

Meeting:	NuLeAF Steering Group, 14 July 2010
Agenda Item:	7
Subject:	Progress Report
Author:	Fred Barker
Purpose:	To report on a range of developments relating to nuclear legacy management

Introduction

This progress report covers the following items:

- Low Level Waste (LLW) strategy and developments
- radioactive waste management and new nuclear power stations
- the Submarine Dismantling Project
- the audit of NuLeAF finances, and
- appointment of Chair and Vice Chair at the AGM, 20 October

The report is for noting.

Strategic Objectives

The developments reported are relevant to the following strategic objectives:

Low Level Waste (LLW) Strategy

- Seek to ensure that LLW strategy is implemented in ways that can inspire local authority and public confidence.
- Encourage and assist the NDA, Site Licensee Companies (SLCs) and the supply chain to take full account of the role and needs of the local authority planning system in the implementation of LLW strategy.
- Encourage Waste Planning Authorities to develop policy in Minerals and Waste Development Frameworks on the management of LLW (and VLLW).

Legacy management implications of potential new build

- Seek to ensure that proposals for radioactive waste management and decommissioning of new nuclear power stations do not prejudice effective management of the nuclear legacy.
- If proposals for new nuclear build continue to move forward, to promote debate about the interactions with nuclear legacy management and the pros and cons of utilising these interactions to the benefit of nuclear legacy management. Any such use should be in accordance with the principle that the companies concerned meet the full cost of decommissioning and

radioactive waste management liabilities that arise from new nuclear power stations. This debate should include how a more coordinated 'across site' approach could be taken in locations that have or are proposed to have multiple licensed nuclear sites.

Submarine Dismantling Project (formerly ISOLUS)

- Encourage any member authority that may be affected by the management of the radioactive wastes from laid up nuclear submarines to participate in consultation on the proposed way forward.
- Encourage MoD to adopt clear objectives and good practices in the consultation on options for managing radioactive wastes from the Submarine Dismantling Project.
- Seek to ensure that the approach taken to the implementation of the Submarine Dismantling Project is consistent with developments in the civil nuclear industry.

1 LLW Strategy and Developments

An update on national developments is that:

- **LLW Strategy** - this is still with Government awaiting approval. At its last meeting, the SG agreed that a NuLeAF Briefing Paper should be published once the LLW Strategy is approved. A draft outline of the Briefing Paper is attached for information at Annex 1. This includes appendices on potential policies for Minerals and Waste Development Frameworks and on the circumstances under which planning permission for landfilling LLW would be required.
- **Combustible wastes** – at the time of writing LLWR Ltd is in the process of finalising contracts with successful bidders to treat segregated combustible LLW. An announcement about the successful bidders should have been made by the time of the SG meeting.
- **Evidence bases** – at the ED's request, NDA has initiated some work to provide a case study setting out regional radioactive waste arisings and management facilities. The view of NuLeAF's LLW Officer Working Group is that there is still a clear need for work to be done on 'regional' evidence bases, despite the demise of Regional Strategies (see agenda item 4). This is in part because of the possibility of the emergence of joint local authority arrangements to address 'across boundary' planning issues, but also because of the need in any case for much improved evidence bases for addressing radioactive waste in Minerals and Waste Development Frameworks at Waste Planning Authority level.

An update on local developments includes:

- **King's Cliffe landfill (Northamptonshire)** – as reported to the last SG, planning permission for LLW/VLLW disposal was refused by the planning authority on 16 March. Following an appeal by the operator (Augean), a public inquiry will be held (starting on 26 October). The decision has been called in by the Secretary of State, so may not be available until the spring of 2011. NuLeAF's LLW Officer Working Group has contributed to preliminary discussion about the grounds for upholding the refusal.
- **Clifton Marsh landfill (Lancashire)** - planning permission for the extension to the operating life of the site to 2015 has been granted (the application was for extension to 2020). The site will therefore continue to provide a disposal route for LLW/VLLW for only a limited period of time. The means that proposals to develop a disposal facility for LLW at the nearby Springfields licensed nuclear sites are likely to be pursued. A short case study on the Clifton Marsh decision has been published ([Case Study 10, June 2010](#)).
- **Keekle Head (Cumbria)** – the application to develop a disposal facility for LLW/VLLW at the former open cast coal site is likely to be considered in August.

The date for the proposed NuLeAF seminar on LLW and planning is under review. The intention is to hold the seminar at a time when (a) the NDA case study on evidence bases and (b) key development control case studies can be discussed.

Finally, the name and remit of the LLW Officer Working Group has been amended to reflect the need to consider a wider range of radioactive waste management developments and their planning implications. The name has been changed to 'Radioactive Waste Planning Group'.

2 Radioactive Waste Management and New Nuclear Power Stations

At its last meeting, the Steering Group agreed that:

- CoRWM would be asked for clarification about how and when it intends to take forward work on ways of achieving greater integration in planning for the long-term management of existing, committed and new build Higher Activity Wastes;
- that the ED should have further dialogue with officers at Somerset CC regarding the scope for joint working. Approval to any work package would be either given by the Chair and Vice Chair, or at the July SG meeting;
- discussion should take place, initially with NDA, about briefing potentially affected local authorities on the outcome of the feasibility studies on spent fuel management options, and about the potential role of local authorities in decision making on preferred options; and that
- authority be delegated to the Chair and Vice-Chair for the submission of comments on the Government's consultation on the financing of decommissioning and waste management.

A summary of the outputs from actions taken is as follows:

- **CoRWM:** A Committee member has replied that one way of taking forward work on ways of achieving greater integration is through the Committee's scrutiny of NDA work on its topic strategies and its work on Strategy II. CoRWM will be looking for strategic co-ordination of new build and legacy waste work within NDA and between NDA and other organisations. The other way is in the Committee's scrutiny of the NDA Radioactive Waste Management Division's (RWMD) work on geological disposal, where it will expect RWMD to consider the whole of the possible inventory for geological disposal throughout its work, not just the legacy wastes or the baseline inventory. Other examples of coordination would be involvement of prospective new build operators in R&D on ILW treatment and more coordination between NDA, Site Licensee Companies, British Energy and new build operators on spent fuel storage and encapsulation R&D.
- **Joint Working with Somerset Authorities:** substantive discussion about the scope for joint working awaits publication of EdF's second stage consultation on proposals for new build at Hinkley Point. This is expected around 9 July. In the meantime, the ED has indicated to Somerset officers that a preliminary input could be an analysis of EdF's proposals for decommissioning and radioactive waste management, taking into account current developments in strategies and their implementation, and with a view to identifying issues for further clarification, for comment, or for further work (for example in preparation for development of the Local Impact Report). It is anticipated that a meeting with Somerset/Sedgemoor officers will take place in late July or August.
- **Feasibility Studies on Spent Fuel Management:** following preliminary discussion with NDA, the ED has been in contact with the Nuclear Industry Association (NIA), which commissioned the studies from NDA. The CEO of the NIA has agreed to make a presentation on the high-level findings of the studies at the new build seminar being organised by Somerset authorities on 20th September. The seminar is being attended by the ED and representatives from a number of NuLeAF member authorities. Following the presentation further consideration can be given to the potential role of local authorities in decision making on preferred options, particularly for siting spent fuel storage or encapsulation facilities.

- **Comments on the Government’s consultation on the financing of decommissioning and waste management:** comments were submitted on 14 June and are available on the website at [Comments on DECC Fixed Unit Price consultation](#).

The SG should also note that the Somerset authorities are organising a fringe event on 7 July at the LGA Conference in Bournemouth. This will discuss the setting up on a ‘New Nuclear’ local authority group. The meeting will consider the terms of reference for the group, common areas of interest that could form a draft work programme, and the issues of resourcing and community legacy. The secretariat will be in attendance and a verbal update provided to the SG meeting.

Finally, at the January meeting the SG agreed that the secretariat should monitor those aspects of the regulatory Generic Design Assessment (GDA) process that deal with the assessment of the quantities and types of waste that are likely to arise, their suitability for storage, transport and their disposability. To this end, the ED is attending an Environment Agency workshop on 6 July which will discuss the regulators’ preliminary (GDA) findings. A verbal update will be provided at the SG meeting.

3 Submarine Dismantling Project

The Ministry of Defence (MoD) has initiated the first stage of a statutory consultation on the Strategic Environmental Assessment (SEA) of the Submarine Dismantling Project. This is considering generic environmental criteria and the statutory consultation materials may be viewed at www.submarinedismantling.co.uk. The second stage of SEA statutory consultation will put forward an indicative list of “credible sites” (having taken environmental and other criteria into account).

MoD proposes to seek the views of certain local stakeholders (including local authorities for sites in the indicative list) on the proposed criteria before the list of credible sites is confirmed. It also intends, at the same time, to open discussions with these stakeholders on the approach to local public consultation.

National workshop(s) are expected to form a part of this pre-consultation engagement and MoD hopes to be able to confirm dates shortly after the next SDP Advisory Group on 27 July 10. It is expected that the workshop(s) will be held in October 2010.

The ED is participating in the Consultation Sub-Group of the SDP Advisory Group to seek to ensure that clear objectives and good practices are adopted in engagement activities associated with the SDP.

4 The Audit of NuLeAF Finances

It was agreed at the AGM in October 07 that NuLeAF’s accounts be audited by Suffolk County Council on an annual basis. The third annual audit has recently been completed. The main findings were that:

- “Audit Services found all files provided to us (both manual and electronic) to be in order. Administration and audit trails are clear, concise and easy to follow.

- Audit Services are specifically impressed with the production of the income and expenditure account compiled by the Business Support Co-ordinator, which is 100% accurate.
- There are a couple of minor findings which should be considered when managing NuLeAF's records, however these are low-risk, and not thought to need immediate attention.”

5 Appointment of Chair and Vice Chair at the AGM, 20 October

The SG's attention is drawn to the need to appoint a new Chair at the AGM as Councillor Holliday will have completed three years as Chair and so will be unable to stand again for that position.

The procedure for nominations and elections is as follows:

- a councillor from any contributing member authority may be nominated for the positions of Chair and Vice-Chair;
- candidates may be nominated by any member authority, and should be seconded by another member authority;
- any nominations should be submitted in writing to reach the NuLeAF secretariat before 5.00pm on Monday 18 October 2010;
- if any position is contested, voting cards will be issued to the elected member delegates from each contributing member authority represented at the AGM;
- in the event of the need for an election, candidates (or their nominee) will be asked to make a 2 minute presentation to the AGM in support of their candidature;
- voting will be by secret ballot and each ballot will eliminate the candidate with the least votes; and
- the AGM's advice will be sought in the event of a tied vote.

ANNEX 1: DRAFT OUTLINE FOR NULEAF BRIEFING PAPER ON LLW STRATEGY AND LOCAL AUTHORITY PLANNING

1 Purpose

To:

- Brief member local authorities on the main aspects of UK LLW Strategy and its implementation
- Highlight key issues for local authority plan making and development control

2 Overview of UK LLW Strategy and its Implementation

- Summarise main aspects from LLW Strategy once approved by Government
- Outline steps underway to implement the strategy
- Point to how key concerns in the NuLeAF response to the draft strategy have (or have not been) addressed (NuLeAF comments are available at [Response to proposed UK LLW Strategy](#))

3 The Implications for Local Authority Plan Making

- Refer to relevant aspects of PPS10 and any statements about planning in the LLW Strategy
- Outline proposed approach to 'regional' evidence bases (identifying/clarifying need)
- Discuss approach that might be taken to LLW in MWDFs [with reference to proposals under discussion in LLWOWG (see appendix 1) and current examples (reference Cumbria and Suffolk case studies)]

4 The Implications for Development Control

- Refer to any relevant statements in LLW Strategy (eg need for early dialogue with planners about whether permission needed)
- Summarise position re need for permission for landfilling LLW (see note provided by DP in Appendix 2)
- Summarise position re approach to conditions to control geographic sources of wastes
- Outline case studies (LLWR, Dounreay, Studsvik, Clifton Marsh, Kings Cliffe, Keekle Head (?))
- Refer to log of requirements for facilities (which is intended to flag when planning permissions are likely to be needed)

FB 21 May 2010

Appendix 1: Potential Coverage in MWDF Policies

At its meeting in March, the LLWOWG discussed the possibility of including:

- A policy stating that the **preferred location** for development or use of landfill facilities for LLLW/VLLW disposal is on or adjacent to existing licensed nuclear sites.
- A policy stating a **presumption against disposal to landfill away from existing licensed nuclear sites**, unless it has been shown that disposal on or adjacent to an existing licensed nuclear site in the area of the WPA is not possible.
- A policy stating an expectation that where a permission to dispose of LLW/VLLW to landfill is sought, conditions will be imposed on the geographic sources of waste to give effect to the **proximity principle**.
- A policy stating that where an authorisation for disposal to an existing facility is sought, the operator should enter into discussion with **the WPA to take advice on whether a planning permission might also be required**. This will need to be considered on a case by case basis, taking into account the original permission and conditions for operation of the site.

Following discussion at the meeting, RE provided the following draft text:

- Provision will be made for the management of all of the wastes that arise within xxxx, with the acceptance of limited cross-boundary movements (net self-sufficiency). Any proposals to manage significant volumes of wastes from outside the authority's area would have to demonstrate that the local social and economic benefits outweigh other sustainability criteria and that their environmental impacts are acceptable. The other sustainability criteria include the principle of managing .waste as close as possible to its source, with each community taking responsibility for its own wastes.
- Where large national or regional waste management facilities are proposed, particularly for the nuclear industry, the Council will expect that packages of community benefits will be provided to help offset the impacts of hosting such facilities.
- The preferred location for LLW and VLLW management and disposal facilities is within the nuclear site where they arise. If a rigorous assessment demonstrates that this is not practicable then land adjacent to the nuclear site should be assessed. Only if that is also demonstrated to be impracticable should more distant sites be considered, with priority being given to other nuclear sites.
- There will be an expectation that a planning permission for managing or disposing of LLW and VLLW will include a condition restricting the geographical sources of the wastes, giving effect to the principle of communities taking responsibility for their own wastes.

Text to include – Applicants are advised to enter into early discussions with the waste planning authority about the requirements for planning permission and the details that will be required.

Appendix 2: Need for Planning Permission for Landfilling LLW

Note for NuLeAF Officer Working Group: Summary of Counsel's advice relating to the need for planning permission for landfilling low-level radioactive waste.

Introduction

Suffolk County Council sought Counsel's opinion on the need for planning permission to landfill low-level radioactive waste. The advice was targeted to specific scenarios. However, the advice reached some general conclusions and it was agreed at the last NuLeAF LLW OWG that these should be summarised for circulation.

Note: The interpretation below is for information only and has not been provided by counsel or endorsed by the County Council's Head of Legal Services.

Summary of advice

- 1) Where there is no planning condition prohibiting the landfilling of radioactive waste then, provided the development is, in all other respects, being carried out in accordance with the planning permission, there is no material change of use and planning permission is not required.
- 2) If, because of the acceptance of radioactive waste the design or other elements of the development have to be altered significantly to allow the receipt of radioactive waste then this could amount to a material change of use depending on the significance and materiality of the changes proposed.
- 3) Where the planning permission expressly prohibits the deposit of radioactive waste by condition then planning permission would be required to receive such waste.
- 4) If there is a planning condition restricting the deposit of waste to controlled waste only, then planning permission would be required to deposit radioactive waste (because radioactive waste does not fall within the definition of controlled waste).
- 5) Where the description of the development implies a limitation on the scope of the planning permission but there is no condition prohibiting the landfill of radioactive waste a breach of the limitation does not necessarily amount to a breach of planning control, but if the use carried out in accordance with the permission is materially different, in planning terms, from the use being proposed then there will have been a material change of use.

Conclusions

There is no simple answer to whether or not planning permission is or is not required for the landfilling of radioactive waste. Each proposal needs to be assessed against the terms of the planning permission. If there is a condition expressly prohibiting landfill of radioactive waste planning permission would be required to accept such waste. Where no condition has been imposed then the question of whether or not planning permission is required will depend on the degree to which the proposal varies from the existing permission and how material such changes are.