

## **REVIEW OF THE SITING PROCESS FOR A GEOLOGICAL DISPOSAL FACILITY**

### **RESPONSE TO THE CONSULTATION PREPARED BY THE NGO NUCLEAR FORUM**

#### ***Purpose of Response***

NGO members of the DECC/NGO Nuclear Forum are making this joint response to the consultation. The response is supported by all members of the Forum whose membership is listed at the end. The Forum has discussed radioactive waste management at its last three meetings. We have presented papers on the siting process for a repository and put forward criticisms and proposals to DECC and to the responsible Minister, Baroness Verma (Balogh, 2012; Blowers, 2012, 2013). Some members of the Forum attended the Stakeholder Workshop for NGOs held on 27<sup>th</sup> November to discuss the proposed revised siting process. This response covers some of the key issues of concern to Forum members. It is intended to present constructive criticism and to put forward ideas and proposals which, we believe, will lead to a successful process for the long-term management of highly active nuclear wastes. Individual NGOs will also be making separate detailed submissions covering similar points and matters of specific concern.

The NGOs have contributed in many ways to DECC's thinking on this policy both at the Forum, through the Call for Evidence and through engagement at various sites throughout the country. We are disappointed to see how little regard has been given to our concerns and suggestions thus far. We have been concerned about misrepresentation and lack of clarification to which we have drawn DECC's attention but which have persisted in the consultation document and in presentations to other stakeholders at consultation events held as part of the process. For example, we consider that CoRWM's recommendations have been misrepresented by emphasising its support for deep disposal while neglecting the interdependent qualifying recommendations put forward in the report to government that was subsequently endorsed in the White Paper (CoRWM, 2006; Defra, 2008). Another example is the lack of clarity surrounding the inventory for a GDF and the potential status of spent fuel from new build and plutonium in particular. All too often, official DECC papers give the false impression that disposal can 'isolate' the waste when there is no such evidence in the light of the need for a repository to vent gases and to have radioactive material carried away by water. Indeed, the lack of recognition of the scientific and technical uncertainties attending disposal of legacy waste – not to mention those around new build waste which brings a raft of ethical considerations – is stark and gives the impression to lay audiences that disposal is simply a matter of finding a host community and constructing a repository.

**In short, the NGOs consider that too much emphasis has been placed on finding a site for a GDF as soon as possible, and too little**

**recognition has been given to the need to see geological disposal within the present state of knowledge, as an integral element in a long term management process that includes both storage and disposal.**

A major concern for the NGOs is DECC's perception that the previous process failed. It might equally be argued that it succeeded in that a decision was taken not to proceed further with the process at the present time. More importantly we do not feel that the revised process is fit for purpose, rather it has abandoned some of the core elements on which a successful approach should be based. In particular, we regret the absence in the new approach of appropriate governance arrangements in favour of a *dirigiste* approach with Government and the RWMD leading this new process and the tokenistic involvement of a range of important stakeholders including community groups and NGOs.

We welcome the government's continuing commitment to the principles of voluntarism and partnership. However, we feel that these principles would be impossible to implement under the revised process. Voluntarism is meaningless unless it embraces a participatory partnership approach that enables communities and stakeholders to be properly involved – as recommended by both CORWM and the MRWS White Paper. But these present proposals are not voluntaristic. Instead they allow for the possibility of an over-enthusiastic borough or district council, unsupported by in-depth participation, to be seduced into volunteering on behalf of its communities by the potential for community benefits to be paid to it in the near future.

This is a process which fails to grasp the realities of voluntarism and fails to learn from the MRWS process. In particular it does not grasp the need to pay greater, not less, attention to governance and scrutiny as recommended by the evaluators of the previous process (Wood Holmes 2012). We fear that the proposed process has been hollowed out to such an extent that it carries with it a high risk of failure.

**The purpose of this response is to emphasise the need for a revised process that is both participative and representative, that integrates storage and disposal in a long-term staged process of management, that confines the inventory for the disposal in a GDF to those wastes arising that currently exist or which are committed and that operates according to abiding principles of voluntarism, partnership, democratic accountability and equity.** We submit that unless the concerns expressed in this joint response are addressed in a clear, visible and unequivocal manner, DECC will simply compound the problem it has created through a process which was inadequate by replacing it with a process which is even more so. As we have mentioned on many occasions, NGOs are willing and ready to assist DECC in the task of formulating a process which has the best chance possible of being seen by the wider stakeholder communities as fair and implementable.

We set out our concerns and proposals under the questions below.

***Q.1 Do you agree that a test of public support should be taken before the representative authority loses the Right of Withdrawal? If so, what do you think would be the most appropriate means of testing public support, and when should it take place? If you do not agree with the need for such a test, please explain why.***

Yes, but with the following clarifications and qualifications.

Tests of public support can be difficult to interpret and may be amenable to manipulation. Unless a community is fully informed and involved in the process, and unless the process is seen to be open to challenge and argument, voluntarism cannot be understood nor embraced as representing a successful and inclusive process. We believe tests of support should be taken at various points throughout the process using a variety of methods to ensure comprehensiveness, fairness and credibility. These may include polling, deliberative engagements, citizens' juries and so on, and should be both extensive and intensive.

We do not consider the proposed continuous process through 'learning' to 'focusing' is satisfactory since, as it proceeds, there is the possibility of narrowing the range of choices and locking communities in to a process. We believe the process should be staged (as it is in most other countries) and that, at certain key stages, decisions should be informed by tests of public support that are credible and seen to be reasoned and deliberative.

We applaud the government's intention to launch the process with a programme of raising national public awareness before seeking volunteers. However, we repeat the argument we have rehearsed to government on several occasions that unless communities have a good understanding of the Geography and Hydrology of their regions, and whether they can be regarded as promising according to international geological and socio-economic criteria, it is unlikely that the widening of the invitation to communities throughout England, Wales & Northern Ireland will result in any further expressions of interest beyond the two boroughs in Cumbria which were willing to proceed to a siting process.

In our view the Right of Withdrawal should continue to be held by the Decision Making Body (see below) up until the point when a site has received endorsement by the relevant communities, planning consent has been given and work on construction is ready to begin. Ending the Right of Withdrawal signals the conclusion of the voluntary process and should be held open for as long as the process realistically allows.

The leading role afforded to district or borough councils as decision-making bodies, and removing the upper (county) tier of local government reads like

an open invitation to return to Cumbria where the county council decided not to proceed further with the MRWS process.

In addition, and of equal importance, is the origin, content and delivery of the information which will form the basis of the learning and focusing phases. It is not sufficient, as demonstrated by previous background documents published in Cumbria over the last few years, to concentrate on the repository footprint, the impact on tourism and the jobs arising from a repository at the expense of what people really need to know which is the safety of the material once emplaced over decades, centuries and millennia. The scope of the RWMD's scientific and technical uncertainties around disposal and the EA's acknowledgement that in resolving these issues, it is possible that other, insoluble issues will arise and must be addressed.

We believe the provision and dissemination of information should be overseen by an independent body as outlined later in this response.

***Q.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.

We consider the proposed decision making process is inimical to the government's professed support for voluntarism and partnership. We are especially concerned with four aspects of the proposed decision making process.

1. *The Steering Group.* This provides for the government and the RWMD to take leading roles in the process alongside the representative local authority. The Steering Group would have oversight of the process, making appointments, guiding the phasing of the process and engaging with the community. NGOs consider that this concentrates decision making authority in the hands of government and marginalises the involvement of stakeholders and local communities. We would advocate a separate and independent group to undertake oversight of the process and that the body should not be CoRWM but a group of nominees elected or appointed from the within the constituency of relevant stakeholders.
2. *Consultative partnership.* This appears to be the only specific machinery of governance proposed to take the process forward. It has only a consultative role in decision making. We believe the previous method whereby a broadly based siting partnership would undertake research, publish in-depth reports, carry out surveys of public support, and could make recommendations, was a far more satisfactory, representative and participative process than that proposed in the consultation document. However, we recognise that the previous

partnership approach also had its flaws. There were two in particular which we feel must be addressed. One is the need to distinguish the participatory role of the partnership from the representative role of the decision making body. We believe the decision making body should not have a dominant role in the partnership as was previously the case. The second flaw was the lack of clarity about the policy information function of the partnership. We believe the partnership should be required not merely to report to the decision making body but to make recommendations based on research evidence and public support. Normally, the decision making body would be expected to confirm the recommendations of the partnership.

3. *Decision making body.* We believe the decision making body should be the relevant local authority or authorities covering the area. The removal of the upper tier and its demotion to consultative status reduces the authority of local government in a two tier system where relevant powers are shared. It is constitutionally unjustifiable and probably unworkable. Worse, it has all the appearance of opening the way for the two Borough Councils in Cumbria whose cabinets voted to proceed to Stage 4 of the MRWS process to become volunteers under the new approach, in the face of overwhelming evidence that they enjoy little public support for these decisions.
4. *Phased decision making.* For reasons outlined above, we consider that the previous system of staged decision making with key hold points where a decision is needed to proceed further should be retained. This is more in tune with a voluntary decision making approach where communities are engaged in agreeing to proceed at important stages of the process. The proposed continuous approach has the danger of leaving things in the hands of a Steering Group or representative authority (whose membership might change over time) that becomes detached from the need for accountability.

In the NGOs' view, the only approach that has any chance of success is one where community involvement is used. To be sure, there will always be those who will oppose the development of new nuclear, but government must understand that there is considerable goodwill amongst NGOs and communities across the country for a responsible approach to the nuclear waste that we already hold.

***Q.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?***

No.

We disagree with the argument that in the MRWS process in Cumbria the Councils felt they were 'forced into adopting a neutral position' and that this 'reduced the quality of local debate and stifled valid discussion' (DECC, 2013, para. 2.67). The quality of debate was on the whole good. It was helped

considerably by a governance structure that included independent facilitation – something that has been abandoned here. In our view any stifling of debate occurred owing to the failure of the MRWS Partnership to include views that challenged its position, especially on the suitability of the geography and hydrogeology.

**DECC should grasp what voluntarism actually means in practice and provide for improved governance and scrutiny, rather than abandoning this in favour of a process that is led by government, RWMD and the local authority, with communities and others marginalised into a consultative role only.**

Given the prominence of low levels of trust – as outlined by the MRWS Partnership Final Report (West Cumbria MRWS Partnership, 2012), we would propose an entirely new and independent oversight body with a remit to peer review and verify technical arguments. This stands the best chance of succeeding. This body is different from our other proposal for a partnership with responsibility for carrying out the siting process and making representation to the Decision Making Body.

Greater involvement of the regulators could certainly be a useful way of enabling communities to become better informed about their respective roles, but this cannot be successfully sustained unless the communities themselves are better involved and unless the relationship between the regulators and the community is constructive, based on trust and mutual respect and underpinned by an open and transparent process.

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

No.

In its report on implementation, CoRWM recommended that before any invitation to participate is issued, 'Broad criteria should be applied to screen out those parts of the country where radioactive waste facilities would be unacceptable on scientific or on other grounds' (CoRWM, 2007, p.20). The criteria would include those that are socio-economic and cultural as well as scientific. We believe this is the right approach. If this were done on a broad basis, we do not think that this would risk excluding areas that are potentially suitable. It would exclude entirely unsuitable areas thereby avoiding wasting time and resources on processing unviable voluntary expressions of interest. On the other hand, the criteria used for the MRWS process were too narrow, concentrating as they did solely on risk of future intrusion from extraction of minerals and water. They gave the impression that areas of unsuitable geology for the deep disposal of nuclear waste had been ruled out, when no such criteria had been applied at all.

The criteria could be presented, debated and applied as part of the national public awareness programme prior to seeking volunteers.

If this initial screening is undertaken we would support the presentation of an assessment of the known geological information on the area of potential volunteers on a 'no-commitment' basis as suggested in the consultation document.

***Q.5 Do you agree with this approach to planning for the geological disposal facility? If not, what alternative approach would you propose and why?***

In the experience of the NGOs, the NPS process is unduly restrictive, prescriptive and site specific. NGOs found the NPS devoted to nuclear siting (EN-6) particularly unsatisfactory both as a process and in substantial terms (DECC, 2010). It did not achieve the deliberative and open engagement that is now regarded as necessary. And, its appeal to Imperative Reasons of Overriding Public Interest (IROPI) placed far too great an emphasis on the need to develop new power stations as quickly as possible at the expense of environmental, social and other considerations.

In any case, NGOs are unclear what purpose a generic National Policy Statement for a GDF would serve. Policy at the generic/strategic level has already been determined and the process for reaching a site specific determination is the purpose of this consultation. A national repository is a once in a generation proposition and issues of host rock, repository design, infrastructure requirements etc will be site specific. Attempts to present generic conditions might constrain both the siting process and the evolution of design in a specific context. By focusing on the GDF, a NPS might neglect the issues of long term interim storage which are an integral aspect of radioactive waste management. Moreover, as a formal process, a NPS relates more closely to a governmental model of decision making than the more open approach inherent in the voluntarist approach. For these reasons we think a NPS is superfluous and is likely to impose limitations on the flexibility of planning for a repository that is inherent in the voluntarist/partnership model of policy development.

Matters such as environmental assessment, meeting international obligations, safety and security, emergency planning etc should all be dealt with through relevant regulatory processes in conjunction with the siting partnership and decision making bodies.

We also believe that the Nationally Significant Infrastructure process is not appropriate for granting consent for a GDF. A repository is a significant but singular project unlikely to be repeated more than once in a generation. The voluntary siting process to which the government is committed should, ultimately, result in the identification of an appropriate site supported by the local community. The process might take a long time but, if successful, the

outcome should be both scientifically credible and publicly acceptable. The critical environmental, safety and other issues should have been fully debated, understood and determined by the siting partnership, the decision making body, the Government, the community and the regulators. Use of the Major Infrastructure Planning regime will insert an unnecessary and limiting extra process when all major issues should have been resolved.

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

No.

This proposal denies CORWM's recommendations which declared that disposal should in the first instance deal with legacy wastes only. The addition of spent fuel from new build raises ethical problems, uncertainties, and creates potential conflicts of interest. The possible inclusion of materials that may, in future, be declared as wastes including MOX, uranium and plutonium further increases uncertainties about what is the potential inventory. The nature of the waste that the UK has to deal with – compared with other countries which have not developed reprocessing or nuclear weapons – needs to be fully recognised. This complexity, along with uncertainty about the future of reprocessing, MOX, plutonium stockpile etc. means that a host community would not know what it would be signing up for.

Only when these uncertainties are fully divulged and acknowledged can any new siting process succeed in the open and transparent manner that will be required in order to support voluntarism.

NGOs remain firmly of the view that new build wastes should not be considered for the GDF. We recognise the implication of this is that new build should not proceed. A new build programme which, in our view, would inevitably mean the disposal of all or most of its spent fuel would involve long-term storage at sites around vulnerable coasts for a minimum of a hundred years and possibly indefinitely. Spent fuel will vastly increase the levels of radioactivity. It will not be ready for possible disposal for over a century by which time a GDF (if one has been established) would be nearing the point of closure. **In terms of uncertainty of inventory as well as other ethical and social factors we most strongly believe new build wastes require a separate process as indicated on CoRWM's recommendations to government.**

NGOs do not believe a voluntarist process can work if the volumes, radioactivity and timings of wastes that could be destined for the repository are unpredictable, even unknowable. Consequently, we consider the GDF siting process must be confined to those wastes already in store or committed from existing programmes.



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

The rationale for community benefits must be made clear: are they compensation or are they a reward? And who will pay? If the repository is confined to legacy wastes only, then the burden will fall on the taxpayers. However, under the complex funding arrangements for waste disposal, the Fixed Unit Price mechanism is intended to recover the purported costs of disposal of wastes arising from any new build programme. NGOs are wary of this mechanism which, we believe, is so replete with uncertainties that it is quite impossible to estimate the costs that should fall to the operator. There are a range of social costs which we believe have not been, indeed could not be calculated. We believe a mechanism should be applied which ensures that operators are responsible for paying the full costs of managing and disposing of wastes as and when they arise. As a matter of principle any subsidy must be avoided to developers such as EDF who have stated clearly that spent fuel from the reactors they propose to build will eventually be disposed of in a GDF.

Existing community benefits schemes must be reviewed and the lessons learned. In West Cumbria the NDA has provided substantial sums to the area, yet it is still a place where child poverty rates, one of the key indices of deprivation, are very high. On the other hand, there are communities elsewhere, some disadvantaged, which already host nuclear waste, and will do so for many years to come, but which do not enjoy any community benefit. How can this be equitable? And there will potentially be communities at new build sites where spent fuel will be stored for the indefinite future which should also lay claim to compensation, as identified in CoRWM's report on implementation (2007).

The proposal to put community benefits on the table at an earlier stage risks skewing the process and creating pressure for acceptance, particularly under current conditions of austerity for Local Authorities. Furthermore, these benefits would be experienced by a current generation of people who are not the ones in the future who will suffer hazard and blight as a result of the repository being built in their communities – these people have not yet been born. The only way for these communities to benefit will be to establish a special and protected fund with payments into it beginning at an earlier stage and disbursements at a later stage.

On the question of community benefits NGOs believe that the principle of equity should be applied in distributing benefits to those communities hosting wastes both now and in the future.

***Q 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?***

As suggested earlier, we believe initial screening should identify areas that should be excluded on socio-economic as well as scientific grounds. Among the exclusions might be National Parks, Areas of Outstanding Natural Beauty, SSSIs, SACs, MCZs etc. This would have the effect of reducing the number of candidates for hosting a site.

We support the intention to provide information at the launch of the process on such matters as environmental, socio-economic, health and transport impacts. But we consider the information provided must be based on clear evidence recognising uncertainties and that it should cover risks as well as benefits. Issues of community image, identity and integrity should be discussed. It should be emphasised that, as a key principle, any community hosting a radioactive waste facility should, as a consequence, experience enhanced well-being.

**Professor Andrew Blowers and Dr. Ruth Balogh**  
**On behalf of the DECC/NGO Nuclear Forum**  
**December 19<sup>th</sup>. 2013**

The NGO members of the Forum supporting this response are:

Stop Hinkley; Parents Concerned About Hinkley (PCAH); Communities Against Nuclear Expansion (CANE); Shut Down Sizewell Campaign; Shepperdine Against Nuclear Expansion (SANE) People Against Wylfa B (PAWB); Cumbrians Opposed to a Radioactive Environment (CORE); Radiation Free Lakeland; West Cumbria and North Lakes Friends of the Earth; Save Our Lake District; The Cumbria Trust; Blackwater Against New Nuclear Group (BANNG); Bradwell for Renewable Energy (BRARE); Ayrshire Radiation Monitoring Group (ARM); Greenpeace; Nuclear Free Local Authorities (NFLA); Nuclear Consultation Group (NCG); Nuclear Information Service; Nuclear Waste Advisory Associates (NWAA); SERA Labour Environmental Campaign; Low Level Radiation Campaign (LLRC); Low Level Radiation and Health Conference; Medac; No2NuclearPower

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