

<b>Meeting:</b>	NuLeAF Steering Group, 29 October 2008
<b>Agenda Item:</b>	4
<b>Subject:</b>	Siting Process for a Geological Disposal Facility
<b>Author:</b>	Fred Barker
<b>Purpose:</b>	To provide an update on developments relating to the siting process for a Geological Disposal Facility

## **Introduction**

The White Paper on the implementation framework for siting a geological disposal facility (GDF) was published on 12 June. This was accompanied by an invitation to communities to express an interest in the possibility of participating in the siting process.

This report provides an update, covering:

- Responses so far from local authorities
- Liaison meeting with Government
- Regulatory Interface Management Group
- CoRWM
- Packaging review
- Current consultations

## **Recommendations**

That the Steering Group endorse the main points to be made in response to current consultations as outlined in this report.

## 1 Responses from Local Authorities

The main interest to date in the GDF siting process has come from local authorities in Cumbria:

- Copeland Borough Council has made a formal Expression of Interest (EoI) to Government about potential participation and is taking steps to establish a 'shadow' Community Siting Partnership (CSP) which will advise the authority on a decision about participation. A preliminary meeting to discuss the nature of the initial geological screening exercise is taking place on 20 October.
- Allerdale Borough Council is organising a stakeholder workshop on 21 October to help inform a decision about whether to make a formal EoI.
- Cumbria County Council is taking soundings from potential partners about whether to make an EoI.

By the end of November, it is anticipated that both Allerdale BC and Cumbria CC will have taken decisions about whether to make an EoI.

It is understood that NuLeAF will be invited to participate in the shadow CSP being established by Copeland BC. This would be beneficial in that NuLeAF would (a) be able to feed a national perspective into shadow CSP discussions and (b) be kept fully informed about developments in the CSP. A verbal update will be provided at the meeting.

The Executive Director (ED) made a presentation to senior members of Flintshire County Council on 15 September, explaining the background to, and nature of, the GDF siting process. Members wanted to be briefed on the key issues to inform any decision about an EoI. Flintshire members have subsequently decided that they do not wish to make an EoI.

## 2 Liaison Meetings with Government

A liaison meeting with DEFRA, BERR and NDA was held on 9 September. The main points discussed were:

- **Benefits package:** DEFRA recognises the need to find ways of generating confidence that an appropriate package would ultimately be agreed. One approach may be for Government to provide early clarification of the 'framework' for discussion. A draft paper on a possible 'benefits framework' will be discussed at the next liaison meeting on 11 November.
- **Local decision-making:** DEFRA have confirmed that Government would not wish to be prescriptive about forms of decision-making in two tier areas. The White Paper (WP) was written with the general expectation that this was a matter for affected LAs to agree. DEFRA highlighted WP statements about the requirement for clarity in who will be taking local decisions and the need for effective LA representation in CSPs. Government is keen to see local decision-making informed by effective joint working between affected bodies.
- **Alternative approaches:** The statement in the WP about reserving the right to pursue alternative approaches (para 6.5) should be read as applicable to a situation of last resort, where Government has shown good faith and made strenuous effort to make an approach

based on voluntarism and partnership work. The reasons for adopting a revised approach would have to be robust to legal challenge. Before implementing an alternative approach, Government would expect to consult and re-issue a WP.

- **Potential role for Infrastructure Planning Commission:** DEFRA have provided a preliminary note on the role of the IPC in GDF siting. This suggests that the Planning Bill protects and enhances the role of LAs through involvement in infrastructure planning, including being statutory consultees at National Policy Statement, project development and inquiry stages. The ED has requested a further note that provides an analysis of the pros and cons of giving the IPC the final planning decision in the GDF siting process. Such an analysis would help inform further discussion.

### **3 Regulatory Interface Management Group**

Meetings of the Group took place on 13 August and 3 October. The meeting on 13 August considered the main assumptions underpinning the NDA's provisional implementation plan (PIP) for the GDF. The PIP is currently subject to review and revision prior to publication of a public domain version or overview. NDA hope to be able to publish this before the end of the current Financial Year.

Following the meeting, the ED submitted a series of comments to the NDA on key assumptions in the PIP. These comments included the need to:

- Ensure sufficient time is allowed for CSPs to become established so that they can oversee key desk-based studies in their areas.
- Clarify what the NDA means by 'retrievability'.
- Clarify that a CSP will be the main route through which local engagement and consultation will be coordinated.
- Clarify the role and expected duration of underground investigations.

The meeting on 3 October received an update on various developments, including the NDA's intention to provide an explanatory paper to accompany a preliminary diagram setting out the relationship between the stages of the different permissioning processes in the GDF siting process.

### **4 CoRWM**

A meeting between NuLeAF and CoRWM representatives took place on 17 July. The note of the meeting is attached as Annex 1. Discussion covered similar ground to that in recent liaison meetings with Government.

A further meeting with CoRWM is taking place immediately after the AGM. This will provide opportunity for discussion of key issues in the GDF siting process, and any concerns members may have on current developments related to the interim storage of higher activity wastes. CoRWM's work programme on these topics is outlined in [CoRWM Document 2403](#).

CoRWM is also holding a stakeholder workshop on key aspects of their work programme. This is taking place on 30 October in Reading.

## 5 Packaging Review

Members may be aware of a press article on the Environment Agency's (EA) 'scrutiny' report on package longevity and waste form stability ([Nuclear waste containers likely to fail](#)). This article suggested that "thousands of containers of deadly nuclear waste are likely to fail before being safely sealed up underground."

Both the NDA and EA issued statements seeking to correct inaccuracies in this reporting (see for example [NDA welcomes EA report](#)). The NDA pointed out that:

The Environment Agency's report does not anywhere state that "Thousands of containers...are likely to fail before being safely sealed away underground..." Section 1 of their report, gives their main concern as the potential for degradation of the waste packages once they are emplaced in a geological disposal facility. Although one option is to keep a facility open for several hundred years after emplacement of the packages, their report highlights that there are significant technical issues with extended opening.

NDA and EA have subsequently agreed a process to ensure that NDA is able to prepare and publish responses to EA scrutiny reports, which will set out the actions it intends to take to address EA findings and recommendations.

## 6 Current Consultations

The NDA has three consultations underway on matters associated with the siting of the GDF:

- Consultation on a Public and Stakeholder Engagement and Communications Framework for Geological Disposal ([PSE and Communications](#))
- Consultation on a Framework for Sustainability Appraisal and Environmental Assessment for Geological Disposal ([SA and EA](#))
- Consultation on Proposed Research and Development Strategy ([Proposed R&D Strategy](#)).

The closing date for these consultations is 30 November.

A workshop on the first two consultations was held on 7-8 November and was attended by the Chair and Executive Director. A workshop on the third consultation is being held on 17-18 November.

Main comments on each of the papers are set out in Annexes 2, 3 and 4 respectively. It is recommended that the SG endorse these comments for submission to the NDA.

## **ANNEX 1: NOTE OF MEETING WITH CORWM, 17 JULY 2008**

Members: Mark Dutton(MD-MRWS WG Chair), Lynda Warren(LW), Brian Clarke(BC), John Rennilson(JR).

NuLeAF: Councillors Holliday (AH)(Copeland), Jackson(MG) (Allerdale), Markley (TM)(Cumbria). Fred Barker(FB) . Charles Holmes(CH)(Allerdale),Stewart Kemp(SK)(Cumbria),Fergus McMorrow(FM)(Copeland)

Councillor Holliday in the Chair

### 1.Introductions and apologies

This was the latest in an ongoing series of meetings and followed that held in Kendal on 30 April 2008 prior to the publication of the White Paper.

Apologies were received from Cllr Knowles and Shaun Gorman ( both Cumbria) and Les Netherton ( CoRWM).

### 2. Purpose of meeting

Both parties wished to maintain a dialogue about the concerns coming forward from communities about the MRWS process. There was a need to assist where there was a lack of clarity and on matter that might compromise the ability of communities to respond .

For CoRWM, the volunteerism approach was one of the previous recommendations and the effectiveness of the ongoing PSE would continue to be monitored, be reported back at plenary sessions and form part of the Annual Report in June 2009. However, if important concerns were identified before then, they would be discussed at the next plenary session and, if agreed, advice would be given to Government.

CoRWM representatives confirmed that a review on the launch of the White Paper and events immediately thereafter would go to the September plenary.

### 3. White Paper launch and NuLeAF/LGA response

General agreement that the White Paper launch was supported/well publicised by LGA and NuLeAF. An e-alert had gone out to NuLeAF member authorities, there had been press releases by both, an article published in LG First, a new section on the NuLeAF website and a letter to MPs.

CoRWM representatives advised of the Chairman's letter to all Chief Executives in the UK-three versions in England/NI, Wales and Scotland. Articles had been submitted but not yet published in professional journals.

NuLeAF advised that its membership is drawn from local authorities in England and Wales. NuLeAF had liaised with Dundee City Council over the launch of a Scottish grouping but for a variety of reasons the new group had not been active following an initial launch meeting. Fred Barker confirmed that an offer to assist the relaunch of such a group was still on the table.

Preliminary views on the White Paper were exchanged. It was agreed that there was much to welcome in the White Paper and that there had been no surprises. However, specific concerns included-

- The commitment to enhance the well being of the community appeared to be guarded. In the negotiations for a Benefits Package for Vault 9 at Drigg, the Treasury had expressed major concerns about setting a precedent and the issue had been resolved by the conclusion of an agreement under S106 of the Town & Country Planning Act. JR expressed considerable disquiet as to whether this was the appropriate mechanism going forward.
- Paragraph 6.5 of the White Paper raised concerns that, if the volunteer process failed, for example, after a community had exercised its Right to Withdraw, a community may be vulnerable to a disposal facility being imposed upon it.
- Application of the planning proposals contained in the Planning Bill currently before Parliament to the repository project seemed to be contrary to the volunteer approach.
- The absence of a Benefits Package Framework

NuLeAF have been informed by Defra that initial Engagement Packages would be funded by Defra. It is anticipated that the Treasury will be involved in the Benefits Package formulation and agreement but the mechanism is not clear.

Money would need to be settled in advance of regulatory approvals.

It was suggested that the need for a benefits framework might be discussed at the MRWS Project Board.

#### 4. Local Authority responses to invitation to express an interest

NuLeAF were monitoring responses. Little to report so far apart from developments in Cumbria(see below) and a request for a presentation from one other local authority.

For CoRWM John Rennilson reported that in response to Chairman's letters of 20 June, to date in addition to Cumbria there were-

Three Councils- No interest - officer only

Two Councils - No interest- officer after informing senior member(s)

Two Councils - Request for more info on what invitation from Government?

One Council - Being wound up in March 2009 so leave to successor.

SK reported that the Cumbria County Council CEO would reply welcoming a meeting with CoRWM later in the year.

Mark Dutton advised that, in addition to NuLeAF, CoRWM had contacted the LGA, the Welsh LGA, Cosla and the NFLAs. CoRWM had been advised by the LGA to communicate through NuLEAF. Rachel Jowitt, secretary of the Welsh LGA, had suggested that it would be better for CoRWM to arrange meetings with Ynys Mon and Gwynedd. The CoRWM Chair and MD had now agreed to meet former on 5 September whilst nothing had been heard from Gwynedd. Mike Rumney, Chair of the NFLAs, had advised that it would be difficult to arrange a meeting until a new secretary had been appointed.

MD and BC had met a Cosla officebearer and official on 25 April. There had appeared to be only a limited appreciation of what, at that time, was likely to be in the White Paper. It was agreed that Cosla leaders would be briefed and that CoRWM be advised of the outcome.

Fred Barker reported that Defra had advised him of a small number of approaches for information.

It was agreed that NuLeAF and CoRWM would seek to avoid duplication in contacts with Councils and would keep each other advised of substantial issues that were raised at local level.

In relation to Cumbria, Copeland on 7 July had written to the Minister with an Expression of Interest. It had been considered that ongoing discussions within the District over months meant that Steps 2-5 of Stage 1 in Table 2 of the White Paper had been satisfied although continuing dialogue and meetings would take place.

Allerdale were still discussing the situation at member level. It might be that the Council would wish to submit an EoI. Meetings of a Task Group and then full Council would take place later in July. Allerdale representatives indicated that a joint approach across West Cumbria might be the preferred option.

The County Council would take soundings across Cumbria about a county-wide Expression of Interest. It wishes to work in partnership with Allerdale and Copeland but also wishes to hear from the other Districts.

The three Authorities had a series of officer and member meetings arranged in the coming weeks. Equally all wish to hear from parishes, businesses and other organisations in the area. A paper will be presented to the Local Strategic Partnership in late July.

There was a discussion on whether it was appropriate for BGS to assess the geology of Copeland in response to an EoI by the District Council or wait until the County Council and Allerdale District Council had reached a decision. Fergus McMorrow advised the area for examination and timescale would be of the Council's choosing. The initial nature of the work would be at a fairly high level.

It was agreed that local sentiment was far better this time compared to when Nirex made their approach.

## 5. Forthcoming issues

CoRWM advised of the Reading Workshop on 30 October which would include PSE. It would be followed by another in Spring 2009. The CoRWM website was about to go live and would allow for public input.

Whilst CoRWM could offer advice and support to LAs, Lynda Warren cautioned as to what was achievable within the budget. The more advice given, the more difficult it would be to scrutinise. The position on this would be checked back with Defra.

Brian Clarke advised that he would be interested in attending public meetings in Copeland if they fitted in with his commitments.

Returning to remarks made earlier in the meeting, it was agreed that early progress on a Benefits Package or at least a Framework was imperative. Communities must also be encouraged to define what is critical to their confidence. The incoming NDA Chief Executive must be encouraged to recognise this and take the lead in moving matters forward. Likewise the Site Assessment methodology must be progressed.

On Planning Reform as it affected delivery of geological disposal, there was a need to get a clear statement from Government.

#### 6. AOB and Future meetings

NuLeAF were congratulated on the quality and clarity of the web site.

Provisionally the next CoRWM/NuLeAF meeting would be in Manchester on Tuesday 28 October which was the day before the NuLeAF AGM. It was hoped that this would allow for wider representation of NuLeAF members whilst in no way diminishing the Cumbria involvement.

(NOTE Subsequently it has been agreed that the meeting will be from 1345-1530 on Wednesday 29 October)

## **ANNEX 2: MAIN COMMENTS ON A PUBLIC AND STAKEHOLDER ENGAGEMENT AND COMMUNICATIONS FRAMEWORK FOR GEOLOGICAL DISPOSAL**

- 1 NuLeAF welcomes opportunity to comment on the proposed framework and NDA's intention to develop a PSE and Communications strategy that is widely supported by stakeholders.
- 2 The proposed aim of PSE needs to be more specific, for example, to "improve decision-making and build public confidence".
- 3 The NDA should pursue an 'integrated' approach to PSE so that, for example, engagement with statutory bodies is visible and transparent to wider stakeholders, and representatives from Government, regulatory and permissioning bodies are involved as appropriate in mixed stakeholder discussions.
- 4 The NDA should clarify what it means by a 'needs driven' approach to PSE and what the practical implications might be eg a need to prioritise some forms of engagement.
- 5 The NDA should make a commitment that the outputs from PSE will be formally considered in its decision-making processes, and that the outcome of such consideration will be explained to stakeholders.
- 6 The framework should be more explicit about the central role of Community Siting Partnerships in local engagement, and be consistent with the role of the CSPs that is described in the MRWS White Paper and its annex on CSPs.
- 7 The framework should contain a commitment to assist with building the capacity of CSPs so that they can oversee and organise local engagement and undertake effective communication with local communities.
- 8 On national engagement, the framework should endorse a 'horses for courses' approach rather than the setting up of a standing national forum. For example, a national liaison group for representatives from CSPs, and an expert advisory group that CSPs can draw on, may both be necessary. A 'horses for courses' approach would be more flexible than setting up a standing forum that is unlikely to be able to meet all NDA and stakeholder needs.
- 9 There would be value in utilising process experts to undertake evaluation of important aspects of the engagement programme and ensure learning points are identified and taken on board. CoRWM's role in this regard is likely to be constrained by availability of resources and expertise.
- 10 NDA should adopt a 'warts and all' approach to communication with CSPs, ensuring that CSPs are able to participate as close to possible in 'real time' eg through consideration of draft reports when first produced by the implementer (as opposed to being simply informed about decisions after they have been taken).
- 11 NDA should keep its PSE and Communications Strategy under review, so that it can be revised and developed as appropriate during subsequent stages of the siting process and as new stakeholders become involved.

### **ANNEX 3: MAIN COMMENTS ON THE PROPOSED FRAMEWORK FOR SUSTAINABILITY APPRAISAL AND ENVIRONMENTAL ASSESSMENT**

- 1 NuLeAF welcomes opportunity to comment on the proposed framework and the NDA's intention to undertake a thorough and transparent approach to sustainability appraisal and environmental assessment.
- 2 NuLeAF supports the intended uses of the assessments, including informing local decisions about whether to participate in the next stage of the site selection process. As such, it will be absolutely essential that the assessments are carried out in ways that enable local stakeholders and decision-makers to be fully confident in the robustness of the results. Wherever possible the NDA should seek to engage with CSPs to develop jointly agreed approaches to assessment.
- 3 It is also important that there is clarity on what sort of assessment is being undertaken at a particular time. Note in this regard that greater clarity is required on the nature of the environmental assessments that will be taken during Stage 4 (desk-based studies). It may be that some elements of assessment will be of a strategic nature at this stage, whilst others will be site specific (albeit not detailed at this time).
- 4 NDA should enter into discussion with local authorities that make an EoI to establish whether there are elements of SA/SEA that should be brought forward to provide information to help inform local decisions about participation.
- 5 The framework should explain how the processes of SA/SEA and SA/EIA relate to other GDF regulatory and permissioning processes. It would be helpful to depict this diagrammatically. Stakeholders need to understand the relationship between these processes.

## **ANNEX 4: MAIN COMMENTS ON PROPOSED GDF R&D STRATEGY**

- 1 NuLeAF welcomes the opportunity to comment on the proposed GDF R&D strategy. It is important that stakeholders develop confidence in this strategy, which could contribute significantly to confidence in the wider GDF siting programme.
- 2 The consultation document explains that the R&D programme is “driven by the needs of the wider programme, primarily the safety cases and the engineering requirements ...”. Although this is right and proper, there needs to be flexibility within the R&D programme for NDA to be able to commission or undertake specific pieces of R&D in response to the needs and concerns of stakeholders, particularly Community Siting Partnerships and local decision-makers. This flexibility and responsiveness could make an important contribution to developing or maintaining stakeholder confidence in the GDF siting programme.
- 3 NDA should ensure that the advice of its external review panels (GEOCAP and DSSCAP, p23) is published and made available to CSPs. There may also be a case for inviting CSP expert advisers to participate in the work of the external review panels.
- 4 The strategy should make reference to how stakeholders will be kept up-to-date with progress in GDF-related R&D. Effective communication with stakeholders about R&D, particularly CSPs, will be an important part of building and maintaining confidence in the GDF siting programme.
- 5 The strategy should be more specific about the R&D that is being, or will be, undertaken to understand or reduce uncertainties in key areas, and explain in more detail how that R&D is expected to contribute to understanding or reduction of uncertainties. NDA should establish a transparent audit trail of the progress that is made to address key uncertainties over time.

These comments will be developed/amended in the light of discussion at the NDA workshop on 17-18 November.