impacts which they may be powerless to 'compensate' for by drawing on a benefits package or powerless to mitigate against in other ways.

Just how will the 'benefits' package work out in terms of an area not involved as a DMB, which would not be in control of the 'benefits' - and which may have even opposed the siting process going ahead? Will a legally binding deal be made between the authorities controlling the benefits package and those which will be impacted by the repository? The role of the County Council cannot and should not be taken as one which will protect the interests of individual Borough councils in such matters and indeed as a party to this process could not really be an independent arbiter.

The above are just some of many questions of how 'wider local interests' or even those of other administrations/states further afield will be considered. The process for 'reconciling' the position of all relevant parties including the 'wider local interests' has never been properly addressed.

Memorandum of Understanding - the DMBs & and the decision to participate

On page 21 of the consultation document it is noted that:

The Partnership understands that the three Councils have agreed a Memorandum of Understanding that shows how they will take and coordinate these decisions. For an area to formally enter the siting process, both the Borough Council and the County Council would need to be in agreement.

Under the MOU the 'decision to participate' by Copeland, Allerdale and Cumbria has to be made on the same time, same date.

The MOU refers (albeit not in great detail) as to how disagreements between the three councils might be dealt with. There is no detail for a person reading this document on what really is

expected if there is no agreement over a 'decision to participate'. Would disagreements be dealt with in the same behind-closed-door manner as the negotiations over the MOU itself? How dispute might be handled is very important, as it is questionable whether the MOU will be adhered to: it is not legally binding.

With regard to this it is important to recall the way in which councils made the initial 'expression of interest'. Copeland rushed into an EoI (a move which was criticised even by councillors representing that area). It was then claimed that Cumbria had to get into the process because of Copeland. Allerdale then followed Cumbria. This should act as a warning of what might happen over the coming months.

Voluntarism

Right of withdrawal (RoW)

The consultation document (page 18) states the Government:

The Government says it is committed to an approach based on voluntarism. This means that communities would express willingness to search for a site for a potential repository, and perhaps ultimately host a facility, rather than having a facility forced upon them.

Yet the 2008 White Paper states:

6.5 In the event that at some point in the future, voluntarism and partnership does not look likely to work Government reserves the right to explore other approaches.^{xxiv}

Precisely what the White Paper means has never been satisfactorily explained, despite some Partnership members pressing Government officials for a clear answer. What if no area volunteers to take the repository? Unfortunately one of the stock replies from officials has been to repeat the (somewhat hackneyed) line that: 'Plan B is to make Plan A work.' How the Government would 'make' Plan A work has not been answered either.

Voluntarism v. power of DMBs to make decisions - future processes

It is clear from parts of the consultation document (e.g. second paragraph in 'e' page 93) that if the DMBs believe the involvement of a community is vital to the overall success of the siting process, then the community concerned might be forced to remain involved in the process whether it agrees or not. The document states, under 'gauging credible local support', that:

In the event of the partnership concluding that the omission of a potential host community from the PSA would create insurmountable problems for the siting process, then it could recommend the inclusion of the community concerned if this was supported by a full justification and explanation.

This is in effect the same 'threat' which Councils have criticised the Government for using in its White Paper where it wrote:

In the event that at some point in the future, voluntarism and partnership does not look likely to work Government reserves the right to explore other approaches.^{xxv}

How can any Parish or Town council be asked to accept any the future processes proposed for the MRWS knowing it would be effectively ceding control to the DMBs under this proposed framework?

Other risks to Right of Withdrawal

The following is from the *draft* siting chapter for the consultation document 15th Sept 2011 (it is no

longer available on the MRWS website). On the matter of the Right of Withdrawal (RoW) it stated that:

'Given that this is in the White Paper and therefore Government policy, there would have to be a formal Government process to change it.' (my emphasis).

The above implies consultation, which is usual when a major policy or legislative change is proposed, and also implies Parliamentary debate. The wording on this section was changed in the final consultation document (p. 97) put out for public comment:

Given that this is in the White Paper and therefore Government policy, there would have to be a Government decision to change it. (my emphasis)

Does the more recent version mean there will be no public consultation on any proposed changes from the current planning process covering the MRWS? Exactly how would such a 'decision' be reached? The MRWSP should satisfy itself that there would be full consultation on any proposed changes to the system covering the GDF discussions.

The Government could decide the GDF is a 'nationally significant infrastructure project' - and that a National Policy Statement (NPS) is needed. The designation of an NPS which determines a 'need' for the repository (as happened with certain technologies under the Energy NPSs finalised last year) could then be invoked (along with national interest) to press ahead with the repository without the RoW remaining.

Under the IPC/MIPU (Infrastructure Planning Commission/Major Infrastructure Planning Unit) system being introduced the Secretary of State would make the final decision on the repository (if that system is applied to the repository). It is currently claimed the RoW will exist up to the time of construction starting. This implies that even with the new system the SoS would only decide after an application etc., but *would* the same situation prevail in the future?

There is the risk that if an NPS is completed well in advance of construction application then the RoW could disappear sooner than is currently thought. Timing is crucial on this.

The Government might well change its mind on leaving open the option to exercise the RoW right up to just before the construction stage - particularly if large amounts of money have already been spent. Other major projects do not have the RoW or voluntarism factors and the nuclear industry has already raised 'concerns' that the repository is subject to different processes from other major national projects.

Unfortunately, the proposed future process in the consultation document has already undermined the RoW. As noted earlier, the DMB appear to be insisting they have the right to override a local community wanting to exclude itself from any future consideration for a repository. This very much indicates that the RoW will never be exercised by actual 'local communities' but only the Councils of the area they are situated in. It cannot be said that this would equate with what most would understand by 'voluntarism' - which implicitly means the power over a RoW by a community.

Decision to participate - based on recommendations or advice?

It is understood that the Terms of Reference (ToR) for the Partnership ^{xxvi} have not been agreed by all Parties. A major stumbling block is that the TOR state the:

1. The aim of the West Cumbria MRWS Partnership is to make recommendations to Allerdale Borough Council, Copeland Borough Council and Cumbria County Council (the Principal Authorities) on whether they should participate or not in the Geological Disposal Facility siting process, without commitment to eventually host a facility. (my emphasis).

It is understood the ToR could not be agreed, as it was thought inappropriate that some organisations, such as the Councils, would be a party to making 'recommendations' to themselves

via the MRWS work. Throughout the consultation document reference is made therefore to the Partnership giving 'advice' to the three Councils/DMBs (e.g. final para page 14, first para page 18). However, in the Appendix 2: Explanation of technical words and phrases, it is written that:

West Cumbria MRWS Partnership (the Partnership): An advisory body set up to make recommendations to Allerdale Borough, Copeland Borough and Cumbria County Councils on whether they should participate in the Government's process for siting a GDF, without commitment to eventually having a facility in West Cumbria.(my emphasis).

This might seem a minor point, but the ToR have not been agreed to because there is a significant difference over the appropriateness of who might make 'recommendations'. To have this represented in a confusing way in the consultation document is not helpful.

Future siting process

As the current process is so severely flawed, the idea of discussing in details the future processes proposed. To go ahead, and allow the same main players to effectively dominate the proceedings, is a nonsense.

Quite simply there is little faith in the current process, in particular through the lack of transparency of the key decision making organisations. Local authorities, those councils which are not the DMBs and the LDNPA, should exercise extreme caution.

When will a decision be made?

The consultation document (page 19) notes that:

Soon the three Councils (Allerdale Borough, Copeland Borough and Cumbria County) will decide whether to take part in the siting process for a repository, without commitment to eventually having a facility.' (my emphasis)

No explanation is given as to why this decision must be made 'soon' - who decided this and why? When is 'soon'? Why does this have to be rushed?

Planning powers

This matter is discussed under chapter 5 in the consultation document. There is no guarantee that if a National Policy Statement is decided for the repository that the powers that may be used under it will only be applied after construction begins, as stated in a document put to the MRWS in February (and also implied in the consultation document, page 40).

The consultation document notes:

DECC says it is likely that in due course the development of a repository would be included in the scope of the Infrastructure Planning Commission (IPC)'s work (or its successor, the Major Infrastructure Planning Unit (MIPU)). This would mean that a planning application for a repository would be considered by the IPC or MIPU rather than the local planning authority. In this case, the local planning authority would submit its comments and views on the proposals as part of the development consent process, for consideration by the IPC or MIPU, who would then make a recommendation to the Secretary of State. However, if the scope of the IPC's work does not change to cover a repository, an application for a repository would be decided by Cumbria County Council or the Lake District National Park Authority, depending on the location.(my emphasis)

The planning paper represented to the MRWS on 21st February notes:

Government is currently inclined to apply the major infrastructure planning system introduced under the Planning Act 2008 to geological disposal of radioactive waste. (my emphasis)

It is not clear whether there is a difference between 'likely' or 'inclined' - what is most important though is that the Government is clearly indicating a preference for the MRWS to come under the new planning system. There would be risks in this. A paper released following a legal action by Greenpeace gives an insight from the government's legal advisers on the powers of the SoS under the new planning process.^{xxvii} It serves to highlight several areas of concern which the MRWSP should be aware of which could stem from the application of the MIPU process to the repository.

These are, briefly:

- Questions around the powers/responsibilities of the MIPU versus those of the ONR during and after the planning process. It seems the MIPU will defer to the ONR on all technical/regulatory matters not resolved at the planning stage. Yet in the case of a repository some issues, particularly the surface facilities (e.g. a spent fuel encapsulation plant) are also clearly planning matters which the local authorities would want a say over.
- It is the SoS's discretion to consult prior to designation of an NPS (if major new information comes to light); that the SoS is not required to consult on the results of major technical reviews and that the SoS "*must review each NPS whenever the SoS thinks it is appropriate to do so.*" (my emphasis)

An example of this the ONRs work following the Fukushima and the role of the SoS in reviewing new information. It appears for the new nuclear reactor NPS there was a 'review' - but the SoS decided it was for him alone to decide on and that no public consultation was needed. In relation to this the ONR was not consulted as such but just asked to provide an expert opinion - and the SoS asking for that expert opinion did not constitute 'consulting'.

This leaves questions unanswered - in terms of evidence which emerges during and after planning processes - of how the new planning system permits but does not require the SoS to take into account certain considerations. Overall the new planning process leaves *all final decisions* to the SoS's discretion.

Impacts of a repository in West Cumbria.

There is a presumption throughout the document that this process will go to the next stage - there is no explanation of what happens if it does not go ahead, only what might happen if it does. It is well understood that the MRWS process is not a reopening of the CORWM process which looked at disposal *and* alternatives. However, the consultation through focusing on 'what next' gives the appearance of being in favour of taking the next step.

A significant amount of the document is given over to a potential benefits package and also what jobs might come from construction and operations (e.g. by using figures from an NDA report).

Unfortunately no independent research is presented on the negative impacts of a repository. That research, presented as a preliminary paper to the MRWS in February, is not yet complete - and has not (to the writer's knowledge) been independently reviewed. The consultation gives the impression to the general reader that the proposal has more advantages than disadvantages.

It is also claimed (page 54) that future work will provide:

An acceptable process in place to assess any negative impacts and mitigate them.
(my emphasis).

Given that the process to date has been flawed and biased what faith can there be that the assessment of negative impacts will be unbiased? The line reference above gives a false sense of confidence that negative impacts can be mitigated against - what if this is not the case? What if proposals to maintain the image of 'Brand Cumbria' don't work?^{xxviii}

This is particularly important given that so many visitors to the Lake District come from countries with sizeable majorities which have rejected nuclear power. It will be fascinating to see how the messaging will work. How does the proposal for the Lake District National Park to be a World Heritage Site sit alongside proposals for a possible massive central store for spent fuel, a spent fuel encapsulation plant, huge spoil heaps and construction work all possibly on the doorstep of the National Park with the nuclear dump itself either next to or under the Park? Given that proposals to site new reactors at Braystones and Kirksanton were (particularly for the latter location) rejected by the Government because of the potential impact on the LDNP, it is hard to see how the repository, particularly the surface facilities, could be compatible with close proximity to the Park.

Questions also have to be asked over what constitutes a truly additional benefit/compensation measure? It is acknowledged the MRWS has discussed this, but the 'definition' changes depending on the organisation, or the issue being raised. For example, the notion of the benefits from other nuclear activities forming part of the 'benefits' has been raised in general at MRWSP meetings and also mentioned in 'officials only' meetings (the minutes of meetings which were released only following freedom of information requests). It is also somewhat ironic that some 'benefits' are said to be linked to possible new nuclear activities will also add to the problem - radioactive waste - which the MRWS process was set up to help resolve.

The benefits package is being used as a bribe, which is sad considering that some of those who supported it originally did not intend that to be its purpose.

On 'uncertainties and recommendations for future work' it is suggested that a long term visioning exercise is undertaken if a decision to participate is made. Surely common sense dictates this be done before any DtP not *after* such a decision. If West Cumbria is serious about reducing its nuclear dependence, as mentioned on page 62, then adding to it - and also possibly involving more of the county in such a dependency - is surely very questionable.

Community benefits from new build waste disposal?

In a December 2010 response the Government launched a: *Consultation on an updated Waste Transfer Pricing Methodology for the disposal of higher activity waste from new nuclear power stations.*^{xxix} It noted that in responses to an earlier consultation respondents had raised the issue of raised the whether a percentage of the costs would cover payments for community benefits for disposal (e.g paras 2.2.25, 2.2.37). The Government noted (para 2.2.43) that

The (earlier) consultation noted that there are categories of possible costs excluded from the current cost estimate but which might need to be added in later, such as the cost of community benefits associated with a GDF and the need to maintain institutional control for the facility post closure. To the extent that such costs are incurred or expected to be incurred as part of the GDF project, a new nuclear power station operator will be expected to pay their full share of these costs.

It appears then that allowance would be made for a contribution to any benefits package from new build waste disposal costs. In the final paper on the Waste Transfer Price, published in December 2011, there is no reference to community benefits.^{xxx}

Accelerating the time line for disposal - a case of confused 'decision making'.

Given all the environmental and security concerns around nuclear waste it is not surprising that some people believe it should not only be disposed of, but disposed of sooner rather than later (which also brings into focus the sense in creating more of it). In the case of the MRWS process there are concerns not only that the right thing is done, but also in the right way in an open and measured process. The recent discussion on accelerating the disposal timetable is an explanation of a conflicting and confusing approach on one MRWS issue which is not transparent either. The following provides some information on this (and of the disparate discussions taking place about the repository, some of which have not been reported to the MRWS):

- March 2011: At meeting of NGOs and DECC in London 29 March 2011, Minister Lord Marland told participants that he had met with representatives of local communities in West Cumbria on 10th March 2011 and had discussed the issue of accelerating the disposal of radioactive waste. The Minister's comments on accelerating disposal are not minuted, although the meeting in West Cumbria is referenced in the minutes. His comments on acceleration are not noted - but these have been confirmed by three people who attended the DECC meeting.^{xxxix}
- May 2011: Emails concerning the Minister's meeting in Cumbria, which transpired to have been an invite-only dinner were released (following a Freedom of Information request). They show representatives from Cumbria, Allerdale and Copeland councils were involved in the dinner, as well as Copleland MP, Mr Jamie Reed.^{xxxix} It is understood that the Lake District National Park Authority and the Cumbrian Association of Local Authorities were not invited to this dinner.
- June 2011: Mr Charles Hendry, Minister for Energy and Climate Change^{xxxix} raised the issue of 'acceleration' at a meeting of the Geological Disposal Implementation Board. This matter was reported to the MRWS Partnership.
- September 2011: The MRWS subsequently expressed its concern at the announcement regarding this matter in a letter to the Minister.^{xxxix}
- October 2011: Mr Hendry replied, offering reassurances over implication the process might be speeded up without full public and local authority engagement.^{xxxix}
- November 2011, the consultation document (page 13) noted:

The Government's current expectation is that a repository would open to receive waste around 2040. However, the Minister has recently stated an aspiration for this date to be brought forward to 2029, and the NDA is assessing whether this might be possible. Should the Government expectation shift to 2029, we would want more detail from the Government and the NDA on how they see this new time line working within a voluntary process.
- December 2011 the NDA published a paper on options for accelerating implementation of the Geological Disposal Programme.^{xxxix} The document outlines the current baseline for a GDF to be opened and notes: *At this stage it is not our intention to recommend changes to the baseline programme. It is recognised that discussion is required with key stakeholders, and that further technical work will be required to underpin options before we can present these as "credible options" for assessment and adoption. Such a staged approach is in line with the process established by NDA for developing key strategies and informing decision-making.* It is clear from the report and the accompanying press release that an accelerated time line is not settled.
- February, 10th 2012: Mr Jamie Reed, MP for Copeland is reported as saying (with regard to the repository that): *A projected completion date of 2028 has been set after Mr Reed*

pressed for the process to be accelerated. Mr Reed said: "I'm very much in favour of the repository. It's in the best interests of West Cumbria and Cumbria in general and I'd like to see it as quickly as possible." "I've always driven for the project to be accelerated and it went from the initial 2040 completion to 2028."^{xxxvii}

- March 2012: Further minutes from a DECC-NGO meeting in which the impression is given that an accelerated disposal time line has been agreed. A reply from an email inquiry to DECC reveals this not to be the case.

Geology

It is understood that a submission on the suitability of the geology of West Cumbria to host a nuclear waste dump will be made by experts in this field. However, some general points are made on this matter

- The document (page 11) notes: *The Government says that geological disposal involves placing the waste deep underground in a purpose built facility, called a GDF or a repository, leaving the waste there forever once the facility is closed. It is based on the idea that radiation (sic) can be contained for extremely long periods by a combination of engineered underground structures and the surrounding rocks. While the waste is in the facility, the level of radioactivity will reduce over time.* (my emphasis)

It may seem a matter of word play to emphasise the word 'idea' but it is important to remember there is no operating repository anywhere in the world for the mix of radioactive wastes proposed for disposal in the UK repository. Geological disposal is not based on proven operational experience but a range of assessments which assume that it will work.

- No evidence is provided that the 'professional geological community' (as implied page 33) as a whole has been canvassed on this issue - therefore the views ascribed to this massive international body of expertise cannot be taken 'as read.'
- The way in which contrary views on the unsuitability of the geology of West Cumbria to host a repository has been presented in this document are biased.
- It is noted that Copeland was the setting of a public seminar on geology (albeit that it was unbalanced in its presentations), yet Allerdale chose not to host such a seminar. This means that only one part of the West Cumbrian community has been given an opportunity by the MRWS to debate this matter. The only debate on geology which has taken place in Allerdale was due to the efforts of independent specialists and local residents.

Other information - not referred to/not accessible.

Minutes of 'closed' meetings concerning the MRWS process

Over the time the MRWS has been operating environment groups have, through the use of Freedom of Information requests, obtained the minutes of a number of meetings which are important to understanding the public and 'closed' processes involved in the MRWS process.

An example of this is the 108-pages of minutes from meetings in West Cumbria which were released in May 2011.^{xxxviii} It is understood that these documents are been submitted by a third party so will not be gone into here in detail. The minutes reveal some extremely questionable discussions regarding the proposal for a repository and new nuclear reactors e.g. the suggestion to use the repository as a 'trump card'. They indicate pre-determination on this issue. That the meetings were attended by representatives of Copeland, Allerdale and Cumbria councils, along with NDA officials, is most worrying as they were never reported to the MRWS as a whole.

What is important to note here is the MRWS facilitators were made aware of these documents, yet nothing appears to have been done to distribute them or to chase up any further meetings or linked meetings. Subsequent material obtained under FOI, from Cumbria County Council and Allerdale Borough Council, reveal additional information to that contained in the minutes released by Copeland (which took six months to obtain). The MRWS has not fully facilitated information gathering and distribution from all relevant sources to inform the MRWS Partners or indeed anyone else who is interested in this process. This does not give confidence for future processes

DECC badly-timed publication of earlier consultation published late in this process and responses not put on line.

On 12th March, during the consultation, DECC published: *Managing Radioactive Waste Safely: Government response to the consultation on desk-based identification and assessment of potential candidate sites for geological disposal* as well as the accompanying framework document. Doubtless few replying to the consultation would have had time to compare what is said in DECC's publications to that in the MRWS consultation document. Further, DECC has taken the decision not to publish the responses to its consultation on-line e.g. those of Copeland, Allerdale and Cumbria councils, leaving the reader very much in the dark as to what key players have said to DECC.

Government official meetings

During MRWS meetings DECC has been asked to publish on line minutes of the Geological Disposal Implementation Board (an officials-only meeting now known as the Geological Disposal Steering Group). At the meeting on 19th January DECC was asked to consider publication on line of the GDIB's minutes (see page 46^{xxxix})

DECC reported that the minutes of future meetings would be published (these are not referenced in the consultation document). However, it did nothing to get hold of and distribute copies of the earlier minutes which contain information very relevant to the MRWS discussions. The version of the minutes published from the more recent meetings are very much lacking in detail compared to the earlier minutes which were obtained under FOI requests.

Subject: RE: FOI/EIR request Justification and MRWS process

Date: Mon, 19 Mar 2012 09:49:13 +0000

From: radioactivewaste@decc.gsi.gov.uk

To: mcsorleyjean

Dear Jean

Many thanks for your questions on justification. Once again, I do apologise for the delay in replying to you. Please find below an answer to each of your questions, including the additional query you posed recently.

The MRWS team

Q: At what point in the MRWS process would Justification for disposal of legacy wastes take place e.g. before site investigations or borehole testing takes place?

Justification for the disposal of legacy waste as a stand-alone class or type of practice is not required. This is because waste management should be considered as an integral part of the practice that created the waste. This reflects what is set out in the International Commission on Radiological Protection's (ICRP) Publication 77 (*Radiological Protection Policy for the Disposal of Radioactive Waste*) which says: "Waste management and disposal operations are an integral part of the practice generating the waste. It is wrong to regard them as a free-standing practice needing its own justification."

Q: At what point in the MRWS process would Justification for disposal of new build wastes take place e.g. before site investigations or borehole testing takes place?

Similarly, Justification for the disposal of new-build wastes as a stand-alone class or type of practice is not required. It has already been considered as an integral part of the Justification decision on new build. Consistent with ICRP77, chapter 7 of the new nuclear Justification decisions set out the DECC Secretary of State's reasons for thinking, as part of his overall decisions, that the risk of health detriment from the management and disposal of radioactive waste arising from an EPR / AP1000 in the UK would be very small and would remain very small up to and beyond disposal. Decisions available at:

http://www.decc.gov.uk/en/content/cms/meeting_energy/nuclear/new/reg_just/reg_just.aspx

Q: If Justification for the disposal of legacy and new build wastes will take place jointly please indicate when this would happen in the MRWS process.

N/A – see previous answers.

Q: If Justification has already taken place for the disposal of legacy and new build wastes could you please indicate when these decisions were made.

Under the Justification of practices involving ionising radiation regulations 2004, any class or type of practice that was already undertaken before the 13 May 2000 is considered as an existing class or type of practice and is deemed to be justified. Earlier expressly determined justification decisions are also recognised by these regulations. This covers legacy nuclear power practices including their waste disposal, which, as stated previously, is not subject to stand-alone Justification as a separate class or type of practice. Existing practices may be reviewed whenever new and important evidence about their efficacy or

consequences is acquired.

With regard to new build wastes, the decisions to justify the EPR and AP1000, taking account of the radioactive waste they would produce, was taken in October 2010 and enacted by Parliament as statutory instruments in November 2010.

REQUESTS

From: jean mcsorley
Sent: 01 March 2012 11:42
To: radioactivewaste (DECC)
Subject: FW: FOI/EIR request Justification and MRWS process

Dear DECC

I am writing to inquire whether this FOI request is being considered. To date I have not received an acknowledgement.

I also ask add that if Justification has already taken place for the disposal of legacy and new build wastes could you please indicate when these decisions were made. If necessary I would appreciate if it this could be treated as part of the same FOI request, if not please treat this as a new request for information under the FOIA/EIR.

regards

Jean McSorley

From: Jean McSorley
To: radioactivewaste@decc.gsi.gov.uk
Subject: FOI/EIR request Justification and MRWS process
Date: Mon, 13 Feb 2012 12:31:10 +0000

Dear DECC

This is a request for information under the FOIA and EIR.

It concerns the application of the regulatory process of Justification in the disposal of radioactive wastes - in the context of the MRWS process in West Cumbria

My request concerns:

At what point in the MRWS process would Justification for disposal of legacy wastes take place e.g. before site investigations or borehole testing takes place?

At what point in the MRWS process would Justification for disposal of new build wastes take place e.g. before site investigations or borehole testing takes place?

If Justification for the disposal of legacy and new build wastes will take place jointly please indicate when this would happen in the MRWS process.

Thank you for your attention in this matter

Regards

Jean McSorley

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- [%20West%20Cumbria%20MRWS%20Partnership%20November%202011.pdf](#)
- ii The author of this response has followed the MRWS process closely since its inception - through the deliberations of the original Committee on Radioactive Waste Management and attendance at the majority of MRWS Partnership meetings. The author has over 30 years experience in working on nuclear issues nationally and internationally - including nuclear waste and materials management. She has commented on policy and legislation on nuclear matters through consultations and in evidence to Parliamentary committees in the UK, overseas and at the EU and UN level. She has worked for Greenpeace UK and Greenpeace International, The Cabinet Office New South Wales and was a member of the Australian Federal Nuclear Safety Committee. She holds a Masters in Policy Studies. Born in Barrow, Cumbria, she is the author of *'Living in the Shadow, The Story of the People of Sellafield'*.
- iii See page 104: *Geological disposal facility (GDF): An engineered, underground facility where the UK's higher activity radioactive waste will be permanently disposed of.* Throughout this document we refer to a GDF as a repository.
- iv In particular see slides 11 and 12 -
<http://www.no2nuclearpower.org.uk/reports/RadwasteSept08.pdf>http://www.nuclearconsult.com/docs/information/waste/High_Burnup_Spent_Fuel_Nuclear_Power_Poisoned_Chalice.pdf
- v To give an idea of what might be involved in terms of the amount of spent fuel. A single French EPR reactor design would create 1,400 tonnes of spent fuel over a lifetime's operations. A US AP100 reactor would create 1,200-1,400 tonnes of spent fuel over a lifetime's operations (both estimated at 60 years). A 10GW new build programme could create up to 14,000 tonnes of spent fuel (assuming for example 6 EPRs and 4 AP1000 reactors). The Government presently claims the industry is committed to 16GW of new build - which if they are all built could create up to approximately 22,400 tonnes of spent fuel (based on 8 EPR and 8 AP1000 reactors). Of course there may not be any new reactors, or perhaps only two or three. However, the MRWS should understand the scale of the potential from what is claimed will be the new build programme.
- vi http://www.british-energy.com/documents/Sizewell_2009_feedback_report+_QA.pdf . Page 6
- vii Minutes 5th DECC-NGO Forum, 12th January 2012 (not yet available on line)
- viii See slide 3 of powerpoint
<http://www.decc.gov.uk/assets/decc/11/meeting-energy-demand/nuclear/3372-ndf-27102011-sitrep-pres.pdf>
- ix Paragraph 1.1 <http://www.decc.gov.uk/assets/decc/Consultations/nuclear-waste-transfer-pricing/3798-waste-transfer-pricing-methodology.pdf>
- x <http://www.decc.gov.uk/assets/decc/Consultations/fdp-guidance-new-nuclear/3797-guidance-funded-decommissioning-programme-consult.pdf>
- xi Email from NDA to undisclosed recipients, dated 19 January 2010, on NDA meeting with Nuclear Industry Association and EDF - released under FOI
- xii http://www.nuleaf.org.uk/nuleaf/documents/Radioactive_Waste_Management_and_New_Nuclear_Power_Stations_BP_22_Feb_2012.pdf See page 5 for the discussion on this
- xiii <http://webarchive.nationalarchives.gov.uk/20090103073128/http://www.berr.gov.uk/energy/sources/nuclear/consultations/closed-response/fdp-responses/page48057.html>
- xiv http://www.decc.gov.uk/en/content/cms/consultations/rev_fdp_guide/rev_fdp_guide.aspx
- xv *Response from the Committee on Radioactive Waste Management to the Government Consultation on the Draft National Policy Statements for Energy Infrastructure.*
- xvi See page 3 Proposed Regulatory Justification decisions on new nuclear power stations: Volume 1 – Consultation Document Nov 2009.
- xvii See SOS decision Dec 20120 -
http://www.decc.gov.uk/en/content/cms/meeting_energy/nuclear/new/reg_just/reg_just.aspx
- xviii See attached the only changes made to these emails was to remove any personal contact details e.g. address and email address
- xix See page 2 *Update on Planning and Economic Vision Document No: 255 draft 1 Status: Draft Author: Steve Smith Notes: This paper updates and builds on Document 134* This paper was available on the MRWS website on 20th February. It is understood a final version will be put on the MRWS website
- xx <http://www.decc.gov.uk/en/content/cms/consultations/nuclear/nuclear.aspx>. See zip file of responses A-D
- xxi see A-C responses zip file at
http://www.decc.gov.uk/en/content/cms/consultations/reg_just_cons/reg_just_cons.aspx
It may be that - for some reason - responses to this and the earlier consultation are filed under an individual name, in which case the Councils can confirm whether or not a response was made on their behalf, but a search of the relevant responses zip file has not revealed any papers under the councils names
- xxii Under the Nuclear National Policy Statement for new reactors discussion, under the IPC/MIPU, will not take place on health matters as they have already been 'justified'.
- xxiii <http://mrws.decc.gov.uk/assets/decc/mrws/white-paper-final.pdf>
- xxiv <http://mrws.decc.gov.uk/assets/decc/mrws/white-paper-final.pdf> Page 47
- xxv *ibid*

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- xxvi [http://www.westcumbriamrws.org.uk/documents/2-Partnership_Terms_of_Reference_\(draft4\).pdf](http://www.westcumbriamrws.org.uk/documents/2-Partnership_Terms_of_Reference_(draft4).pdf)
- xxvii Treasury Solicitor to Greenpeace, 20th September 2011. This document does not have a title as such, it is not on the internet but could be made available to any interested party.
- xxviii <http://www.cumberlandnews.co.uk/promote-cumbria-campaign-plan-if-underground-nuclear-dump-goes-ahead-1.928000?referrerPath=business> and http://www.westcumbriamrws.org.uk/news_more.asp?news_id=40
- xxix <http://www.decc.gov.uk/assets/decc/Consultations/nuclear-waste-transfer-pricing/984-consultation-waste-transfer-pricing-method.pdf>
- xxx <http://www.decc.gov.uk/assets/decc/consultations/nuclear-waste-transfer-pricing/3798-waste-transfer-pricing-methodology.pdf>
- xxxi <http://www.decc.gov.uk/assets/decc/11/meeting-energy-demand/nuclear/2131-minutes-of-the-3rd-deccngo-forum-290311.pdf>
- xxxii Not all information requested was released, some of it deemed not to be in the public interest for internal information to be released (DECC to Greenpeace UK 25 July 2011)
- xxxiii <http://www.decc.gov.uk/assets/decc/11/meeting-energy-demand/nuclear/3114-gdsg-meeting-280611.pdf>
- xxxiv Doc 221. http://www.westcumbriamrws.org.uk/all_documents.asp
- xxxv http://www.westcumbriamrws.org.uk/documents/236-Letter_to_the_Partnership_from_DECC_regarding_acceleration_of_timescales_12_October_2011.pdf
- xxxvi <http://www.nda.gov.uk/news/geological-disposal-timescales.cfm>
- xxxvii *Row deepens over underground Cumbria nuclear store*, North West Evening Mail
<http://www.nwemail.co.uk/news/row-deepens-over-underground-cumbria-nuclear-store-1.923904?referrerPath=home>
- xxxviii <http://www.greenpeace.org.uk/sites/files/gpuk/CopelandFOIReplyBECWC5April2011.pdf> See also <http://www.greenpeace.org.uk/document/west-cumbria-nuclear-dump-foi-docs-brief>
- xxxix http://www.westcumbriamrws.org.uk/documents/139-Partnership_meeting_report_Jan19_2011.pdf