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Dear Sir or Madam,

## RESPONSE TO CONSULTATION: REVIEW OF THE SITING PROCESS FOR A GDF

Taken from the opening statement in your Consultation Document:

“The purpose of this consultation is to gather views on how aspects of the siting process for a geological disposal facility (GDF) for higher activity radioactive waste could be revised and improved.”

This is followed by the following statement:

“Building on experience to date, and a public Call for Evidence in early 2013, the UK Government has recognised that there are ways in which the current siting process for a GDF (as set out in the 2008 Managing Radioactive Waste Safely White Paper) could be improved, in order to help communities to engage in it with more confidence and, ultimately, to help deliver a GDF.”

Whilst I fully agree that the process can and should be improved, I regret to say that your Consultation Document totally fails to inspire me with any confidence that it will lead to a proper national search being carried out to locate a truly safe site for the construction of a GDF. I am aware that Baroness Verma and the Secretary of State for Energy and Climate Change are on record as saying that “there are no proposals to develop a geological disposal facility in Cumbria”, however, I cannot help but feel that the Consultation Document has been specifically drawn up to remove all the obstacles that have so far frustrated the Government in its attempts to foist a GDF upon Cumbria.

The Rt Hon Michael Fallon MP on 10 December informed the House of Lords Science and Technology Committee that Copeland and Allerdale Borough Councils had “bought into” the previous MRWS process by voting to progress onto stage 4. What he failed to mention, as this consultation document also fails to mention, is that due to the Local Government Act 2000 the decision was made only by the Members of the Executives and not by all Council Members. This is very significant especially in the case of Allerdale, where only 5 Executive members voted to continue. It is clear that, if the decision had been made at a Full Council meeting, the proposal would have been rejected. However, the non-Executive members were never consulted to ascertain their views. It is also very apparent that a vast majority of town and parish councils were not in favour of progressing onto stage 4 and these represent the residents of the communities that would be most affected by the construction of a GDF.

It is blatantly obvious that the Government would prefer to find a site near to Sellafield and it is very convenient that there is at least one cash-strapped district council (Copeland) whose councillors would be willing to host it. The problem for the Government is that the area’s geology has been well studied over the years and found to be complex and not suitable for the construction of a safe GDF (the statement made in section 3.4 is untrue). This view has been confirmed by Dr Jeremy Dearlove, the geological expert employed by the MRWS Partnership.

The Consultation Document acknowledges that many responses to the Call for Evidence (in fact 59%) highlighted concerns about the geology (section 3.5), but these are dismissed out of hand (section 3.9). The Document claims that “screening on the national level carries the risk of not identifying areas which are potentially ‘suitable’ at the local scale.” In short it would seem to condone the spending of yet more money in the search for a site in an area like West Cumbria rather than looking elsewhere in locations with much simpler geology. This is totally contrary to procedures being followed by other more responsible countries despite the misleading claims made in sections 1.50 and 1.57. Any deficiencies in geology it (and so it would seem CoRWM) mistakenly predicts can be overcome by engineered solutions. No one can convince me that we currently have the technology to construct containers that will survive a thousand years let alone hundreds of thousands of years. In Sweden it has been found that after only 35 years there has been a failure of both the copper canisters and the bentonite clay fill to work as a safe barrier.

The overt attempt in the Consultation Document to sideline potential objectors can only be described as shameful. In the responses to DECC’s Call for Evidence only three suggested passing the decision making to District Councils. Unsurprisingly one of these came from Copeland BC, another came from a union representative at Sellafield and the third one was a six line response on unheaded paper from an individual who stated that he/she was from Imperial College in London. To claim that the Consultation Document has been drawn up on the basis of responses to the Call for Evidence (1.54) is disingenuous.

Under the new proposed procedure the Steering Group will replace the original DMBs and the Consultative Partnership replaces the original MRWS Partnership. The actual decision makers will be the members of the Steering Group (Section 2.53) chaired by the Leader of the district council, being the proposed representative authority. In the case of Copeland, judging by her track record to date, there appears little doubt that the Leader will be keen to support continuation especially if community benefits are involved. Comments made in the Final Evaluation Report on West Cumbria MRWS Partnership by Wood Holmes issued in November 2012 have clearly been ignored when drafting the Consultation Document. I refer particularly to sections 1.19 about “trust”, 1.27 about “no bias within any partnership” and 1.35 about there being “an independent Chair”. In addition section 1.47 stresses “NGOs play an important role in UK civic life and smaller groups often represent communities of interest that are sometimes overlooked. These groups can act as a form of scrutiny and help to draw attention to important issues that might otherwise be missed.”

The Consultative Partnership will be appointed by the Steering Group from stakeholders that have an interest in the siting process (section 2.54). Whilst it lists a range of possible members, including the County Council playing a prominent role, it also includes the representative authority, the UK Government and RWMD (section 2.56). It is worth noting that the representative authority, the UK Government and RWMD also comprise the membership of the Steering Group. Whilst members of the Consultative Partnership can raise issues about the proposal and pass them to the Steering Group it has no say over exercising the Right of Withdrawal – that under the proposal is the prerogative of the Representative Authority acting for the community (and clarification is needed of the term “community”). Seems like being a very underhand way to get around the chance of the County Council causing another upset to the Government’s plans.

Further evidence that the Government is determined to undermine the County Council’s position is the threat to treat a GDF as being a Nationally Significant Infrastructure Project for the purposes of planning permission and transferring it to the DECC Secretary of State for

acceptance or refusal (3.32). With the lack of trust that there is in this whole process I would suggest that The Secretary of State for Energy and Climate Change is not the ideal person to make the decision. I would further add that trust has been further undermined by inaccurate evidence being given to the Public Accounts Committee, Chaired by Margaret Hodge MP, by officers from DECC and its related organisations.

The Rt Hon Michael Fallon MP's declaration on 10 December to the House of Lords Science and Technology Committee that this "Consultation was already finished" is yet another inaccuracy. However the comments he made about Cumbria County Council not being allowed a veto and district councils representing the host community only goes to prove that he has predetermined the process that he intends to follow and that this "Consultation" is just a formality to "tick the box".

Whilst I believe that the consultation exercise contained in this document is a cynical attempt by the Government to resurrect the MRWS process in West Cumbria (albeit suitably amended to make it more certain that its desired outcome will achieve), I will attempt to put these thoughts aside and attempt to answer the specific questions as requested. This will be a difficult task as the questions are based upon a process that I feel is fundamentally flawed and requires a total rethink.

Yours faithfully,

Roderick Donington-Smith

**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.**

I do agree that a test of public support should be taken before the RoW is lost

However, this question suggests that that only one test of public support would be required before the representative authority loses the Right of Withdrawal. This shows that the drafters of this consultation have a very simplistic understanding of the practical complexities that must be taken into account in the decision making process, if it is to have any credibility.

Obviously a test of public support will be required before the RoW is lost. However, it should be equally obvious that there will be a need for several tests to be carried out over the course of the whole process right from the time that a potential host community proposes to put its name forward for consideration right up to the time that agreement is reached for the construction to commence and the RoW lost. A clear understanding needs to be established of what is meant by the term "host community" as well as a definition of the word "public" as in "public support".

The experiences gained during the MRWS process in Allerdale and Copeland highlights the problem.

i) The residents of Ennerdale and Silloth, two possible potential host communities, made it very clear that they did not want to have a GDF under or beside them. In fact the only valid test of public support during the MRWS process was a referendum carried out in

Ennerdale and this showed an overwhelming rejection of the proposal to move to stage 4. Their views were utterly disregarded by the Executive members of the two district councils, when they voted to progress onto stage 4. Under the new proposals the residents in these two areas would be even less protected, as under these proposals, the county council is to be removed from the decision making process.

As the Government is insisting on pursuing its voluntarism policy, it is essential that each town and parish council directly affected by the siting of a GDF will be provided with resources to conduct referenda as early as possible to test public opinion and be given the right to withdraw their respective areas. It should not be left in the hands of the district councils to foist a GDF upon these reluctant residents.

ii) By the same token it cannot be right for a small community, which itself might wish to host a GDF, to be able to go ahead without any consideration of the wider community, which would be affected by the consequences of the construction of a GDF. For example, if the residents/workers in the area immediately around Sellafield volunteered themselves to be a possible host community, the district council, as prospective representative authority, would need to carry out a district wide referendum to confirm whether the application had community support. However, continuing with this example, even if the residents of Copeland are found to be prepared to support the application, there will be significant consequences beyond the district council's boundary that cannot be ignored and it would therefore be necessary to conduct a Countywide referendum. It cannot be ruled out that consideration may need to be given to a regional referendum.

The Lake District and the surrounding area is a very special area supporting a tourist industry, which brings in £2.1bn into Cumbria's economy and provides over 55,000 jobs. There is also a farming and food & drinks industry that benefits from the Lake District or Cumbrian brands. These could be put at risk serious risk by the construction of a GDF. Residents and people who work in this area deserve to have their voices heard as do the millions of visitors who keep returning to the area.

It would be totally illogical to leave it until the end of the focusing phase to carry out the first test of public opinion, by which time a huge amount of expenditure will have taken place and, in the case of Cumbria, a lot of social, environmental and economic damage may have been already caused. That test of public opinion must be by a county wide referendum.

To enable the public to make informed decisions resources, including funding, need to be made available to NGOs, who have legitimate concerns about the GDF proposals, to enable them to conduct their own research and to be able to communicate an alternative viewpoint to the public. The wording of any questions asked in referenda would need to be agreed – simple and unambiguous.

**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? Please explain your reasoning.**

I don't agree

In the first place you state in section 2.5 “Although there was an expectation (based upon available evidence) that a staged process with clear decision making points and a Right of Withdrawal would assist in the identification of a site, the experience of the process to date suggests that has not worked as well as originally intended.”

Could it be that it has actually worked surprisingly well? Right from the start the wrong area was selected for consideration rather than other possible locations with more suitable geology. The process should not be blamed as the County Council made the correct decision when it exercised its RoW. The fault rests with DECC for not aborting the process once it became apparent that yet again West Cumbria had become the only area under consideration as a possible host.

By having stages in place throughout the process, it allows time for consideration and reflection before progressing onto the next stage. Under the proposed phased approach There is no stopping the process, however destructive, until the end of that phase. As mentioned in my answer to question 1 the public need to have trust in the process and to feel that their views are and will be considered – hence the need for a number of referenda. The composition of the proposed Steering Group, dominated by government representatives and RWMD, will not engender trust and certainly not in Cumbria, where biased members from Copeland BC could make up the rest of the Group chaired by the Council Leader

If DECC is seriously looking for communities outside Cumbria to volunteer as hosts it is going to have to make a much bigger effort. There were only representatives from 13 local authorities at its “workshop” in London on 14 November and these included Barrow BC, Copeland BC and Manchester City Council (not a likely candidate for a site for a GDF!).

The proposed timescale of the Government’s engagement programme may need extending but, as I state in question 4, a national geological survey should be carried out prior to seeking volunteers. After possible suitable areas have been identified, the Government will need to carry out a lot of promotional work to encourage volunteers. If there are no volunteers, the Government will have to consider other options and these must exclude Cumbria. However, in my answer to question 6, I suggest that now is not the time to be even thinking of constructing a GDF at there are too many unresolved questions about the inventory.

**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?**

I most certainly do not agree

Under the old MRWS process, which itself was flawed, the MRWS Partnership prepared a report for consideration by the DMBs. One of the problems was that representatives from the DMBs played a dominant role in the preparation of that report – they were in effect reporting to themselves. Also, due to restrictions under the Local Government Act 2000, the DMBs’ decisions whether to progress onto stage 4 were made by a very limited number of Cabinet and Executive members. This was an unfortunate restriction for something quite so nationally important.

First of all there is no logic in excluding county councils in England from the decision making process. They are not excluded in Wales. Many of the unitary authorities in

England, which are not excluded, are of a comparable size to county councils. The only plausible reason for exclusion is to specifically exclude Cumbria County Council. The Minister of State for Energy, the Rt Hon Michael Gallon MP, has made it very clear that he thinks that Cumbria County Council should not have been in a position to veto the move to stage 4. He obviously rejects the principal of three green lights, which had been previously agreed, and now intends to bring in a new process that will effectively exclude The County Council, whatever responders say in this consultation.

This begs two questions:

1) Would a district council, such as for example Copeland, be too big to represent the immediate communities concerned? As the Earl of Selborne said "Why will it not include parish councils as opposed to the district councils?"

2) Would a district council, such as for example Copeland, be too small to represent the wider communities that will be impacted by the infrastructure and logistics?

The proposed composition of the Steering Groups chaired by the Leaders of the Representative Authorities is unacceptable as they will be dominated by the Government and RWMD, as developer. The Representative Authority is only the third party within the Group. It also excludes any county council representatives, even though the county councils have the greater resources at their disposal as well as responsibility for services that would be affected, if the construction of a GDF were to go ahead. For example highways, strategic housing requirements, fire and rescue, emergency measures, schools, public health etc for the region.

The proposed make up and selection of the Consultative Partnership is also unacceptable. Firstly its members are selected by the Steering Group. Secondly the Government and MRWS are again represented on it.

It would seem that no lessons have been learnt from the comments made in the Final Evaluation Report on West Cumbria MRWS Partnership by Wood Holmes issued in November 2012 when devising the composition of the Steering Group and the Consultative Partnership. I refer particularly to sections 1.19 about "building trust amongst its stakeholders", 1.27 about "no bias within any partnership" and 1.35 about there being "an independent Chair". This last one is particularly relevant, when you consider that the Leader of the Representative Authority is the person proposed to chair the Steering Group. In addition section 1.47 states "the role of NGOs and other dissenting bodies needs to be considered."

NGOs play an important role in UK civic life and smaller groups often represent communities of interest that are sometimes overlooked. These groups can act as a form of scrutiny and help to draw attention to important issues that might otherwise be missed."

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

I most certainly do not agree

I was one of the 59% of responders to the Call for Evidence, who stated that a national geological survey needs to be carried out before any attempt is made to identify possible

volunteer hosts. I now see that, in its response to your Consultation, Allerdale BC agrees with this as well.

Much of the work has been already carried out in the 1980s when Nirex started a sensible process for locating a suitable site. Unfortunately the Government of the day stepped in and the national search was discontinued and all efforts were geared to finding a site in Cumbria. £400m was spent on the search for a site in West Cumbria but without success. There appears to be a lot of misinformation being spread by DECC and the nuclear industry about there being unexplored areas left in Cumbria (including around Sellafield itself). This is hotly disputed by amongst others professors David Smythe and Stuart Haszeldine. None of their comments and findings have ever been disputed despite the time that DECC or BGS has had to respond.

It is time for that national survey to be carried out overseen by an internationally recognised body. Regrettably the integrity of BGS has been called into question as it is considered by some to be too closely connected to DECC to be seen as impartial and objective.

Whilst CoRWM and representatives of NDA might wish to suggest that geology and hydrology are only two of the considerations to be taken on board when assessing a site for safety, I along with many others consider that they are the most important. Engineered barriers will still be required, but eventually they will fail and you are left with the host rock for protection. In Sweden it has been found that after only 35 years there has been a failure of both the copper canisters and the bentonite clay fill to work as a safe barrier. As we are talking about material that will remain active for over 100,000 years there should be no cutting of corners over safety – despite the costs or the inconvenience of looking for sites in alternative parts of the country.

**5) Do you agree with this proposed approach to planning for a GDF? If not, what alternative approach would you propose and why?**

No I do not agree

Under the Town and Country Planning Act (Applications) Regulations 1988 planning permission may be required for the erection, extension, installation, rearrangement, replacement, repair, or other alterations associated with geological exploration (including exploratory bore holes). In all cases written confirmation of planning permission must be sought from the Minerals Planning Authority before proceeding with any development.

In a two tier system of local government the Minerals Planning Authority is the county council (unitary authority, where applicable). How then is this statutory duty and responsibility to be reconciled with the decisions of a national planning inspectorate or a Secretary of State?

So whilst a Secretary of State may be the final authority, it will be important to ensure, reiterate or even enshrine in a new Act of Parliament and give appropriate weighting to the operational jurisdiction and continuing statutory responsibilities of the higher tier authority.

It is essential that the Secretary of State for Energy and Climate Change is not in the position where he is the final arbiter about an application for a GDF. It would be seen

to be a serious conflict of interest. How can the public be invited to vote upon exercising its RoW knowing that, if it chooses to withdraw, the Secretary of State can simply ignore their opinion and allow it to proceed?

Only a few days before the Consultation Document was issued the Sellafield Workers' Campaign issued its manifesto that included the suggestion of setting up a new planning authority for just the area around Sellafield – could the timing have just be a coincidence?

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

No I do not.

The position about the inventory is becoming less clear by the day.

Originally CoRWM was talking about constructing a GDF to just hold legacy waste. The Secretary of State DECC has recently announced that two new nuclear plants are to be built at Hinkley Point and another in Wales. The figure for proposed new nuclear plants has now increased, from memory, to 12. As per section 3.59 “the spent fuel (oxide) and ILW from new build programme of a specified maximum size, such as the 16GW(e) for which nuclear operators have developed proposals”. It seems from looking at CoRWM's response to the Consultation that this only covered the first tranche of nuclear new build and is far below the figure of 75GW(e) being examined by DECC.

Besides the complications connected with new build, which will drastically increase the capacity required from a GDF for the disposal of nuclear waste, there remain at least two other unknowns:

- 1) is plutonium an asset, as heralded in the local press by Sellafield Ltd, or is it a liability in need of disposal? Whilst they make up their minds it requires safe and secure surface or sub-surface storage.
- 2) with technical advances will methods be discovered to either use the waste materials or to reduce its volume or potency?

As the proposal is to build a geological DISPOSAL facility and not a geological STORAGE facility these points need to be clarified.

There are also matters of safety and security. If the GDF is to be built beside a nuclear plant, if something goes drastically wrong at the plant, will the GDF be within the exclusion zone? If there is only to be one GDF facility, what happens if for some reason it can no longer be used? Can waste be transferred to an alternative site? At the present time it may be considered safe to bury waste deep underground, but in an unstable world with ever more destructive weaponry, how long will it remain safe?

It keeps being mentioned that 70% of the country's nuclear waste is in Cumbria. The obvious question is why import yet more waste to add to the county's stockpile? Safe and secure surface or subsurface interim storage facilities are required to deal with the present



legacy waste but it should be transferred to a GDF, if eventually it is decided that an underground repository is the safest place for it to remain indefinitely.

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

No I don't

West Cumbria has not had the recognition it deserves over the years for the service it has done and continues to do for the nation by storing its nuclear waste. The nation has enjoyed the benefits of the power it has generated and also the defence security it has provided but the residents have had to live besides what has been described as the worst nuclear slum in Europe. According to the NAO report the storage facilities are a danger to the environment and to the local population. In short community benefits are already long overdue.

My prime concern is about safety but under the proposed scheme community benefits are a bit like a "Wonga" loan. Initially they are targeted at deprived areas that are desperately in need of financial and other assistance. Over the Learning phase participating communities and their neighbouring local authorities are further enticed by being encouraged to make their wish lists. The Government would only start paying benefits during the Focusing phase – there is no indication of the value of these payments at this stage or which communities will benefit. These payments would stop, if the community chose to withdraw or it was decided not to construct a GDF in that community. I believe that DECC has confirmed that it will not recover benefits that have been already paid out.

Under the proposals the Government will also make payments into what would be a community fund. These payments will start during the focusing stage and will continue until the early years of underground operations. Again timescale are very unspecific. The UK Government would only be able to retrieve these funds, if a GDF was not constructed in the community. The increasing financial inducement will make it progressively harder for a community to withdraw. However, after allowing DECC to blight its area, it could be that no GDF is constructed and the community fund will simply disappear.

There remains the problem to be resolved of who will administer the Community Fund and which communities will benefit from it.

**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?**

Certainly not

There needs to be a clear separation of the Economic and Environmental issues.

The economic benefits mentioned by supporters of the GDF proposal are founded on a misplaced belief that the construction of a GDF will produce loads of jobs for the local

population. The actual construction work will provide employment for a specialist workforce dealing with tunnelling. Once constructed it site will provide minimal employment opportunities. In Cumbria there are already employment opportunities at Sellafield for at least 100 years just dealing with decommissioning the place and looking after the waste already on site. There may also be the prospect of a new nuclear plant being built at Moorside – providing employment but adding to the nuclear waste stockpile.

Against this there is there is the prospect of damaging the other thriving industries in Cumbria for example the tourist industry that brings in £2.1bn to Cumbria's economy and provides over 55,000 jobs. There are also farming and the food and drinks industries that could be seriously damaged. It has only been very recently that the last restrictions were removed from sheep sales for food following the Chernobyl disaster.

The Environmental issues do not just include the possible damage to The Lake District National Park, AONB etc. There are water supply issues that could affect as far afield as Manchester.

In any area that might be selected there will be issues of environmental damage caused by all of the vehicle movements and drilling. There are the environmental consequences of dealing with all of the displaced material removed during the construction of the GDF.

To prevent a community feeling that it is under pressure to accept a GDF to bring it out of economic hardship, any socio-economic information presented to the community should be factual, unbiased and delivered by an independent body. Health, Safety and transport information should be given equal, if not greater, importance and delivered separately and independently. This cannot be done by the RWMD, as it is not independent

### **Do you have any other comments?**

“It is clear that any ‘partnership’ either in West Cumbria or elsewhere in the UK needs to work continually to establish trust amongst its stakeholders” (from the Final Evaluation Report on West Cumbria MRWS Partnership para 1.19)

Judging by this Consultation Document DECC has failed to establish trust.

Please consider the comments made in my letter as being part of my **“Do you have any other comments?”** Section

Finally My wife and I sent a letter to the Prime Minister on 14 December, which sums up our views about this consultation:

Dear Prime Minister,

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

Having watched the Rt Hon Michael Fallon MP, Minister of State for Business and Energy, BIS and

Minister of State for Energy (DECC) giving evidence to the House of Lords Science and Technology Committee on 10 December, we feel that he has seriously undermined the last vestiges of credibility that might have existed in DECC's Consultation Process for the Siting of a Geological Disposal Facility.

Whilst it does not reflect well upon his advisors, we can understand that he might not have been properly briefed before he inaccurately stated that the public consultation was now closed. The consultation period has in fact been extended from 5 to 19 December to compensate for errors made by DECC.

What is unforgivable is that **he has obviously predetermined the result of the consultation before he or his staff have even had the opportunity to examine responses.** For him to specifically state that Cumbria County Council is to be excluded from the decision making process (the exclusion of county councils being one of the consultation's most contentious suggestions especially as it was recommended by only 3 of the responders to DECC's Call for Evidence and these included Copeland Council and a union representative from Sellafield) shows the contempt that he holds for the opinions of the electorate, many of whom have made the effort to study and respond to the consultation document. He also chooses to downplay the potential role that parish councils might have in the decision making process even though they are likely to be the most directly affected communities. Nowhere in the discussion was it mentioned that Cumbria might not be the safest place in the country to site a GDF and surely safety must be the prime consideration?

**As it is now clear that your Minister of State for Energy intends to ignore responses that he disagrees with, he has made a mockery of the whole consultation process.** Could it be time for the workings of DECC and its Ministers to be reviewed and a properly considered rational plan worked out for the storage and eventual disposal of nuclear waste? There is plenty of good advice available, if you are prepared to listen. What is happening at the moment is ill-conceived, undemocratic and the process lacks trust. Fairness and trust will be required in any process, if it is to succeed.

Yours faithfully,

RESPONSE TO CONSULTATION FROM RODERICK DONINGTON-SMITH