15/06/2012

DECC responses to actions commissioned by the West Cumbria MRWS Partnership on 22nd May

Document No:	287
Status:	Final
Title:	DECC responses to actions commissioned by Partnership (22nd May)
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Notes:	Published 18th June 2012

Putting MRWS process on a more statutory footing

Q1. Ask Wragge to set out what options exist to put MRWS on a firmer footing, primarily to give greater assurance that voluntarism and RoW is genuine: could include legislation, national policy statement, contractual arrangements etc.

AND

Discuss with DECC what these options are from their perspective, and if necessary meet them to discuss the options and a possible way forward.

Response:

The Government recognises the desire for greater assurances that Government will deliver on its commitments as set out in the White Paper, in particular with regards to ensuring that the Right of Withdrawal is 'genuine'.

DECC officials would welcome the opportunity to meet and discuss in detail options to provide this reassurance – and are attending a meeting on 20 June to do so.

Expressions of interest

Q3. Ask DECC to set out more clearly:
- what they have done to canvas EoIs from elsewhere in the country.
AND
- why they chose to seek EoIs before geological screening: why no national screening? What are implications of doing it now?

Response:

DECC has written twice to all local authorities in England (in 2008 and 2010) explaining the MRWS process and inviting them to express an interest. The Welsh Government wrote along similar lines to local authorities in Wales in 2008. In addition, DECC have taken exhibition space at Local Government Association and National Association of Local Councils annual conferences over the last few years.

DECC has also given numerous presentations to a variety of audiences to explain the MRWS process and the opportunities that there are for local communities. These have included the NDA national stakeholder event, which led to further appearances at several Site Stakeholder Group meetings, and the steering group of the Nuclear Legacy Advisory Forum (NuLeAF) – a special interest group of the Local Government Association. DECC has also consistently offered to speak to any other local authorities who wish to know more. It is public knowledge that Shepway District Council in Kent have taken us up on this and are now engaging publicly on whether or not they should make a formal expression of interest, to trigger further information gathering in that area.

Experience from both overseas and within the UK has shown that you need both a willing community and suitable geology to successfully implement geological disposal. There is not one particular type of geology that a GDF could be constructed in. Suitability will depend on a range of local geological and hydrogeological factors that can only be confidently understood through detailed investigation. The geology of the UK is varied and to undertake a sufficiently high resolution screening throughout the 200 – 1,000m depth range across the entire country would take a long time and be expensive.

The rationale for this decision was set out for public consultation in the 2007 MRWS consultation document and confirmed in the 2008 MRWS White Paper. The relevant text is replicated below –

2007 consultation -

Para 5.24 - [The Criteria Proposal Group's and Criteria Review Panel's] main conclusions were that a safe disposal system could be designed in a wide variety of UK geological environments and settings, and **there were therefore relatively few criteria that could be used at the outset to exclude areas from consideration** *[emphasis mine]*. The two main factors were:

- the risk of accidental intrusion into a geological disposal facility by future generations seeking to extract resources; and
- the need to protect the quality of exploitable groundwater used as a source of water supply.

Para 5.25 - Government believes that applying the criteria after initial expressions of interest is the right approach as applying the screening criteria to every part of the UK would be prohibitively expensive and time-consuming and is, in any case, unnecessary.

2008 White Paper

Para 7.10 - Some responses [to the consultation] suggested that the [screening] criteria should be applied before inviting communities to express an interest although

Government continues to believe that applying the criteria after initial Expressions of Interest is the right approach. Applying the criteria to every part of the UK would be prohibitively expensive, time-consuming and unnecessary in a voluntarist process.

Para 7.11- Once communities have expressed an interest in opening-up discussions with Government, the BGS will be asked to apply sub-surface screening criteria to an area. This will eliminate areas that are obviously unsuitable and avoid further unnecessary work.

There would be limited value in conducting a high level, screening exercise as done by BGS in Stage 2 – by way of example, this only ruled about 25% of Allerdale and Copeland as unsuitable. It would likely show that much of the UK potentially has suitable geology that can only be effectively ruled out by much more detailed study.

‘Plan B’

Q. - what they will do if Stage 4 doesn’t happen. What happens to the waste? If Plan B is to make Plan A work, what is Plan C? When, and under what circumstances, might para 6.5 in the White Paper come into play?

Response:

The Government remains optimistic that the MRWS process will result in successful implementation of geological disposal, building on several years of extensive engagement in the UK and learning from experience around the world. There is no intention to impose a facility on an unwilling community – hence the phrase “Plan B is to make Plan A work” (meaning the voluntarist approach). If the voluntarist approach was to fail first time around, we would look to make every effort to find out why this failed and see what could be done to make that approach work better. Government is also still open to other communities expressing an interest. There has been some interest to date and there remains the possibility for further communities to come forward.

The NDA’s waste management programme is not dependent on a particular date for the availability of a Geological Disposal Facility and potential new build waste would not be ready for disposal for many decades, even on the most optimistic schedules. Higher activity radioactive waste is currently being conditioned for safe and secure storage above ground at various locations around the UK. If no community comes forward at this stage the waste will have to remain in surface storage pending a permanent disposal site being found.

Clearly there is a legacy of higher activity radioactive waste that already exists and must be managed. If, at some point in the future, it becomes clear that there is no possibility of the current MRWS approach succeeding in any part of the country, the Government would have to consider alternative ways forward to manage the waste

that exists for the long term, with the immediate fallback position being continued surface storage.

The MRWS policy was developed through extensive consultation and any change in policy beyond the continuation of existing surface storage arrangements would require further engagement with the public and stakeholders before it could be implemented.

Voluntarism and partnership

Q. - ask DECC to confirm that the Partnership's proposed process and definition of voluntarism set out in Chapter 10 of the condoc is consistent with the White Paper

Response:

The Government does not wish to be over-prescriptive about the way that the voluntarism and partnership arrangements should work at the outset as individual local circumstances differ and, to a degree, a tailored approach to any discussions will need to be taken. This does not apply to the way in which technical issues, such as geology, are assessed, where there will be objective and consistent assessment.

Government can confirm that the text given in Chapter 10 of the Partnership's consultation document is consistent to the approach set out in the White Paper.

Acceleration

Q. - an update on the 'acceleration' work: where is it up to, when would decisions be taken, how will it affect the principle of voluntarism, and how would communities be involved?

Response:

In summer 2011 Ministers tasked the NDA with finding potential options for accelerating the indicative timeline for geological disposal – consistent with the need to retain public confidence and gain the necessary regulatory approvals – and in particular to look at the possibility of bringing forward the date for first waste emplacement in a GDF by ten years, from 2040 to the end of 2029. This was framed as 'an enduring challenge' for the programme, rather than heralding an imminent change to the published indicative timeline (which, it is worth stressing, was only ever illustrative, and not intended as a firm timetable / set of deadlines).

Work on potential acceleration does not in **any** way affect the key principle of voluntarism. Should the potential to accelerate any of the dates be deemed by Government to be achievable (subject to regulatory and other assessments), voluntarism, partnership and related principles such as the Right of Withdrawal would remain central to the MRWS process.

In line with this challenge the NDA provided an initial report to government in December 2011[1]. The NDA's report was subsequently scrutinised by CoRWM and peer reviewed by the Royal Academy of Engineering in the form of a review panel led by Sir John Armitt. CoRWM submitted its advice in March 2012 and a peer review of NDA's options paper by the Royal Academy concluded in April 2012.

Following receipt of reviews from CoRWM and the Royal Academy on the initial NDA report, the potential for some acceleration has not been ruled out, and NDA will continue to work on possible future acceleration in order to better understand the potential for it. A decision on whether acceleration of any of the key dates in the current indicative timeline is possible will be based on a thorough appraisal of credible options. Such an appraisal will need to consider a cost-benefit analysis of options, including an assessment of the views of regulators, value-for-money and a consideration of stakeholder inputs.

Importantly, any potential acceleration would not impact early stages of the programme. It is likely that any changes to timescales would be applicable to later stages of the process.

Involvement of communities in discussions on how acceleration might impact the programme to site a GDF would be an important part of the process. While any potential acceleration would not apply to the front-end of the programme, any subsequent changes to the indicative timeline in later stages would need to be explored with the relevant community, as per the processes set out in the White Paper for partnership working, to ensure that local stakeholder inputs were factored in to the development of plans.

Planning

Q8. Ask DECC to set out whether MRWS would be handled through National Infrastructure Directorate (old MIPU) or not. If too early, specify why no decision and when it will be made.

Response:

The MRWS White Paper didn't specify a particular planning route, but indicated that the Government was 'currently inclined' to use the planning system that was at that time due to come into force - that is, the single consent regime for nationally significant infrastructure projects ('NSIPs').

A decision has not yet been taken on planning as the need for a planning application(s) for stage 5 investigations or stage 6 operations is still a long way off. Decisions on this issue would be premature when we do not yet have a community that has decided to participate in the siting process.

Government is proposing, in the next stage of work (Stage 4), to consider the available options in detail, and how they might interact with other issues that may call for a more statutory footing. Consideration of this could form part of any wider

[1] http://www.nda.gov.uk/news/geological-disposal-timescales.cfm

discussions about putting aspects of the MRWS process on a statutory footing (see answer above).

Community Benefits

Q16. Ask Wragge and Co about the feasibility of converting the CB principles to a legal agreement with Gov't, and appropriate timescale for doing so

AND

Strengthen principles 4, 5, 9, 12 and add new principle (see specific suggestions in response to issue 4y: copied below this table). Ask DECC to agree these, as per previous agreement.

Response:

On the question of converting Community Benefits principles to a legal agreement with Government, I would again refer you to the answer to the first question – this is an issue we are happy to explore with the Partnership in the context of putting aspects of the MRWS process on a more statutory footing.

With regards to the Partnership's community benefits principles - in the Minister's letter to the Partnership in September 2011 he stated that:

"I would like to make it clear that I agree that all the 12 principles you have outlined form a basis for negotiations in a potential Stage 4 and this is consistent with the Managing Radioactive Waste Safely (MRWS) White Paper, which has cross departmental support. Obviously the detail underlying these high level principles will need to be explored in the next stages of engagement, though it's clear we will need to reach an agreement which is mutually satisfactory."

The changes proposed do not appear to alter this position. The additional principle makes it clear that outline community benefits packages agreement should be reached by the end of Stage 4. This is entirely consistent with Government's thinking.

We assume that the Partnership would, in due course, wish to see something further, in writing, with regards to Ministerial agreement on this issue.

Local decision making

Q. Clarify on p21 that DECC would not be involved in a local Decision about Participation. This is a decision by the three local councils, informed in part by the MRWS Partnership's deliberations and Final Report.

Response:

Government can confirm that it has no intention of being involved in any local decision making process. It will be for the three local authorities to make their

decisions on whether or not they want to participate in the next stage. Government's role will be to be satisfy itself that any Decision to Participate is credible. It expects that if a decision is taken to participate that this should be accompanied by a report setting out the approach taken to engagement, the outcomes of that engagement and making clear the basis of the decision. Government is not expecting, or seeking, a particular threshold of support, but is keen to see evidence of appropriate community engagement and meaningful feedback on any concerns of those affected. The work of the Partnership over the last few years would be highly relevant in this context.

Inventory

Q21. Overseas Waste, Military Waste, and Scottish Waste. Ask DECC to confirm their position on:

1. Accepting overseas waste including the policy of substitution, and also how and whether this position might change in future
2. How have they addressed para 26 of CoRWM's report which states that new build wastes are ethically and technically different and require a different process?
3. Whether military waste is included within the baseline and upper inventories, what form this is in and where it comes from;
4. Disposal of Scottish waste in a GDF, including overseas waste that is currently in Scotland, and the implications of Scottish independence (WCP table item 21).

Answer

1. The Government's general policy is that radioactive waste should not be imported or exported from the UK except in specifically defined circumstances. The circumstances upon which the UK would accept radioactive waste are generally dependent on whether there are reusable materials that can be extracted from the waste (for example as the UK has the ability to reprocess spent fuel we may not consider spent fuel as waste) or where materials are being treated to make them more manageable. Where the wastes generated as part of these processes would not add materially to the UK's existing wastes it may be decided that it would be impractical to return the materials to the country of origin. In these circumstances the policy is that waste materials would be appropriately stored and then disposed of in the UK and, if an agreement to do so exists, an equivalent (or substitute) material would be returned instead. This in practice means that a small quantity of highly active material may be returned in place of a large quantity of lower activity material.

   The UK policy also states that waste may be returned to the UK for treatment and disposal where it is in a form in which it was originally manufactured in the UK or where the waste is from small users such as hospitals in either

another EU Member State or a developing country where it would be impractical for them to acquire suitable disposal facilities.

This policy is set out in more detail in Command paper 2919. There are no current plans or intention to change this policy.

2. Chapter 6, para 27 of CoRWM's 2006 report to Government (and its statement following Recommendation 15 in the Overview) set out that, as CoRWM's ethical concerns had focused on legacy waste (and those wastes within the Inventory as defined in Chapter 2 of their report), CoRWM's view was that any future decisions on new build – including consideration of waste – should be subject to its own assessment process.

   Since CoRWM produced its report in 2006, the Government has undertaken various other activities associated with potential new nuclear build programme. These have addressed the point raised by CoRWM and included the consultation and publication of the White Paper on Nuclear Power in January 2008, which stated that:

   Having reviewed the arguments and evidence put forward, the Government believes that it is technically possible to dispose of new higher-activity radioactive waste in a geological disposal facility and that this would be a viable solution and the right approach for managing waste from any new nuclear power stations. The Government considers that it would be technically possible and desirable to dispose of both new and legacy waste in the same geological disposal facilities and that this should be explored through the Managing Radioactive Waste Safely programme. The Government considers that waste can and should be stored in safe and secure interim storage facilities until a geological facility becomes available.

   Our policy is that before development consents for new nuclear power stations are granted, the Government will need to be satisfied that effective arrangements exist or will exist to manage and dispose of the waste they will produce.

   The Government also believes that the balance of ethical considerations does not rule out the option of new nuclear power stations.

   The arrangements for the management and disposal of radioactive waste from new nuclear power stations has been further considered during extensive consultations since the publication of the White Paper on Nuclear Power. In particular there have been two consultations on the National Policy Statement for Nuclear Power Generation, which included the publication in November 2009 by DECC of "The arrangements for the management and disposal of waste from new nuclear power stations: a summary of evidence[2]". There have also been several consultations on various aspects of the framework being put in place to ensure that operators of new nuclear power stations have arrangements in place to meet the full costs of

[2] http://webarchive.nationalarchives.gov.uk/20110302182042/https://www.energynpsconsultation.decc.gov.uk/docs/FINAL_NPS_waste_assessment.pdf

decommissioning and their full share of waste management and disposal costs.

3. Defence related Intermediate-level waste (ILW) and Low-level waste (LLW) unsuitable for near surface disposal, declared in the 2010 UKRWI, are included in both the Baseline and Upper Inventories. Defence related ILW and LLW is managed at ten sites owned by the Ministry of Defence (MoD), which undertake operations in support of the atomic weapons programme (Aldermaston), the nuclear submarine propulsion programme (Barrow-in-Furness, Derby, HMNB Devonport, Clyde, Rosyth and Vulcan) and other activities (Donnington, Eskmeals and HMNB Portsmouth).

   In addition to this waste, MoD may need to dispose of stocks of plutonium and highly enriched uranium from defence programmes and depleted uranium from enrichment activities as well as spent fuel from submarines. This material is not currently declared as waste but is included in the Upper Inventory only. [1] There is also some historic MoD radioactive material stored at Sellafield.

4. As the Baseline Inventory is based on the UKRWI it currently contains waste expected to be managed under Scottish Government's policy for higher activity waste, as announced on April 2010, after the last UKRWI was finalised.

   On the issue of Scottish independence, The Government is clear that Scotland benefits from being part of UK and the UK benefits from having Scotland within it. The Government is not making plans for independence as we are confident that people in Scotland will continue to support the Union in any referendum.

   The NDA reports to both UK and Scottish Ministers in relation to its activities as required by the Energy Act (2004) and this ensures a unified approach to radioactive waste management, within the context of each Government's radioactive waste policies.

The 2010 baseline and upper inventories have been summarised in [REF 1], with additional details provided in [REF 2]:

REF 1: *Radioactive Wastes in the UK – The 2010 Estimate of Radioactive Waste for Geological Disposal*, NDA Report NDA/ST/STY(11)0050

REF 2 *An Explanation of the Differences between the 2007 Derived Inventory and Equivalent Wastes and Materials in the 2010 UK Radioactive Waste Inventory*, Poyry Report 390761/23.

REF 3 *Radioactive Materials Not Reported in the 2010 UK Radioactive Waste Inventory*, NDA Report NDA/ST/STY(11)0007.

[1] The quantities of nuclear materials included in the 2010 upper inventory are: 13,000tU New Build PWR SF, plus 440tU miscellaneous SF (of which 100tU is defence related), 307,000tU of uranium (of which 15,000tU is defence related) and 150tHM of plutonium (of which 7.6tHM is defence related).