

Response to DECC Consultation Dec 2013
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The following text has been compiled in response to the UK Government Department of Environment and Climate Change Consultation on the GDF (Geological Disposal Facility) Siting Process. Views are based upon the lessons and experiences from the Swedish final repository programme and observations of the UK process. The format of the response follows the questions posed within the consultation document.

Qns 1 When should the community loose the Right to Withdraw and what is the test? And Qn2 statements on which representatives of the community can make decisions?

Aspects of the right to withdraw and the role of the community representatives and their influence on the process appear to have become more prescriptive. This does not give any impression that the process will be flexible to assist the local elected representatives who will need to be able to represent the interests of their community.

Right to withdraw. The Swedish approach does not require a community to opt in at any point. The community has the right to withdraw at any stage until the licence is granted. This is not enshrined in policy or any law but is a consistent reiterated promise from the developer. A GDF is a long term project that requires the developer and the community to be long term neighbours. The relationship between the developer and the community needs to develop over time. The right to withdraw was a promise made SKB as it empowers the community as a key decision making body throughout the process. The community has a veto right when the government takes a decision on the SKB license application according to the environmental code, thus the right to withdraw at any moment in the process is a logical consequence of the attitude of the industry, SKB, and the intentions of the law

Qn 3 Roles and Responsibilities

It is imperative to any process that the roles and responsibilities of all parties are clearly set out and adhered to. The original process and the revised process in the Consultation paper are not clear in this area and in our experience this is imperative to the success of any approach.

In Sweden the parties have clear roles summarised as follows:

Parliament:

Decides the laws that regulate the division of responsibility, safety requirements and environmental principles and protection. These laws are of a general nature and details are set by regulating authorities and praxis in applying the law.

Government

Takes regular decisions every three years regarding whether the implementer fulfils its duties according to the requirements of the law. (ie has a well defined programme of implementation and RD&D) .

Oversees, with the help of regulatory authorities, the validity and progress of the developers plans.

To see that roles and accountabilities on all parties are applied and adhered to

Can be alerted to issues and as necessary call on the relevant party to take action

Developer

Produces the plans for implementation of Government Policy.

- Performs site investigations

- Provides the licence applications

- Plans and manages siting process

- Carries out necessary R&D

Designs, constructs and operates the necessary facilities
Gains acceptance of its plans and responds as necessary to requirements

Regulator

To apply the regulations
Act as a check and balance on the regulatory requirements
Act in the interest of public safety and protection
To grant licences on the proposal of the implementer
Manages the review of the implementers RD&D – programmes and provides a statement to the government

Community Representative

To represent the interest of their community and constituents
Manages the local process for transparency and review of progress in the siting studies, funded by the nuclear waste fund

General Public

To have visibility and understand what is happening (clear presentation of context and logic of approach)

Openness and transparency based upon the above accountabilities are key to identifying what action is to be taken when the process faces a problem. The roles in the current consultation document and particularly the roles, in terms of accountability and decision making, of the various committees to be put in place are not clear. The role of the UK Government and the developer RWMD are not clearly distinct in many aspects of the process. Decision making without accountability is to be avoided.

Qn 4 Geological suitability

In Sweden it was the role of the developer to carry out site investigations. The developer will then engage the community on the findings and address their issues. The developer holds information such as the safety requirements needed to assess suitability. The Government can ask the developer to explain its position and address concerns regarding the adequacy of the information. Regulators and peer groups will judge adequacy and acceptance and the Government can hold the developer to account in this respect. In our previous response we noted that language in terms of providing geological information to ‘improve understanding’ of the geology of an area might be better than ‘screening’ at this early stage where the criteria are uncertain.

Safety. Ultimately the regulators and legal bodies will have the final say on whether the evidence provided in support of decisions eg granting of licence applications. Again they can ask for peer review and support in reaching their conclusions.

Qn 5 Planning Law

No comment. This is a matter of adequacy of the UK planning legislation.

Qn 6 Inventory for the GDF

No comment as it is not clear on the plans for how this will be communicated to a host community.

Qn 7 Community Benefit.

Such a long term project will have an impact on the community. As a good future neighbour the developer should understand the impact of the development on the community. Similar to this proposal an engagement fund was made available in Sweden and was a valuable aspect of the process. A community benefit was not made in Sweden. There are details missing regarding the community benefit payment. For example, what would be the trigger to cease the community benefit?

Qn 8 Socio economic and environmental effects of a GDF

It is up to the developer to meet the required legislation in this area.

Summary

In Sweden it has been clear from the outset that the developer is accountable for the implementation of the project and for gaining acceptance for the proposed approach. The Government make the ultimate final decisions on the acceptance of the developer's proposals and the regulators have an essential role, as an independent and qualified reviewer, of the safety and environmental acceptability of the developer's proposals. The community groups in having the right to withdraw are empowered to have the ultimate final word on the acceptability (to them) of the developer's proposals. The process is not prescriptive in how each of these bodies reaches their decisions or carries out their roles. In some cases that is set out in legislation (in the case of safety and environment) but in some cases it has been necessary for the developer to work with various parties to reach an acceptable way forward (in the case of the Added Value Programme with the community leaders). The process must be flexible with the ability to adapt to address the issues and setbacks that will inevitably arise.