

Meeting:	NuLeAF Steering Group, 29 January 2008
Agenda Item:	4
Subject:	MRWS: Update and Future Work
Author:	Fred Barker
Purpose:	To provide an update on key developments and future work

Introduction

This report provides an update on discussions about the process for siting a geological repository, covering the NuLeAF seminars in late Nov/early Dec; liaison meetings with Government and NDA; meetings of the Government's Communications Steering Group; meetings with the NDA; the forthcoming Regulatory Interface Management Meeting; and a meeting with the Chair of CoRWM.

The topics covered are:

- publication of the responses to consultation on the implementation framework
- launch of the siting process and information provision
- the steps leading to a decision about whether to participate in the siting process
- local engagement to inform a decision about participation
- formation of siting partnerships
- public and stakeholder engagement during the siting process
- the process for assessing potential sites
- R&D and safety case development
- development of regulatory guidance
- benefits packages and
- rights of withdrawal

The NDA's commitment to discuss a draft repository Lifetime Plan with NuLeAF is reported under item 6. The implications of the Government White Paper on the Future of Nuclear power is covered under item 9.

Recommendations

That the Steering Group agree that:

- 1 the Executive Director should enter into discussion with the LGA with a view to issue of a joint press statement and publication of an article in Local Government First to coincide with the launch of the White Paper;
- 2 the availability of the note, 'Designing a Local Engagement Plan', be drawn to the attention of member authorities through the next issue of the e-bulletin;
- 3 nominations be sought for attendance at the 4 March regulator workshop on review of the scientific and technical programme on repository development; and
- 4 the ED be authorised to respond to the forthcoming consultation on regulatory guidance on the disposal of radioactive wastes and report to the next SG meeting.

Update on Developments

1 Recap

NuLeAF's position on geological disposal is set out in Policy Statement 3 (see 'policy statements at www.nuleaf.org.uk). This position is supportive of CoRWM's package of recommendations, including that geological disposal should be the end point of strategy. The statement recognises, however, that there will be a spectrum of views amongst member authorities on the degree of confidence that can be placed on the long-term safety of geological disposal.

At its last meeting on 18 October the SG agreed a set of comments on the Government's proposed implementation framework. These comments are published at:

www.nuleaf.org.uk/nuleaf/documents/Response_to_MRWS_Implementation_Framework_consultation_29_October_07.pdf

The SG also agreed to authorise the Executive Director (ED) to continue to develop work on the siting process to ensure that the interests of local government are identified and promoted.

A White Paper setting out Government policy is expected in the first half of 2008. This is likely to be accompanied by a call for Expressions of Interest about participation in the siting process.

2 Overview of meetings

The following meetings have taken place since the Steering Group meeting on 18 October:

- Two meetings of the MRWS Officer Working Group (26 Oct and 27 Nov)
- Three liaison meetings with Government/NDA (8 Nov, 11 Dec and 22 Jan)
- Four meetings of the Communications Steering Group (23 Oct, 8 Nov, 11 Dec and 22 Jan)
- Two meetings with NDA (20 Nov and 15 Jan)
- A meeting with the Chair of CoRWM (7 Nov)
- Two NuLeAF seminars (29 Nov and 4 Dec)

The next meeting of the Regulatory Interface Management Meeting (RIMM) is taking place on 30 January. A verbal update on the RIMM agenda will be provided at the SG meeting.

The outcomes of the first four sets of meetings are reported below under specific topic headings. Before that, reference is made to the meeting with the CoRWM Chair and to the output of the regional seminars as relevant to repository siting.

3 Meeting with the CoRWM Chair

The ED met with the new Chair of CoRWM, Professor Robert Pickard, on 7 November. The purpose of the meeting was to brief Professor Pickard on NuLeAF's work and to lay the foundations for an effective working relationship.

Professor Pickard explained that much of CoRWM's very early activity would be about ensuring that new members are well briefed on developments and the views of key

stakeholders. Professor Pickard saw a role for CoRWM in helping to resolve contentious issues that may arise during the siting process, and will be keen to hear stakeholder views, including those of NuLeAF and its member authorities.

CoRWM will be holding its plenary meetings in public. The dates and locations are:

15-16 Jan	London
18-19 Feb	London
23-24 April	Edinburgh
9-10 June	Cardiff
16-17 Sept	Birmingham
3-4 Nov	London

CoRWM has been asked to prepare a three year work programme by March. It intends to discuss initial plans at the January meeting and more advanced plans at the February meeting. The Committee will be issuing e-bulletins to keep stakeholders informed about its work (see www.corwm.org.uk/content-611).

4 NuLeAF Regional Seminars

The seminars included a presentation by Robert Jackson, Head of Radioactive Substances Division at DEFRA, and opportunity for discussion on the MRWS programme and proposed implementation framework. This discussion is summarised in the extract from the seminar report in Annex 1. The full seminar report is available at:

www.nuleaf.org.uk/nuleaf/documents/2007_NuLeAF_Seminar_Report.pdf

A number of positive points were made during discussion, including that:

- local communities should be able to define the agenda for initial discussions with Government about the possibility of participation;
- a community benefits package should not be pre-defined, but developed through a process of negotiation with local communities;
- such negotiations should be undertaken as early in the process as possible so there is clarity about what will be involved; and
- there should be flexibility if different communities need to move at different speeds.

5 Publication of Responses to the Consultation on the Implementation Framework

The Government has published a summary and assessment of responses to the consultation. This is available at:

<http://www.defra.gov.uk/corporate/consult/radwaste-framework/summary-responses.pdf>

The Government reports that there was broad support for the proposed approach based on voluntarism and partnership, and that detailed comments will be taken into account in developing the White Paper.

Consultation responses are available from the DEFRA Information Resource Centre (defra.library@defra.gsi.gov.uk). The secretariat will be reviewing the responses from local authorities.

6 Launch of the Siting Process and Information Provision

At the last meeting the SG approved participation in the Communications Steering Group (CSG) set up by Government to oversee the development of information materials to accompany publication of the White Paper and the call for Expressions of Interest in the siting process.

The CSG's tasks are to: decide on the scope and content of the information that will be made available; oversee the production and dissemination of the information; and organise events to publicise the launch of the White Paper and call for Expressions of Interest.

The CSG has agreed to a tiered approach to information provision, so that stakeholders initially access introductory material, which leads to more detailed information for those who want it. The introductory information is likely to address the following questions:

- What is radioactivity?
- What is radioactive waste?
- Why do we need a long-term approach to its management?
- What is the UK doing about this issue?
- What is geological disposal?
- Why is geological disposal the preferred approach?
- What are other countries doing?
- How will we find a site?
- How will we ensure that people and the environment will be protected?
- What are the principles we will follow?
- Why should local communities be interested in this?
- How can communities express an interest?

It is envisaged that the information will be made available via a website and in hard copy, and will be accompanied by a video. At the time of writing initial text is being prepared and discussions are taking place about which website to use.

NuLeAF's membership of the CSG means that officers will be able to review and comment on the information in draft form. This should help to ensure that the scope, content and delivery of the information meet local authority needs.

The issue arises of what activities NuLeAF should undertake in association with the launch of the siting process. **It is proposed that the ED should enter into discussion with the LGA with a view to issue of a joint press statement and publication of an article in Local Government First.** The statement and article could be used to explain NuLeAF's views on the siting process and to offer opportunity of meetings to those authorities who may wish to discuss possible participation. The CSG has accepted the point that local authorities will need as much forward notice of the launch as possible.

The meeting of the CSG on 22 January is scheduled to take decisions on: the ‘storyboard’ for the video; the structure and initial text for the website; and the main components of the media launch. A verbal update on the outcome will be provided at the SG meeting.

7 Steps to a Decision about Participation in the Siting Process

Following discussion in the MRWS Officer Group and at liaison meetings with Government/NDA, the paper attached at Annex 2 has been submitted to Government for consideration by its Implementation Planning Group.

The paper outlines a model for how a local decision to participate in the siting process might be reached, following the call from Government for Expressions of Interest. The purpose is to clarify the key steps, including community engagement, and potential timetable for reaching a local decision about participation. The model is consistent with the comments on the proposed implementation framework approved by the SG at its last meeting.

8 Local Engagement to Inform a Decision to Participate

Local authorities that wish to undertake the steps leading to a decision about participation will need to put in place an effective programme of community engagement. As members will be aware, Greenpeace’s legal challenge to the consultation on nuclear power has highlighted the importance of ensuring that engagement is meaningful and appropriate. The note at Annex 3 on ‘Designing a Local Engagement Plan’ has been produced to assist authorities.

This note explains that local decision-makers need to be address the following questions before a detailed local engagement programme is designed:

- What are the objectives?
- What type of engagement is needed to effectively inform a local decision?
- Over what area should engagement be undertaken?
- Who should be engaged?

It is proposed that the availability of the note be drawn to the attention of member authorities through the next issue of the e-bulletin.

Following discussion in liaison meetings, Government recognises that its involvement in any local engagement should come at the invitation of local authority decision-makers working in liaison with potential local partners. It is not anticipated that Government or NDA would organise local community engagement at their own initiative.

Government is however considering what support it might provide to local authorities that wish to organise engagement with local communities. Possibilities include specialist assistance with the organisation of deliberative events for citizens (eg Citizens Panels) and access to expertise through the learned societies. These possibilities are being discussed in the CSG and in meetings with the COI.

9 Formation of Siting Partnerships

NuLeAF has previously published two Briefing Papers on Siting Partnerships - BP 2, 'Proposals for Siting Partnerships', Oct 06, and BP 3, 'Developing the Implementation Framework: Proposals for Siting Partnerships', Jan 07. Both papers are available on the NuLeAF website.

A further discussion is scheduled for the liaison meeting with Govt/NDA on 22 January, with a view to identifying the process and timetable for developing further thinking and guidance on Siting Partnerships. Possible topics for guidance are: how and by whom a SP should be set up, how SP funds should be administered and whether Government should produce a model SP agreement. A verbal update will be provided at the SG meeting.

10 Public and Stakeholder Engagement during the Siting Process

The NDA has started to consider the arrangements for public and stakeholder engagement that need to be put in place once local decisions to participate have been taken. Preliminary thinking is that engagement will need to take place at three levels:

- Local: coordinated through a SP
- Across participating areas: involving some form of liaison between SPs
- National: involving national stakeholders.

The NDA will be developing its thinking through discussion with stakeholders, including NuLeAF.

11 The Process for Assessing Potential Sites

The NDA is also considering the design principles that should be used to guide the assessment of potential sites during the siting process, including the form of Multi-Criteria Assessment (MCA) that will be undertaken. It is anticipated that these principles will be issued for consultation at the time of the launch of the White Paper and call for Expression of Interest.

The ED has had some preliminary discussion with the NDA about the principles, with a view to ensuring that a robust process is developed, which draws on recent learning about participative MCAs.

12 R&D and Safety Case Development

The Environment Agency is proposing to organise a stakeholder workshop on 4 March on the process of regulatory review of the NDA's scientific and technical programme on repository development. The objectives are to raise stakeholder awareness of that programme and its review and to inform the way the programme develops.

The workshop should provide an important opportunity to identify ways of developing stakeholder confidence in the science underpinning safety case development. The SG has been invited to participate in the workshop. **It is recommended that nominations be sought at the SG meeting.**

The format of the workshop is being discussed at the Regulatory Interface Management Meeting on 30 January.

13 Development of Regulatory Guidance

The outcome of a workshop on preliminary plans to revise guidance on regulatory authorisations was reported to the June meeting of the SG. A follow-up workshop was held on 29 November. Stewart Kemp attended on behalf of NuLeAF. This workshop reviewed progress and took views, prior to formal consultation that will be undertaken in early 08. **It is proposed that the ED be authorised to respond to the consultation and report further to the next SG meeting.**

14 Benefits Packages

NuLeAF has previously published a Briefing Paper on benefits packages (BP5, 'Funding Participation and Enhancing Well-Being', March 07) and highlighted its views in comments on the recent Government consultation paper.

The statement prepared by the Officer Group and attached as Annex 4 has been discussed at a liaison meeting with Govt/NDA to ensure that Government understands NuLeAF's perspective. The extent to which policy in the White Paper will meet this perspective remains to be seen.

15 Rights of Withdrawal (RoW)

Members will recall that NuLeAF's comments on the proposed implementation framework were supportive of the Government's proposal that local decision-makers could exercise a RoW after desk-based studies *and* surface based investigations (including boreholes), but critical of the NDA's suggestion that RoW should end prior to borehole investigations:

The NDA's suggestion that RoW should end prior to borehole investigations is strongly opposed. Such a constrained RoW would be insufficient to deliver community confidence that their concerns will be addressed within the siting process beyond the point where borehole investigations start. It is therefore likely to increase the risk that no local authorities will be found that will endorse participation in the siting process. International experience strongly suggests that maintaining the RoW is one of the key elements that will increase the prospects for a successful siting process.

This difference of view has been discussed at Govt/NDA liaison meetings and at separate meetings with the NDA to explore the scope for finding a mutually acceptable way forward.

Current discussions are focusing on retaining a post-borehole RoW, but identifying and agreeing the circumstances under which it could be exercised through discussion and negotiation within a *SP prior to the developer embarking on a borehole programme*. The purpose would be to substantively reduce the uncertainty and risk associated with the post-borehole RoW, as all key players would know well in advance what circumstances would need to be met for a positive outcome. The paper attached as Annex 5 outlines current proposals.

ANNEX 1: EXTRACT FROM REGIONAL SEMINAR REPORT (Dec 07)

Implementation Framework for a Geological Repository

Robert Jackson's presentation outlined the following:

- The story so far in the Managing Radioactive Wastes Safely (MRWS) programme
- The state of play internationally
- The consultation on a proposed implementation framework (25 June – 2 Nov)
- The reconstituted Committee on Radioactive Waste Management (CoRWM)
- Engagement with NuLeAF in developing the implementation framework
- The role of the NDA and
- Next Steps

Next steps included the analysis of consultation responses, publication of a way forward White Paper (in the first half of 2008) and, potentially, the invitation to open up without prejudice discussions with authorities that may wish to participate in the siting process.

Q&A in plenary sessions included the following points (with responses in italics):

- In addition to siting a geological repository for higher activity wastes, will there be a need to develop new regional or national facilities for the interim storage of intermediate level wastes (ILW) (London)? *There is a possibility of some consolidation of ILW at a smaller number of existing sites, but no plans for new regional or national storage facilities.*
- A local right of withdrawal will be necessary to ensure participation in the siting process and empowerment of local communities. Doesn't the potential role of the Infrastructure Planning Commission (IPC) sit uncomfortably with this (London and Preston)? *Planning reforms can be made to work alongside a siting process based on willingness to participate. There may be a role for the IPC, for example, if there is perceived to a conflict of interest between the role of a planning authority and receipt of a benefits package. The IPC could take the views of the local community into account in reaching a decision. Such issues need further consideration.*
- At what stage will high level geological screening take place to rule out unsuitable areas (London)? *It is proposed that this be done early in the process, following an initial expression of interest from an area, but prior to a decision to participate in the siting process.*
- What is the justification for the number of appointments to CoRWM from Scotland, given the position of the Scottish Government on geological disposal (Preston)? *Members were appointed on the basis of their ability to do the job, not on nationality.*
- Will potentially interested authorities be funded from the start of the process, for example, to cover the costs of community engagement to inform a decision about whether to participate (Preston)? *This issue has been discussed with NuLeAF. Government is likely to want to see some initial commitment before agreeing an 'engagement package' and will consider the issue further.*
- Is there a clear view on what constitutes a 'community' (Preston)? *A definition was proposed in the consultation paper and this has attracted a lot of comments. There has to be some flexibility on this to accommodate local circumstances.*
- There is concern that landowners could express an interest without the support of their local authorities. Shouldn't the invitation process rule out such a possibility (Preston)? *The consultation paper made it clear that 'credible' expressions of interest will be sought, which are likely to require the involvement of the local authority. This issue has been discussed with NuLeAF, which has stressed the role of local authorities and the need for the invitation process to lay the foundations for partnership between local stakeholders.*
- Is the Government considering the setting up on an independent Trust Fund to ensure the well-being of future generations in the host community (Preston)? *This is one of the possibilities under discussion.*

The points made during group discussions included:

- Positive features of the proposed implementation framework include: basing the siting process on a local willingness to participate; recognition of the need for a ‘win-win’ situation from both national and local perspectives, including the need for a benefits package; and learning from international good practice (London).
- Concerns include: whether the Government will be speaking with one voice (the need for Treasury buy-in) and genuinely open to negotiation with local communities (London); the difficulty of raising the question of potential participation locally given the political sensitivity of the issue (London and Preston); whether the implementation framework will require revision if there is only participation from one area (London); the need for consistency across different engagement processes on radioactive waste management (eg MRWS, NDA and ISOLUS) (London); how to take into account the views of authorities on transport corridors (Preston); the timetabling of discussions about community benefits in relation to investigation of potential sites (Preston); whether there will be an ‘off-set’ package for authorities that participate, but are not ultimately chosen as the preferred site (Preston); and how to involve stakeholders on the ground and not just rely on local authority involvement (Preston).
- Suggested ways forward include: holding early discussions between potential local partners to see if there could be support for participation; enabling local communities to define the agenda for initial discussions with Government about the possibility of participation; seeking to ensure that Siting Partnerships involve all key stakeholders and that they engage effectively with local communities; not pre-defining a community benefits package, but seeing the process as a negotiation with local communities; undertaking the negotiations as early in the process as possible so there is clarity about what will be involved; being flexible if different communities need to move at different speeds; and being flexible so that the new process can be adapted to be made to work (not reverting to Decide-Announce-Defend).

ANNEX 2: POTENTIAL STEPS LEADING TO A LOCAL DECISION ABOUT PARTICIPATION (Nov 07)

Introduction

Following the NuLeAF/Govt/NDA liaison meeting on 8 November, DEFRA asked NuLeAF to revise an early version of this paper with a view to discussion at the IPG.

The paper outlines a model for how a local decision to participate in the siting process might be reached, following the call from Govt for Expressions of Interest. The purpose is to clarify the key steps and potential timetable for reaching a local decision about participation.

Nature of Local Decision Points

It is important to distinguish between the following local decision points:

- Expression of Interest (EoI) – this is the decision point proposed by Government to enable local communities to register their ‘without commitment’ interest in discussions about potential involvement in the siting process.
- Decision to Participate (DtP) - this is the decision point proposed by NuLeAF to enable local authority decision-makers to make a formal commitment to participate in the siting process, but ‘without commitment’ to host the repository.
- Rights of Withdrawal (RoW) – these are the decision points within the siting process where local authority decision-makers either make a commitment to continue to participate, or to withdraw, from the siting process. A decision not to withdraw at the final point of RoW represents a commitment to host the repository, subject to regulatory approvals.

The significance and importance of the decision points increases substantially from EoI through DtP to RoW.

Govt and NDA Role in Local Engagement prior to a DtP

The model below is based on NuLeAF’s assumption that local authority decision-makers will be taking the leading role in initiating discussions with potential local partners and organising community engagement up to the point of decision about whether to participate. As such, it is anticipated that Government and NDA involvement in those discussions would come at the invitation of local authority decision-makers working in liaison with potential local partners. It is not anticipated that Government or NDA would organise local community engagement at their own initiative.

Potential Steps and Indicative Timetable Targets

Step	Comment	Target - months
1 Publication of WP and invitation to EoI	Would be accompanied by information material developed by Comms SG	0
2 Preliminary discussion between potential local partners	Preliminary soundings might be taken, for example, through existing Local Strategic Partnerships or through specifically convened meetings. Potential local partners might include Parish/Town Councils, Community, Business and Environmental stakeholder groups, and neighbouring local authorities.	
3 Opportunity for initial discussions between potential local partners and Govt/NDA	Preliminary discussions between potential local partners may raise issues that require clarification from Govt/NDA prior to making an EoI	
4 Further soundings from potential local partners	The outcome of any discussions with Govt/NDA may require further soundings to be taken from potential partners	
5 Local authority/ies decision re EoI	This decision should be seen only as a trigger point to initiate high level geological screening and development of a programme of community engagement	3-6
6 Communicate EoI to local stakeholders and communities	It is important that the limited nature of the decision is widely understood	
7 Undertake high level geological screening.	The screening should be complete in time to inform community engagement (see below). The screening process should enable potential local partners to review preliminary findings.	
8 Develop programme for community engagement	The objective of community engagement would be to inform the local authority/ies decision about participation. Planning for the programme of engagement could run in parallel to the high level geological screening.	
9 Seek agreement with Govt for funding for community engagement	The engagement programme will need funding from Govt	
10 Undertake community engagement	A mixture of engagement methods could be used eg to ensure feedback from stakeholders <i>and</i> disinterested members of the public (eg through recruitment to a Citizens Panel), and to gain qualitative feedback (workshops/panels) and quantitative feedback (opinion polls). Engagement should seek to identify: the extent of support for participation; any issues of concern about participation; and the reasons for any opposition to participation.	
11 Opportunity for discussion with Govt/NDA about the outcome of community engagement	Community engagement may raise issues requiring further discussion with Govt/NDA prior to a local decision about participation.	
12 Local review of pros and cons of participation	Local authority decision-makers will wish to review the outcome of community engagement and discussions with Govt/NDA prior to reaching a decision about participation	
13 Local decision about participation	Local authority decision-makers make a formal decision about participation (probably through a full meeting of the council/s)	12-15

Following a local decision to participate, it is anticipated that steps would be taken to formally constitute a local Siting Partnership (SP).

NuLeAF's response to consultation on the implementation framework highlights that:

- It is important that the timetable for the siting process allows sufficient time for local discussion and negotiation to enable a shared local vision to be developed about the mission, role and organisation of a local partnership. A partnership must have sufficient time to get up to speed and function effectively in the siting process.
- A very early task of a SP should be to develop a detailed local implementation plan, building on the national implementation framework. This would enable the requirements of the partnership approach to be integrated with the technical programme, resulting in a shared understanding of the way forward and a plan that is owned by all key players at national and local levels.

ANNEX 3: KEY QUESTIONS TO ADDRESS IN DESIGNING A LOCAL ENGAGEMENT PROGRAMME (JAN 08)

1 What are the objectives? Might the objectives change during the course of the engagement programme?

For example, initial engagement may be about bringing people up to speed and seeking initial views on the possibility of participation, including what would make them more or less likely to support participation in the siting process [step 2, Annex 2].

The feedback from initial engagement might lead interested local authority/ies to enter into discussion/negotiation with Govt to clarify or develop the siting process in a way that would help meet local views [step 3, Annex 2].

A subsequent round of engagement [steps 8, 10] might then seek a more systematic exploration of the strength of support for, or opposition to, participation, taking into account the outcomes of discussion with Govt. The objective would be to inform local decision-making about participation.

2 What type of engagement is needed to effectively inform a local decision?

Most engagement methods are about identifying the range and nature of views held by stakeholders and the public ie are essentially qualitative. These are the most appropriate methods for the initial round of engagement. Other methods (eg opinion polling) could be used to provide a statistically representative picture of local views ie are quantitative.

For the latter round of engagement, local decision-makers will need to decide whether it is sufficient for a decision about participation to be informed by the outputs from qualitative methods, or whether their decisions should be informed by the findings of representative polls [or by both]. If the former, there is no pre-defined mathematical formula that allows different views to be weighted to inform decision making. Instead, decision-makers must make their own judgements about the weight to accord to the views that they have heard, taking into account the quality of the reasoning and source of the argument. If the latter (representative polls), considerable effort would need to be expended to ensure widespread understanding of the issues, including the possible pros and cons of repository siting, and nature of the siting process (particularly the role of local scrutiny and right of withdrawal).

3 Over what area should the engagement be undertaken?

Again, this is largely an issue for local decision-makers. Theoretically, it is possible to envisage neighbouring districts each making their own EoI, and undertaking separate engagement programmes within their boundaries (perhaps each with involvement from the relevant county council). Alternatively, neighbouring districts and a county might agree to jointly organise engagement across an area that is deemed to be potentially impacted by an initial desk-top search for potential sites. It is unlikely to be appropriate to be prescriptive or formulaic about the scope of the initial area of engagement, but there may be some UK and international precedent that could be taken into account.

4 Who should be engaged?

NuLeAF has already suggested that local engagement programmes should include:

- engagement with the public, including deliberative events such as Citizens Panels to allow detailed discussion of the issues, and opportunities for widespread local feedback, for example, through exhibitions, questionnaires, opinion polling and web-based consultation;

- discussion with representatives from a wide range of local bodies, including potential partners in the local Siting Partnership that would be set up following Government endorsement of a local decision to participate; and
- discussion with neighbouring local authorities to ascertain the views of other potentially affected communities.

In undertaking discussion with local stakeholders, it makes sense to make use, as far as is possible, of existing structures and meetings.

5 Identifying appropriate engagement methods and developing a programme of engagement

Once local decision-makers have taken a clear view on these four questions, the next step is take specialist community engagement advice (either in-house or consultancy) about the methods that should be used. The relevant local authority/ies could then develop a local engagement programme in discussion with engagement specialists.

ANNEX 4: PROPOSED WHITE PAPER TEXT ON COMMUNITY BENEFITS

For discussion, Govt/NuLeAF Liaison Meeting, 8 November 07

Government recognises that a community hosting a geological repository for all or a large proportion of the UK's higher activity radioactive wastes will be providing an essential service to the nation.

Although a repository will bring benefits in terms of employment and investment, it is recognised that a radioactive waste facility of this scale and nature could generate substantial negative perceptions and impacts, and deter wider investment in the area over a considerable period of time.

In recognition of potential adverse impacts, and in order to incentivise potential host communities to come forward, Government will provide a substantial benefits package that is additional to the direct and indirect socio-economic benefits of hosting a repository.

The scale and nature of this package will be negotiated and agreed by the relevant parties within the siting process, including the relevant local authority/ies.

Preliminary discussions and negotiations will proceed in parallel with investigations to identify a short-list of possible sites. Proposals for the package should be finalised once a preferred site has been identified.

Government commits to honour the package thereby agreed. Recognising its importance to the success of the MRWS programme, Government will establish a funding mechanism that generates confidence that the package will be delivered.

The nature of the package will be such that it contributes to the sustainable development of the host community and its social well-being. Government expects the package to be consistent with, and contribute to the delivery of, local strategic plans.

It is acknowledged that such a package should include, but not be confined to, an Intergenerational Trust Fund to enable future generations to fund projects and make provision for schemes designed to compensate for any adverse impacts.

Government will ensure that the package is additional to other public sector funding, either current or planned, that contributes to the socio-economic and environmental well-being of the area hosting the repository, and that the package does not lead to the loss of any such funding.

ANNEX 5: APPROACH TO A POST-BOREHOLE RIGHT OF WITHDRAWAL

NuLeAF, DRAFT, 21 Jan 08

A series of meetings have taken place between NuLeAF and NDA to identify the appropriate approach to the Right of Withdrawal (RoW) that could, in principle, be exercised by local decision-makers following completion of a borehole programme but prior to repository construction¹.

As a result of these discussions, it is agreed that:

- this right of withdrawal is an important component of a siting process based on the principle of willingness to participate;
- its existence is likely to contribute to the development and maintenance of community confidence in that process; and
- all parties in a local Siting Partnership (SP) should work positively to seek to ensure that the RoW would not in practice be exercised.

To help ensure that a RoW would not need to be exercised, it is proposed that the stated objectives of a SP include seeking to develop partner and local community² confidence that:

- there is a good prospect for developing an acceptable environmental safety case;
- the potential development is unlikely to lead to significant objections on planning grounds;
- a benefits package will be developed such that the overall balance of benefits and impacts will enhance the well-being of local communities and their future generations; and
- the proposed repository design makes sufficient provision for the monitoring and potential retrieval of wastes.

These objectives should be seen in the context of the proposed mission of a SP, which includes “to ensure that all the questions and concerns of potential host communities within its area and other affected communities about repository siting, construction, operation, closure and post-closure are addressed and resolved as far as reasonably practicable”³. It should be recognised that a SP may wish to adopt additional objectives that are related to this mission.

It is likely that the fulfilment of a SP’s objectives could or should be achieved at different points in time within the siting process. In particular, there is an emerging consensus that relevant parties should seek to reach agreement about the benefits package well in advance of the start of a borehole programme. In which case, this agreement could be ‘banked’ and would not be re-opened when considering whether to exercise a post-borehole RoW.

It is also envisaged that a SP will conduct regular reviews of progress towards fulfilling its mission and objectives. Where these reviews identify serious difficulties, it is proposed that a ‘right of pausing’ be exercised, so that work can be undertaken to address and resolve the difficulties.

The emphasis on early banking of fulfilled objectives, and on problem resolution through exercise of a ‘right of pausing’, will contribute substantively to the minimisation of risk that a post-borehole RoW will ultimately be exercised.

¹ A RoW would also be available prior to the borehole programme. At this time, it is not thought necessary to closely define the circumstances for exercising an earlier RoW as this would be before substantial expenditure on site investigation programmes.

² It is anticipated that the SP will make substantive effort to identify and address the views of communities in the immediate locale of the proposed development.

³ www.nuleaf.org.uk/nuleaf/documents/ImpFr_Partnerships_Briefing_Paper_3_17_January_07.pdf

Nonetheless, information and assessments derived from a borehole investigation programme will be necessary for there to be confidence in the prospects for an acceptable environmental safety case, repository design and planning impacts. As such, it is proposed that a post-borehole RoW could be exercised in circumstances where it is clear that, despite the best efforts of all parties, one or more of the objectives on these issues is not going to be achieved⁴.

In order to minimise risk and uncertainty, these circumstances should be identified and agreed through discussion and negotiation within a local Siting Partnership (SP) and constituent local authorities, *prior to the developer embarking on a borehole programme.*

As a starting point for such discussions, it is suggested that a post-borehole RoW could only be exercised by the relevant local authority/ies under any of the following circumstances:

- having carefully considered the views of the developer and regulators, the SP has insufficient confidence that there is a good prospect for developing an adequate environmental safety case. [Note: the SP would be expected to pre-define through discussion with the developer/regulators the circumstances under which a judgement of “insufficient confidence” could be reached at that stage]
- the SP considers that the potential development would be likely to lead to significant objections on planning grounds. [Note: the SP would be expected to pre-define through discussion with the local planning authority the circumstances under which such a judgement could be legitimately reached at that stage]
- that the SP considers that the proposed repository design makes insufficient provision for the monitoring and potential retrieval of wastes. [Note that the SP would be expected to pre-define through discussion with the developer what would constitute “insufficient provision”]

The requirement to pre-define these circumstances is likely to be both challenging and beneficial: challenging because the circumstances involve matters of judgement; and beneficial because their definition will focus discussion, enhance understanding and make criteria for a RoW decision explicit.

⁴ It should be recognised that the post borehole RoW could be linked to other objectives relating to repository development, where those objectives are agreed as being so linked between the SP and the NDA prior the borehole programme.