

Draft Final Opinions – For discussion at 25th June 2012 Partnership meeting

18 June

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To aid discussion at the Partnership meeting on 25th June, the following table sets out what the Partnership’s initial opinion was on each topic, what actions are outstanding, and what its possible Final Opinion could be. Given that some actions are still outstanding, **all** Final Opinions will need to be reviewed once all actions are complete. **None of the text that follows should be considered or quoted as Final Opinions until the Final Report is published, as they may change.**

INVENTORY

CURRENT OPINION	Actions Outstanding	POSSIBLE FINAL OPINION
<p>We have received an inventory statement from the Government that explains the difference between baseline and upper inventories. This gives us a good understanding of what could go into a repository, although more certainty would have to be gained before any final commitments are made.</p> <p>Satisfactory progress has been made towards agreeing the principles that define an acceptable process for how the inventory could be changed, including how the community can</p>	<p>Clarification from DECC/NDA on overseas waste etc</p>	<p>Overall, our opinion is that we are unable to say at this stage that we are satisfied with the proposed inventory because we do not yet have definite information on what actually would go into a repository (repository operation is over 25 years away). We recognise the on-going uncertainty about the inventory and stress the importance of reducing this at the earliest practicable time. Specifically, we have received an inventory statement from the Government that explains the difference between baseline and upper inventories. This gives us a good understanding of what could go into a repository. Also, progress has been made towards agreeing the principles that define an acceptable process for how the inventory could be changed, including how the community can influence this.</p> <p>If the DMBs are minded to proceed into Stage 4, then we advise that:</p> <ul style="list-style-type: none"> This is not done until the DMBs have secured a commitment from

<p>influence this.</p> <p>Overall, our initial opinion is that we have received what we are looking for on the inventory at this stage in the process</p>		<p>Government to put the MRWS process on a statutory footing, which would include agreements about inventory. See over-arching issues section.</p> <ul style="list-style-type: none"> • A CSP reviews the inventory statement from Government before the end of Stage 4, and considers its implications (as per Inventory Principle 4). • Government enters into negotiation with a CSP to develop a mutually acceptable process for how the inventory would be changed, including the circumstances under which DMBs should have a veto on changes to the inventory even after the Right of Withdrawal has ceased (as per Inventory Principle 2). This process should be defined and agreed as a working draft by the end of Stage 4. • A CSP should establish that one of the 'criteria for post-borehole RoW' should be "satisfaction with the process for inventory change control" or similar. This should be agreed with Government before the end of Stage 4. • The CSP, and the DMBs, may want to take a view on specific waste streams such as whether overseas waste or new build waste should be disposed of in a repository. Our view is that the facility should only be used for UK waste, not waste from overseas, notwithstanding the Government's policy of substitution.
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GEOLOGY

CURRENT OPINION	Actions Outstanding	POSSIBLE FINAL OPINION
<p>BGS Report. We are confident in the integrity of the BGS screening report because it has been endorsed by two independent reviewers and there is no significant criticism of the study's</p>	<p>none</p>	<p>We are confident in the integrity of the BGS screening report because two independent reviewers endorsed it and there is little criticism of the study's integrity from elsewhere. We note however that the BGS screening study was limited, and that much more detailed desk-based studies and physical</p>

integrity from elsewhere.		investigations would have to be undertaken if the process proceeds.
Area of land. We believe that the 1,890km ² of land not ruled out as clearly unsuitable by the BGS provides a sufficient amount of land, in terms of area, available for investigation.	none	No change to initial opinion
Suitability of geology. We note that the suitability of that area for a repository has been challenged. However, the absence of clear, detailed evidence that demonstrates that all of West Cumbria should be ruled out has led us to the initial opinion that there is enough possibly suitable land to make further progress worthwhile. There are uncertainties about the suitability of West Cumbria's geology and the prospects of finding a site for a repository that meets regulatory requirements that can only be resolved by further investigation.	Clarifications from DECC Dr Dearlove letter EA letter Geological Society meeting	Suitability of geology. We have noted the uncertainties surrounding the suitability of West Cumbria's geology and the differences of view amongst professional geologists and other stakeholders about whether further geological investigations are worthwhile. We have received expert geological submissions arguing that West Cumbria's geology is unsuitable and further progress is not worthwhile, but we have also received contrary expert advice stating that further progress is worthwhile because not enough is yet known to be able to say that all of West Cumbria should be ruled out. This marked difference of view suggests to us that it is impossible to say whether a suitable site could ultimately be found or not. DMBs should therefore be aware of the distinct possibility that if the search proceeds, a site may never be found. This is a crucial issue, and given the DMBs have to decide whether to enter Stage 4 or not, we believe they have two options: (i) Commission a preliminary geological appraisal, <u>before making a DaP</u> , to be sure that there is a sufficiently positive picture of the prospects of finding a suitable site to justify proceeding to Stage 4. This is estimated at 6-9 months additional work prior to Stage 4. Alternatively, in the event that the DMBs are minded to enter the siting process: (ii) Bring forward the assessments envisaged for Stage 4 as rapidly as possible, so that 'potential siting areas' can be identified. At which point a decision to continue or not could be taken (estimated at 12-18 months, planned within Stage 4).

		Additional advice could include: A CSP should put in place a robust mechanism for independently reviewing the NDA's work during Stage 4, in particular the geological assessments.
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DESIGN AND ENGINEERING

CURRENT OPINION	Actions Outstanding	POSSIBLE FINAL OPINION
<p>Design concepts. We understand the generic designs being worked on, and they fit with our expectations. We know that detailed design can only be done if and when a site or sites are identified.</p> <p>Retrievability. We have confirmed that retrievability is an option, to be decided on in the future.</p> <p>Overall. We are content that detailed design issues are largely site specific and, as such, cannot and should not be resolved at this time. We are therefore satisfied that the design concepts being developed are appropriate and flexible enough at this stage</p>	<p>none</p>	<p>Our opinion is that overall, we are content that detailed design issues are largely site specific and, as such, cannot and should not be resolved at this time. Specifically, we understand the generic design concepts being worked on, and they fit with our expectations. Also, we have confirmed that retrievability of waste is an option, to be decided on in the future.</p> <p>If the DMBs are minded to proceed to Stage 4, then we advise that:</p> <ul style="list-style-type: none"> • A CSP should establish a timeline outlining when decisions about retrievability have to be made and when retrievability options will start to be closed off. • A CSP engage with international research on techniques to monitor waste in geological disposal facilities. A start point could be to engage directly with the MoDeRN project, via the NDA. • A CSP should review the NDA's high-level designs for a facility during Stage 4, during the assessment of Potential Site Areas. • A CSP should investigate the likely additional plant that would be developed near to, or at, the surface facility, so that the full design impacts and implications can be assessed.

SAFETY, SECURITY, ENVIRONMENT AND PLANNING

CURRENT OPINION	Actions Outstanding	POSSIBLE FINAL OPINION
<p>Regulatory bodies and processes. We are as confident as is possible at this stage that the necessary regulatory bodies exist and have, or are developing/modifying, processes by which they will consider proposals for a repository.</p> <p>Regulator communications. We are confident that the Environment Agency has adequately described its intentions regarding its approaches to community engagement both now and going forward to a potential siting partnership.</p> <p>Planning system. We understand how a planning application for a repository would be handled as far as is possible at this stage, and recognise that further scrutiny of the planning process would be required if the process proceeds, as much could change in the 15 years before an application could occur</p>	<p>ONR and EA letters of reassurance</p> <p>Meeting with DECC on 20th June to discuss SEA process</p> <p>Extra information on security from regulators</p> <p>Extra information on transport from regulators</p> <p>Clarification from DECC on designation of GDF as a major infrastructure project</p>	<p>Regulatory bodies and processes. No change to initial opinion, but with the addition of: If the DMBs are minded to proceed to Stage 4, then we advise that:</p> <ul style="list-style-type: none"> • A CSP secures an Engagement Package from Government that allows it to commission independent reviews of any information or work conducted by the NDA, including safety-related work. <p>Regulator communications. No change to initial opinion, but with the addition of: If the DMBs are minded to proceed to Stage 4, then we advise that:</p> <ul style="list-style-type: none"> • A CSP considers commissioning an independent audit and review of the regulators' capacity and funding stability to support the MRWS programme. This could include whether the regulatory funding regime has been problematic in other areas or previous work, what stakeholder attitudes are to the funding regime, and therefore whether it is likely to be a problem for the MRWS process. <p>Planning system. No change to initial opinion, but with the addition of: If the DMBs are minded to proceed to Stage 4, then we advise that:</p> <ul style="list-style-type: none"> • A CSP maintains a watching brief on developments in the planning system. A CSP should take a view on their implications for the MRWS process, and secure any necessary clarity or agreements with Government before the end of Stage 4.

<p>Safety case. Given all of the evidence we have heard on the processes and the various levels of scrutiny in place, and the NDA's development of an issues register, we believe that the NDA will have suitable capability and an acceptable process in place to develop site-specific safety cases. Of course, any site-specific safety cases would need further monitoring and independent reviews before they are deemed adequate by the regulators and other stakeholders.</p> <p>R&D programme. Based on the responses from the peer reviewers and the scrutiny process undertaken, we believe that the NDA's R&D programme contains the necessary areas of research in terms of content, and that there is further scope for the programme to change in response to stakeholder engagement and via input from the issues register. Given the NDA's response to the issues raised, we are confident – to the degree required at this stage – that the R&D programme is acceptable.</p>	<p>Safety case. No change to initial opinion, but with the addition of: If the DMBs are minded to proceed to Stage 4, then we advise that:</p> <ul style="list-style-type: none"> • A CSP secure funding from the Engagement Package to resource independent reviews as required. • A CSP more frequently request independent advice and/or reviews of NDA work, potentially via setting up a panel of independent experts on call-down or framework contracts, to be on hand to provide advice and input to the CSP from an independent perspective. • A CSP review the regulators' on-going assessment of NDA's fitness for purpose as developers. • A CSP should consider commissioning an independent audit and review of the NDA's capacity, funding stability, skill base and cultural norms to support the MRWS programme, especially in light of austerity measures <p>R&D Programme. Our opinion is that, overall, the NDA's R&D programme is acceptable. However, we note that there remain some concerns about the lack of progress with the programme, as well as the lack of clarity over the timescales for completing individual research topics. The creation, by the NDA, of an Issues Management Process has gone some way to addressing these concerns, but it is still very much in its infancy and we would encourage the NDA to guard against underestimating the importance that stakeholders attach to their R&D programme.</p> <p>If the DMBs are minded to proceed to Stage 4, then we advise that:</p> <ul style="list-style-type: none"> • A CSP engage closely with the NDA on the delivery of their R&D programme, including on alternatives to disposing of waste in a GDF. The CSP should also liaise with CoRWM during their scrutiny of NDA's R&D delivery. <p>New opinion on Security (SteveS to draft). If the DMBs are minded to proceed to Stage 4, then we advise that:</p>
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IMPACTS

CURRENT OPINION	Actions Outstanding	POSSIBLE FINAL OPINION
<p>Direct Impacts. We have received a good deal of information on the generic impacts, both positive and negative, of developing a repository from the NDA, through public and stakeholder engagement, and from the commissioned perceptions research. For most of the impacts identified, our initial opinion at this stage is that an acceptable process can be put in place during the next stage of the MRWS process to assess and mitigate any negative impacts. However, the research and strategy to protect the brand and reputation of the area is not yet complete and will be considered before forming our final opinions and reporting to the Councils</p>	<p>NDA commitment to public education and consideration of a visitors' centre</p>	<p>We have received a good deal of information on the generic impacts, both positive and negative, of developing a repository. Our overall opinion is that, at this stage, we are fairly confident that an acceptable process can be put in place during the next stage of the MRWS process to assess and mitigate negative impacts, and maximise positive impacts. We acknowledge however that a huge amount of work regarding identifying and quantifying impacts will be required in future possible stages, and that this will need to be carefully examined and independently reviewed by a CSP.</p> <p>Additionally, our opinion is that, although they are hard to quantify, we acknowledge there are potential risks to the visitor and land-based economies in the county of moving forward in the MRWS process. We advise that a co-ordinated strategy and action plan is prepared to support those aspects of Cumbria's visitor and land-based economic activity in line with the Brand Protection study recommendations and based on an agreed evidence base. The strategy would encompass three main elements;</p> <ol style="list-style-type: none"> 1: Ensuring Cumbria wide communication through a co-ordinated action plan between existing agencies that 'protects' the visitor and land-based aspects of Cumbria economic activity. 2: Creating a phased communication programme that appreciates that there are a number of key milestones in a project of this nature. 3: Using a broad range of communication channels to get closer to key

<p>Long-term direction. The development of a repository appears broadly compatible with the economic aspirations of West Cumbria, although it is recognised within the Partnership that the long-term implications for the urban and rural economy will need to be better understood and properly considered if West Cumbria enters the siting process. We note, however, that we have yet to consider the results of our brand protection work</p>		<p>audiences. Such a strategy should be initiated by DMBs and existing agencies and taken forward forthwith, in order to be in a position to progress to implementation at the time that a Decision about Participation is taken, should such a decision to participate be forthcoming.</p> <p>If the DMBs are minded to proceed to Stage 4, we advise that:</p> <ul style="list-style-type: none"> • A CSP monitors whether there is any impact on the area’s brand during Stage 4, and in parallel deliver the brand protection strategy agreed. • Before the end of Stage 4, take a definitive view with the NDA on how public education should be delivered and specifically how and when a visitors’ centre should be established. • Develop a PVP plan with Government to protect against potential property price changes if and when specific sites start to be identified in the process • A training programme be developed which enables local people to compete for jobs arising from the siting process. <p>Long-term direction. The development of a repository appears broadly compatible with the economic aspirations of West Cumbria, although it is recognised within the Partnership that the long-term implications for the urban and rural economy will need to be better understood and properly considered if West Cumbria enters the siting process.</p> <p>If the DMBs are minded to proceed to Stage 4, we advise that:</p> <ul style="list-style-type: none"> • They consider commissioning a long-term economic visioning exercise as part of the CSP process during Stage 4, integrating with the economic impact assessments that will be conducted (see below).
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<p>Economic sustainability. At this time there appears to be enough of a prospect of new job-creating opportunities in West Cumbria to move into the next stage of the MRWS process, but more substantial evidence would be needed to move beyond it. The Community Benefits Principles (see Chapter 7) provide the basis for future discussions between community representatives and the Government about how long-term sustainable employment and appropriate diversification could be achieved</p>		<p>Economic sustainability. No change to initial opinion, but addition of: If the DMBs are minded to proceed to Stage 4, then we advise that:</p> <ul style="list-style-type: none"> • A CSP conduct a full economic impact analysis during Stage 4. This should be conducted for each PSA, and in each case integrate impacts locally, countywide and beyond. • A CSP independently reviews the NDA's assessments of impacts that they will conduct as part of their environmental assessment process
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PSE VIEWS

To be discussed and inserted. Options include:

- referring to text above in the chapter i.e. not form a separate opinion on each indicator
- form an opinion on each indicator, based on the text in the chapter

COMMUNITY BENEFITS

CURRENT OPINION	Actions Outstanding	POSSIBLE FINAL OPINION
<p>We have agreed a set of principles with the Government as the basis for any future negotiations. However, we cannot be certain what specific package the Government might agree to this far in advance and, therefore, whether the amount and type of these benefits would match the expectations of local people. Any negotiations would therefore need to be carefully managed, and the agreements openly scrutinised, should West Cumbria enter the process without commitment</p>	<p>Agreement from DECC on the revised principles</p>	<p>We have agreed a set of principles with the Government as the basis for any future negotiations. This gives us a certain amount of confidence that an acceptable community benefits package could be negotiated. However, we cannot be certain what specific package the Government might agree to this far in advance and, therefore, whether the amount and type of these benefits would match the expectations of local people. We also recognise that there is widespread scepticism that future Governments would follow-through with agreements.</p> <p>If the DMBs are minded to proceed to Stage 4, then we advise that:</p> <ul style="list-style-type: none"> • A CSP and the DMBs base their negotiations with Government about benefits on the Community Benefit Principles agreed by this Partnership and the Minister. • A CSP agrees an Outline Community Benefits Package for each Potential Siting Area being considered. Each outline community benefit package should set out possible governance arrangements, investments, scale and distribution of benefits. Government agreement to these should be secured before the end of Stage 4, to avoid a mismatch in understanding prior to expensive site investigations in Stage 5. • A CSP includes 'agreement on a satisfactory community benefits package' as one of the criteria for a post-borehole RoW. These criteria should be agreed with Government before the end of Stage 4. • A CSP should consider how and when to make agreements on benefits binding upon Government. • We recognise that a final decision on a repository is at least 15 years away. However, we believe the final decision to accept a repository should only be made if the community is convinced Government – and future Governments that follow – will honour commitments on community benefits.

SITING and STAGE 4 AND 5

CURRENT OPINION	Actions Outstanding	POSSIBLE FINAL OPINION
<p>Our initial opinions are that the elements above provide sufficient confidence that the siting process can be sufficiently robust and flexible, at least during Stage 4. In the light of written assurances from the Government regarding voluntarism and the right of withdrawal, we believe that there are no additional reassurances that we can realistically expect from DECC at this stage in the process. There is a commitment from those who have been involved in this process to consensus and fairness, however, despite this, the practical challenges of working together and making voluntarism work are not underestimated.</p>	<p>Clarifications from DECC</p>	<p>Our opinion is that the elements above provide some confidence that the siting process can be sufficiently robust and flexible, at least during Stage 4. We note the strong views expressed in our consultation about aspects of the possible siting process and the underlying issues of trust in existing processes and organisations, as well as any future siting process.</p> <p>If DMBs are minded to proceed to Stage 4 then we advise that this should be done with caution, and that:</p> <ul style="list-style-type: none"> • The DMBs establish from the outset a new Community Siting Partnership which includes representation of potential host communities in an agreed form • A CSP must follow our suggested siting principles, including the need for its organisational arrangements to inspire confidence and ownership of the process. This will include reaching convincing and workable arrangements on how a CSP operates somewhat 'at arms length' from the DMBs, and is run independently. • The MoU between DMBs to set out coordination of decision-making be extended to cover Stage 4, and the involvement of potential host communities • Meetings held to coordinate the decision-making of the DMBs should involve a representative of potential host communities • The process be independently evaluated, much like during Stages 1-3. • A planned review of the new arrangements and CSP be held, at a point to be determined, but after not more than 18 months. This should use a framework based on the siting principles. This review must be credible

		<p>to the broad range of interested stakeholders and this will mean high levels of transparency, engagement, independence and thoroughness.</p> <ul style="list-style-type: none"> • A CSP builds its Work Programme around the suggested roles and tasks we set out in Figure X, covering Stage 4. • The DMBs secure a commitment from Government that they will, by the end of Stage 4, have put the MRWS process on a firmer statutory footing to give communities reassurance on the commitments in the White Paper. This firmer footing should cover: voluntarism and the Right of Withdrawal, the definitions of community, and agreements already made on inventory and community benefits. [To be reviewed after meeting DECC].
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POSSIBLE OPINIONS ABOUT OVER-ARCHING ISSUES

Statutory Footing. We advise that the DMBs secure a commitment from Government that they will, by the end of Stage 4, have put the MRWS process on a firmer statutory footing to give communities reassurance on the commitments in the White Paper. This firmer footing should cover: voluntarism and the Right of Withdrawal, the definitions of community, and agreements already made on inventory and community benefits. [To be reviewed after meeting DECC].

Finance. We advise that the DMBs explore with Government ways of ensuring financial continuity to the MRWS process, including the streamlining of the annual request for an Engagement Package.

Acceleration. We advise that there be no acceleration of the MRWS process by Government without local agreement.

Audit of Regulators. We advise that a CSP consider commissioning an independent audit and review of the regulators' capacity and funding stability to support the MRWS programme. This could include whether the regulatory funding regime has been problematic in other areas or previous work, what stakeholder attitudes are to the funding regime, and therefore whether it is likely to be a problem for the MRWS process. See also SSEP chapter for same advice.

Audit of NDA. We advise that a CSP should consider commissioning an independent audit and review of the NDA's capacity, funding stability, skill base and cultural norms to support the MRWS programme, especially in light of austerity measures. See also SSEP chapter for the same advice.

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