

<b>Meeting:</b>	NuLeAF Steering Group, 19 April 2007
<b>Agenda Item:</b>	4
<b>Subject:</b>	MRWS – NuLeAF Initiatives on Implementation
<b>Author:</b>	Fred Barker
<b>Purpose:</b>	To provide an update on NuLeAF initiatives

## **Introduction**

This report provides an update on developments, including:

- Input to Government on the implementation framework
- The Government's next steps
- Outcome of Implementation Briefing with NDA and EA
- Oral evidence to the House of Lords Science and Technology Committee
- Bilateral meetings with CoRWM
- LGA Conference
- Regulator consultation on Management of Radioactive Waste on Nuclear Licensed Sites
- Exchange with the Low Level Radiation Campaign

It also outlines areas for further work.

The main part of the report provides an overview of developments (p2-6), with further detail provided in the following annexes:

- Annex 1: Summaries from NuLeAF inputs to Government
- Annex 2: Key points from NDA presentation and discussion, 21 March
- Annex 3: Key points from EA presentation and discussion, 21 March
- Annex 4: Meeting with CoRWM, 14 February
- Annex 5: LGA Conference, 6 September
- Annex 6: Radioactive Times article and response

## **Recommendation**

That the Steering Group authorise the Executive Director to progress work on the topics set out on p6 of this report.

## **Input to Government on the Implementation Framework**

A series of meetings have been held with Government to discuss key aspects of the implementation framework. Representatives from DEFRA, DTI, the Scottish Executive, Wales Assembly and NDA/Nirex have participated in the meetings. NuLeAF has been represented by the Executive Director, Project Officer and officers from Copeland Borough Council, Cumbria County Council and Manchester City Council.

Prior to each meeting, a NuLeAF Briefing Paper on a specific topic has been submitted. These papers have then been formally presented at the meetings to inform discussion. Each Briefing Paper has been developed on the basis of the preliminary policy statement adopted by the SG in June 06 and has taken into account subsequent SG discussions and the output from the regional seminars. Each draft has been circulated for comment and finalised after discussion at a NuLeAF officer Working Group. When finalised the Briefing Papers are published on the NuLeAF website.

At the time of writing, the following meetings have taken place:

January 26	Proposals for Siting Partnerships (Briefing Paper 3)
February 21	Initial Invitations and Local Decision-Making about Participation (Briefing Paper 4)
March 20	Funding Participation and Enhancing Community Well-Being (Briefing Paper 5)

The summaries from Briefing Papers 3, 4, 5 and 6 are collated in Annex 1 to this report.

Key observations from the discussion of NuLeAF input include:

- Government officials have been receptive and clearly value NuLeAF's input on how the implementation framework can be developed to meet the needs of local government
- NuLeAF proposals for the process for issuing invitations to participate, for Siting Partnerships and for Support Packages have, in the main, been well-received and are being seriously addressed
- Considerable thought is being given to key issues, including preparatory steps prior to the issue of invitations to participate in a siting process, the time needed for key steps and the potential for providing Benefits Packages.
- There is a commitment to further discussion to address any areas of significant difference of view.
- Such differences might include whether the results of initial geological screening are published prior to issuing invites to participate, and whether new monies are made available to fund Benefits Packages.
- There is a willingness to identify further contributions that NuLeAF could make, with the possibility of joint working on some issues.
- The discussions have helped identify where further NuLeAF work is needed (see section towards the end of this report)

The next meeting with Government is scheduled for 17 April and will discuss the NuLeAF input on Siting, Planning Requirements and Rights of Withdrawal (Briefing Paper 6). A verbal update will be provided at the SG meeting. There is also a possibility of presenting an overview of NuLeAF input to the Government's Implementation Planning Group on 27 April.

Further liaison meetings with Government have been scheduled for 22 May, 14 June and 12 July.

### **Government Next Steps**

The liaison meetings with Government have also provided opportunity for updates on activities. Government's next steps include:

- Advertising for members of CoRWM 2 and release of revised terms of reference (imminent).
- National stakeholder workshop to discuss emerging Government thinking on the implementation framework (25 April)
- Workshop to review proposed scientific criteria for initial geological screening of UK (14 May)
- Publication of consultation paper on the proposed implementation framework and outline repository development plan (target date: end June).

NuLeAF officers are attending the workshops on 25 April and 14 May.

### **Outcome of Implementation Briefing with NDA and EA**

The briefing was held on 21 March in Manchester Town Hall with presentations from the NDA and Environment Agency.

The NDA presentation focussed on the series of questions highlighted in the 25 January Steering Group report on institutional developments. Key points from the presentation and associated discussion are set out in Annex 2 to this report. These points go a considerable way to clarifying how many of the key questions about the NDA's role in the siting process will be addressed.

Specific points to draw to the SG's attention are:

- The current review of NDA stakeholder engagement arrangements (see item 7 on the agenda) should include consideration of how the NDA should engage with national stakeholders during the siting process.
- More visibility needs to be given to NDA and Government thinking on the draft outline repository development plan. This will need to properly incorporate steps relating to community engagement and local decision-making.

The EA presentation focussed on four issues: the EA role in the siting of a repository; R&D needs; building stakeholder confidence in a repository safety case; and the phasing of geological disposal. Key points from the presentation and discussion are set out in Annex 3 to this report.

The EA offered to liaise further with NuLeAF over:

- the staging/timing of regulatory and local authority decision points;
- how the Agency might interact with a Siting Partnership, particularly around review of the emerging safety case; and
- how technical information can best be communicated and discussed by Siting Partnerships and through wider local engagement programmes.

With regard to development and presentation of repository safety cases, see also item 8 on European Initiatives (PAMINA Project).

The key points from discussion with the NDA and EA are picked up under areas of further work on p6 of this report.

### **Oral Evidence to the House of Lords Science and Technology Committee**

Following the submission of written evidence, NuLeAF was invited to present oral evidence to the Committee's inquiry into radioactive waste management, focusing on CoRWM's final report and the Government's response. NuLeAF was one of five organisations to be invited to present oral evidence (the others were Government, NDA, CoRWM and EA).

The Executive Director represented NuLeAF at the Committee's meeting on 19 February. The Committee asked about NuLeAF's views on how the concepts of willingness to participate, partnership, support packages and rights of withdrawal might be implemented in practice. The transcript of the session is available at [www.publications.parliament.uk/pa/ld/lduncorr/s&t190207.pdf](http://www.publications.parliament.uk/pa/ld/lduncorr/s&t190207.pdf). It is anticipated that the Committee's report will be published in late May or early June.

### **Bilateral Meetings with CoRWM**

Two meetings have been held with members of CoRWM. CoRWM's note of the first meeting (14 February) is attached as Annex 4. The purpose of the first meeting was:

To deepen CoRWM's understanding of NuLeAF's views across a range of issues on which CoRWM has been asked to give advice to government for its proposed consultation in the summer of 2007 on issues related to implementing CoRWM's recommendations.

One of the main issues discussed was the potential role of 'self-defining' communities in volunteering to participate in the siting process. As set out in the note of the meeting:

If a small community was in favour and the larger community, at district or county level was opposed, there would be a need for negotiation. In such circumstances, the relevant local authority/ies, would need to take into account the views across its constituent communities in reaching a decision about whether to participate. NuLeAF's view is that, as democratically accountable bodies, the local authority/ies should decide, taking into account the views of all its local communities.

CoRWM are considering whether there are circumstances in which a self-defining community could take the decision to participate.

The second meeting was held on 28 March to discuss siting and planning. The meeting provided opportunity to discuss the draft of NuLeAF Briefing Paper 6. The CoRWM

members present were supportive of the draft, describing it as rational and ideal, but expressed concerns that use of the plan development system might not always be applied in support of the siting process. A note of the meeting is being prepared by CoRWM.

CoRWM is currently working on a report on implementation issues, for submission to Government by the end of April. The papers for its plenary meeting on 2 April provide further details (<http://www.corwm.org.uk/content-1149>). These papers will be taken into account when developing any further input NuLeAF makes to Government.

### **LGA Conference**

As reported to the last SG meeting, the LGA has agreed to organise a conference entitled, 'The Long-Term Management of Radioactive Wastes – the Role of Local Government ', with input from NuLeAF on the programme and speakers (see Annex 5).

The provisional date for the conference is 6 September. It is expected that the date for the conference will be confirmed by the end of April. The conference will take place in LGA House in London.

Confirmed speakers include the Minister, DEFRA, NDA and EA. A speaker from Sweden is being approached. Chairing of the conference is likely to be shared between the Chair of NuLeAF and the Chair of the LGA Environment Panel. The Executive Director will make the NuLeAF presentation.

### **Regulator Consultation on Management of Radioactive Waste on Nuclear Licensed Sites**

The regulators have issued draft revised guidance on the conditioning of intermediate level waste on nuclear licensed sites. The proposed revision is intended to provide more clarity and reflect recent organisational changes (particularly Nirex integration into NDA).

A workshop to discuss the draft is being held on 18 April. NuLeAF will be represented by the Project Officer. The closing date for comments on the draft is 31 May.

A verbal update will be provided at the meeting.

### **Radioactive Times Article and Response**

The SG's attention is drawn to the article and response in Annex 6 to this report. The article appears in the Radioactive Times, which is produced by the Low Level Radiation Campaign (LLRC). The LLRC operates at one end of the spectrum of views on radiation and health and, as the article makes clear, is not averse to producing acerbic attacks on other organisations that work on nuclear issues. Annex 6 also sets out the response of the Executive Director, which seeks to correct the inaccuracies in the LLRC article. The response has been published on the LLRC website and circulated to green NGOs.

### **Areas of Further Work**

As indicated above, the next three months will provide further opportunity for input to Government and for discussions with NDA and the Environment Agency.

It is recommended that the SG authorise the Executive Director to progress work in the following areas:

- Consolidated input to Government - integrating NuLeAF proposals across Briefing Papers 3-6
- Decision Points/Timescales in the Siting Process - clarifying NuLeAF thinking on local authority decision points within the siting process, and on timescales for key steps (particularly over the next few years)
- High level geological screening - following the 14 May w/s it may be appropriate to develop a more detailed paper on how the high level screening process should work from a local government perspective
- Invitation Process – possibility of joint working with Government on information/briefing materials for the invitation process
- Siting Partnerships – possibility of joint working to develop forms of ‘Partnership’ agreement and ways of communicating technical information to local communities
- Repository safety cases – further discussions about addressing technical uncertainties and how to develop confidence in emerging safety cases
- Participation Packages - develop rough costings for 'pre-decision to participate' activities, and for running a Siting Partnership
- Benefits Packages – possibility of joint working on how to define "local area", on processes for agreeing scale of benefits and on nature/use of an Intergenerational Trust Fund.
- Planning and Siting – possibility of joint working to examine the potential role of Planning Process Agreements and forms of national guidance (eg a Planning Policy Statement).
- Outline Repository Development Plan – seek discussion of outline proposals prior to formal consultation. This topic has not yet been subject to pre-consultation discussion with local authority stakeholders.
- Stakeholder engagement - develop proposals for liaison between Siting Partnerships and for ways in which the siting process could be addressed through the NDA National Stakeholder Group and associated engagement mechanisms.

It is also proposed that the June meeting of the Steering Committee consider arrangements for responding to Government’s formal consultation on the implementation framework and outline repository development plan.

## **ANNEX 1: SUMMARIES FROM NULEAF INPUTS TO GOVERNMENT ON THE IMPLEMENTATION FRAMEWORK**

### **Initial Invitations and Local Decision-Making about Participation (Briefing Paper 4)**

The paper makes proposals about what should be included in the implementation framework on the following issues:

- who can decide whether to offer to participate
- steps required prior to the issue of invitations to participate
- issuing invitations to participate
- the process for responding to invitations
- the Government assessment of local decisions to participate

On who can decide whether to offer to participate, the paper proposes that the decision should be taken by the relevant local authority/ies after engagement with local communities, potential partners, and neighbouring authorities.

On steps required prior to issue of invitations, the paper proposes that the steps include:

- publication of the implementation framework and outline repository development plan, including a clear statement of Government decisions
- initial screening of the UK to rule out those areas that would clearly not be suitable for siting a geological repository
- raising awareness, developing understanding and encouraging exploratory discussions
- seeking initial discussions with local authorities that wish to put the issue of potential participation to their local communities
- local preparations for receipt of formal invitations.

On the issue of invitations, the paper proposes that invitations be sent to the Chief Executives of the local authorities in those parts of the UK that have not been ruled out as a result of the initial screening process. Publicity should accompany the issue of the invitations.

On the process for responding to invitations, the paper proposes that:

- local authorities interested in participating in the siting process should organise a programme of engagement with local communities, potential partners, and neighbouring authorities to identify the level and strength of support for participation in the siting process and initial local views on the conditions for participation;
- there should be sufficient time between the issue of invitations and the target date for receipt of responses to allow local engagement, review of the findings, discussion with Government about the conditions for participation, assessment of the pros and cons, and formal local authority decision-making about participation; and
- the costs incurred by local authorities that undertake the engagement and assessment steps should be met nationally, as part of the Participation Package proposed by CoRWM.

On the Government assessment of positive responses, the paper proposes that the implementation framework should outline how these will be assessed, including the factors that will be taken into account in reaching decisions about whether to accept an offer to participate in the siting process.

## Proposals for Siting Partnerships (Briefing Paper 3)

The concept of partnership is important in two main ways. First, to express the spirit of the relationships that should be developed between national and local bodies within a siting process. Second, to inform the establishment of formal Siting Partnerships of local community interests in those areas where decisions have been taken to participate in the siting process.

This paper proposes that the implementation framework should define the following:

- the mission of a Siting Partnership
- a set of principles to guide the work of a Siting Partnership
- the core elements of the role of a Siting Partnership
- the decision-making responsibilities of a Siting Partnership
- national arrangements for the funding of Siting Partnerships

The paper has also proposed that the implementation framework should set out Government expectations that:

- a Siting Partnership will play a critically important role in ensuring that the decisions of bodies involved in the siting process are well-informed and robust
- in areas that cross local authority boundaries or have two tier local government, local negotiations will take place so that agreement is reached about how local authorities will take decisions about Partnership recommendations as the siting process progresses
- the relevant local authorities will take a lead role in establishing a Siting Partnership and be effectively represented within the Partnership
- transparent and consistent procedures will be used to recruit and appoint representatives to a Partnership
- the relevant national bodies will provide an input to and engage with a Siting Partnership and work with those bodies in a spirit of partnership
- prior to signing of a formal Partnership agreement, there will be ample opportunity for local discussion and negotiation to enable a shared vision to be developed about the mission, role, organisation and outputs of a Partnership
- a Siting Partnership will engage or consult with local communities, neighbouring authorities, regional bodies and other affected communities, using a range of appropriate methods
- a Siting Partnership will establish a formal link or effective liaison arrangements with Local Strategic Partnerships and, in areas with nuclear sites, Site Stakeholder Groups or Local Liaison Committees
- a Siting Partnership will appoint full time staff to provide appropriate project management and organisational support

Finally, the paper has proposed that the implementation framework should acknowledge that:

- a Partnership may wish to adopt additional formulations of its role, as related to the nationally defined mission
- there needs to be flexibility in the geographic scope and membership of a Siting Partnership to take account of local circumstances
- a Siting Partnership must be able to develop, evolve and respond to change over a period of decades

- a Siting Partnership will be allowed sufficient time at each step of the siting process to undertake its role
- a Siting Partnership will be able to develop its own organisational structure, as appropriate to local circumstances and changing requirements over time
- the level of national funding of a Siting Partnership must be sufficient to enable it to effectively fulfil its mission and roles
- it will be for a Siting Partnership to decide exactly how to spend its funding in fulfilling its mission

Overall, the implementation framework must be sufficiently flexible to enable local circumstances to be taken fully into account in shaping the Partnerships that are created. This is particularly important when it comes to the definition of what is meant by local, for decisions about local representation and for taking into account local relationships between stakeholders.

## **Funding Participation and Enhancing Community Well-Being (Briefing Paper 5)**

The paper makes proposals about:

- the purposes of, and rationale for, support packages
- the scope of Participation Packages
- the nature of a Benefits Package
- the scale, timing and geographic scope of a Benefits Package
- defining and agreeing Participation and Benefits Packages
- funding arrangements .

The purposes of support packages are:

- Participation Package: to empower local authorities and communities by providing resources and meeting the costs of effective participation in the siting process; and
- Benefits Package: to compensate and incentivise local authorities and communities by contributing to sustainable development of the affected area and the well-being of local communities and their descendents.

The rationale for support packages is based on a combination of:

- Principle – the provision of packages is the right thing to do; and
- Pragmatism – the provision of packages is one of the key ingredients needed to make implementation work in practice.

As such, Participation and Benefits Packages should be viewed as offering good potential for value for money.

On scope, Participation Packages should meet the costs incurred through three main periods of local activity: pre-invitation to participate, post-invitation/pre-decision to participate, and post-decision to participate (establishing and running Siting Partnerships).

On the nature of a Benefits Package, it must contribute to the sustainable development of the affected area and the well-being of local communities and their descendents. A package should include an intergenerational trust fund to enable future generations to fund projects

and provision for schemes designed to compensate for any adverse impacts that may arise from the siting of a repository.

On the scale of a Benefits Package, this should enable local judgements to be made that the benefits of repository development are likely to outweigh the actual and perceived detriments. The implementation framework should set out how the budget for the Benefits Package will be derived. The budget should be additional to any funding available from other sources.

On timing, there should be a staged approach to the release of funding for the Benefits Package, in recognition of the length of time that it may take to site, construct and start operation of a repository.

On geographic scope, the primary focus for the bulk of the Benefits Package should be the local area containing the site. Provision should also be made for specific elements of the Benefits Package to be applied over a larger area, including, for example, improvements to public transport and transport infrastructure, and provision for compensation for any detrimental impacts on tourism and agriculture.

On defining and agreeing the Partnerships Package, the budgets for pre-invitation and post-invitation/pre-decision periods should be agreed between the implementation funding body and the relevant local authorities, after local agreement has been reached about the local processes for decision-making and community engagement. The budget for the establishment and initial running costs of the Siting Partnership should be agreed between the implementation funding body and relevant local authorities after the decision to participate has been taken, but prior to formal establishment of the Partnership.

On defining the contents of a Benefits Package, this should be done at a local level by reference to:

- the framework of sustainable development and enhancing well-being;
- the budget limit set by Government;
- the principle of self-determination;
- the need for consistency with local strategic plans; and
- the need for local democratic accountability.

On the timetable for defining a Benefits Package, this should be started once the Siting Partnership is properly established. Preliminary discussions and negotiations should 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.

The implementation framework should set out a Government commitment to honour a Benefits Package that has been agreed by the relevant parties. This commitment should be translated into a formal agreement between the implementation funding body and relevant local authority/ies, once proposals for the Benefits Package have been finalised and agreed.

The Government should establish funding arrangements for Participation and Benefits Packages that are independent of the implementing organisation.

## Siting, Planning Requirements and Rights of Withdrawal (Briefing Paper 6)

This Briefing Paper makes proposals about:

- utilisation of the development plan system in the siting process
- the role of planning during key stages in the siting process
- areas of further work on siting and planning
- rights of withdrawal
- forms of agreement

The paper provides an introduction to the development plan system, and outlines the changes to the planning system that might be made as a result of the Barker Review. The Briefing Paper proposes that the implementation framework make it clear that changes to the planning system will have to work alongside a siting process for a geological repository that is built on the concepts of willingness to participate, partnership and community engagement.

On utilisation of the development plan system, it is proposed that the implementation framework assert in principle that the interface between the siting process and planning should be managed through use of that system. The purpose would be to ensure that planning policy at different levels is developed to reflect progress in the siting process, as set out in national policy and informed by the recommendations of local Siting Partnerships. This would be advantageous as the policy adopted in plans will be the predominant “material consideration” in determining planning applications associated with investigation and characterisation of sites and for repository development. An approach that did not include appropriate local plan development could increase the risk of legal challenge or significant delay when planning applications are considered.

The proposed approach could include:

- enabling statements in RSSs, for example, setting out a commitment of national and regional stakeholders to work together to support local communities willing to participate in a siting process
- provision for potential repository siting in LDFs/MWDFs, for example, setting out the criteria that a proposed development would have to meet to be permitted
- preparation of a Supplementary Planning Document (SPD) setting out how local policy on repository development will be applied.

As use of the development plan approach must dovetail with a siting process based on willingness to participate and partnership, plan development should be informed by the advice of the local Siting Partnership, working closely with local planning teams. It is anticipated that the earliest appropriate opportunity would be taken to undertake a partial review and revision of the relevant RSS, LDF and MWDF.

On the role of planning during the siting process, the implementation framework should outline the relationship between the siting process and planning during the following main stages: area investigation, sites investigation and Decision to Proceed. During area investigation, the criteria used to identify potential sites could have been outlined in appropriate local plans. The relevant Planning Authority/ies should advise and discuss with the Partnership the range of planning issues affecting any potential sites within its area. During site investigations, applications for boreholes may be determined against criteria set

out in the LDF/MWDF. Local Planning Authorities would be active in determining applications, monitoring developments and ensuring conditions are followed.

For a decision to proceed, the following steps are envisaged:

- Preparation of safety case reports and regulatory review
- Preparation of an indicative development proposal in the form of a 'draft' planning application
- Provisional assessment by the Siting Partnership and Local Planning Authority
- Recommendation from the Siting Partnership about whether to proceed
- Decisions by the relevant local authority/ies about whether to accept a recommendation to proceed from the Siting Partnership
- If accepted, explanation of how local planning policy is being applied (it might be appropriate to provide the explanation in the form of a Supplementary Planning Document)
- Preparation of a full planning application for determination.

Assuming that the proposed approach based on partnership and utilisation of the development plan system has been followed, and a right of withdrawal has not been exercised, it is anticipated that the full planning application would be supported by the Siting Partnership and Local Planning Authority.

On areas of further work on siting and planning it is proposed that:

- The potential need for a PPS be kept under review as the draft implementation framework and outline repository development plan are developed, discussed, reviewed and revised. It may be appropriate for a more flexible and location specific form of advice to be developed after the formation of Siting Partnerships.
- Further discussions involving Government, NuLeAF, PAS and ATLAS take place to explore whether a Planning Process Agreement would be of value within a siting process for a geological repository.

On right of withdrawal, it is proposed that the Implementation Framework set out Government support for the principle, which could be exercised by the relevant local authority/ies on the basis of material evidence that sets out the reason/s for withdrawal. The framework should make it clear that once a right of withdrawal has been exercised, the area in question would be removed from the siting process.

It is proposed that the implementation framework acknowledge that a right of withdrawal could be exercised at the end of key stages within the siting process, including:

- area investigation - if the sites proposed for field investigation are not considered acceptable
- site investigation/decision to proceed – if the site proposed for detailed characterisation/repository construction is not considered acceptable
- site characterisation/in-situ review – if the site subject to in-situ review is not found to be acceptable on environmental or safety grounds.

In each case, a decision by the relevant local authority/ies to withdraw from the siting process could only be taken after thorough consideration of:

- the advice and recommendations of the Siting Partnership

- the advice of national bodies, including the NDA and regulators
- conformity with the LDF, MWDF and RSS

Factors that may be taken into account by the local authority/ies might include:

- the extent to which the mission of the Siting Partnership is being fulfilled
- the views of local communities as identified through community engagement
- the acceptability of the proposed Benefits Package
- the acceptability of the repository design concept, including its provision for the retrievability of wastes and
- the acceptability of any substantive changes to the inventory of radioactive wastes to be emplaced in the repository.

On forms of agreement, it is proposed that the Implementation Framework acknowledge that these will be needed to underpin key aspects of the siting process, including Siting Partnerships, Participation and Benefits Packages, the planning process (including development of local plans) and rights of withdrawal (as above). It is proposed that the outline Siting Partnership Agreement contained in work commissioned by NuLeAF be used as the basis for review and development through discussion between Government, NDA, CoRWM2 and NuLeAF.

## **ANNEX 2: KEY POINTS FROM NDA PRESENTATION AND DISCUSSION, 21 MARCH**

### ***Which body will be responsible for the early steps in implementation?***

[Jan 07: The Government is responsible for developing the implementation framework, but it is not clear whether it, or the NDA, will be responsible for managing or carrying out the early steps in the implementation programme (eg geological screening of the UK, issuing invitations to participate in the siting process)?]

Update Mar 07: The NDA is working in support of Government to develop the draft implementation framework and outline repository development plan. It is yet to be decided when Government will hand the lead role over to NDA as the implementing organisation. This is likely to be addressed in the draft framework. NuLeAF input to Government has proposed that Government maintain the lead role at least until the invitation to participate process has been completed.

### ***Once implementation has started, will consultation on the NDA's draft National Strategy and draft Annual Plan provide the main vehicle for consultation on implementation strategy and plans as they are developed?***

[Jan 07: Government expects to see implementation strategy and plans reflected in the NDA's National Strategy and Annual Plan. It is not clear whether there will be opportunities for national stakeholder engagement on development of the implementation strategy and plans in addition to formal consultation on the NDA's draft National Strategy and Annual Plan.]

Update Mar 07: There should in principle be additional mechanisms for national engagement on implementation strategy and plans. These should be addressed in the current review of NDA arrangements for stakeholder engagement. One possibility might be for a working group to be set up under the auspices of the National Stakeholder Group. NuLeAF needs to consider what would be the most appropriate methods from its point of view. Scope may need to be provided for liaison between representatives of different Siting Partnerships.

### ***To what extent will the 'implementing body' have a clear identity within the NDA?***

[Jan 07: The Government statement refers to the transfer of Nirex to the NDA. A ring-fence has been placed around the safety case and technical advice teams of Nirex, reporting to the NDA's Nuclear Safety, Security and Environment Director, with the aim of ensuring that the independence of their advice is not compromised. It is understood that an option being considered is the creation of a stand-alone waste division within the NDA, with the possibility of further transfer to a repository Site Licensee Company.]

Update Mar 07: a new Radioactive Waste Management Directorate is being set up within the NDA. Most former Nirex staff will be integrated within the new Directorate. A small number of Nirex staff will be integrated into the NDA's Nuclear Safety, Security and Environment Directorate, which has an internal scrutiny function. It is possible that the new Directorate could be transferred to a new subsidiary (a shadow repository Site Licensee Company) after a year or so.

***What steps will be taken to ensure that the NDA's drive to accelerate the decommissioning and clean-up of nuclear sites does not put undue pressure on the timetable for repository siting?***

[Jan 07: To increase the prospects for success, the siting process must allow sufficient time for potential host communities to participate effectively and for their concerns to be properly addressed. It is not clear what steps will be taken to ensure that sufficient time is allowed.]

Update Mar 07: the NDA will be developing a Repository Lifetime Plan, to set out the schedule for its development. There is likely to be consultation on an early draft, providing opportunity for stakeholders to consider whether an appropriate amount of time is being allowed for key steps, community engagement and decision-making. Before that, the outline repository development plan will be consulted upon later this year. The potential for pre-consultation discussions on the outline plan may be limited. NuLeAF emphasised that the outline repository development plan must integrate technical, social and community involvement requirements.

***Does the NDA contractor model enable an appropriate level of NDA involvement in decisions about repository design as site investigations and development proceeds?***

[Jan 07: Using evidence from overseas programmes and major UK construction projects, Nirex has argued for a model of repository project management based on active risk sharing between the implementing organisation and main contractor. The purpose would be to ensure that the implementing organisation could play a proper part in decisions about repository design changes as investigation and construction proceeds. Nirex argue that quality, timetable and costs problems can arise if too much risk is passed to the contractor. This raises questions about whether the NDA contractor model provides risk-sharing arrangements appropriate to repository development.]

Update Mar 07: The NDA is aware of the points made by Nirex and considers that there are contract models that can meet the points of concern. This is not seen as an urgent issue, as there are several years in which to develop an appropriate risk sharing arrangement.

***To what extent will NDA R&D and 'horizon scanning activities' (a) be aimed at reducing long-term safety uncertainties associated with geological disposal at generic and site-specific levels and (b) seek to identify developments in alternative management options?***

[Jan 07: CoRWM identified these as important issues. The special meeting of the Steering Group on 11 December agreed that the questions should be pursued in discussion with the NDA.]

Update Mar 07: the core of existing R&D programmes is aimed at addressing long-term uncertainties. R&D will need to become site focussed at the appropriate point with the repository programme and be linked to the schedule of regulatory decision points. The NDA will take 'horizon scanning activities' seriously, covering such long-term management options as Partitioning and Transmutation and Deep Borehole disposal. NDA will need to make its R&D and horizon scanning activities visible, possibly through inclusion in the repository lifetime plan.

## **ANNEX 3: KEY POINTS FROM EA PRESENTATION AND DISCUSSION, 21 MARCH**

### ***Repository Development Process***

The EA envisage a process of staged environmental regulation throughout the siting programme, with the Agency involved from the start of the process. The EA thinks that minor legislative change is required to formally underpin this approach and are initiating discussions with Government. The EA anticipates that this change could be achieved in parallel with early steps in the implementation programme.

The EA presented an indicative repository development process with a series of regulatory decision points. The EA offered to liaise further with NuLeAF over the staging/timing of regulatory and local authority decision points.

The indicative programme envisages a role for a Rock Characterisation Facility (RCF) as a key stage in site characterisation. The decision on whether the RCF would be a free-standing research facility or part of repository construction could be taken at a point in the siting process when a preferred site has been identified.

### ***Environmental Safety Case and R&D Needs***

The EA highlighted that the safety case will need to provide a sound and reliable assessment of long-term risk from a repository and that careful consideration would have to be given to the treatment of uncertainties.

The EA considered that current R&D needs include: a review of repository design concepts; addressing complex issues such as gas migration and nuclear criticality; and issues relevant to waste conditioning including tyoes of encapsulants and package longevity. In the future, as siting proceeds, R&D will need to focus more on site specific aspects.

### ***Building Confidence in the Safety Case***

The EA stated that confidence building would involve both process and technical aspects.

On process issues, EA pointed to the need for: clarity of roles and responsibilities (including how a Siting Partnership operates); a staged approach to environmental regulation; effective oversight by CoRWM; and understanding and communication.

The EA offered to liaise further on how they might interact with a Siting Partnership, particularly around review of the emerging safety case.

On technical issues, EA pointed to the need for: clarity on the inventory of wastes; clear regulatory guidance; validated and verified models; alternative calculations; complementary lines of reasoning; good science and engineering; and good communication of technical issues.

The EA offered to liaise further on how technical information can best be communicated and discussed by Siting Partnerships and through wider local engagement programmes.

### *Phasing of Geological Disposal*

The EA outlined their view on Phased Geological Disposal (PGD), which involves designing a repository to enable an extended period of underground storage of wastes prior to repository closure. They pointed out that there are several variants of phasing and options for backfilling a repository at different times.

The EA consider that issues associated with phasing need to be explored with potential host communities, so that any mismatch between stakeholder concerns and reassurances that can be delivered through phasing can be addressed.

The EA does not favour “extended phasing”, where backfilling is delayed by up to a few hundred years. They consider that there are significant unresolved technical issues, and societal issues (eg possibility of abandonment) that cannot be resolved.

It was noted that the type of host rock would have a bearing on the potential for developing a PGD facility. This would be less likely in salt or clay geologies. Phasing might therefore emerge as an issue at the preliminary geological screening stage.

## **ANNEX 4: MEETING WITH CORWM, 14 FEBRUARY**

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1. Date, place and title of meeting attended: 14 February 2007

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2. Who attended for CoRWM: Andy Blowers and Pete Wilkinson

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3. Others present:

Fred Barker – Executive Director, NuLeAF  
Tim Heslop – Councillor, Cumbria County Council  
Bill Risby – Councillor, Manchester City Council  
David Davies – Copeland Borough Council  
Sue Crisp – Cumbria County Council  
Shaun Gorman – Cumbria County Council  
Stewart Kemp – Manchester City Council  
John Hetherington – Hetherington Nuclear Consulting

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4. Purpose of attending meeting:

To deepen CoRWM's understanding of NuLeAF's views across a range of issues on which CoRWM has been asked to give advice to government for its proposed consultation in the summer of 2007 on issues related to implementing CoRWM's recommendations.

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5. Main points discussed / information acquired:

NuLeAF clearly has its own route by which its views are expressed to Government and it has been proactive in setting an agenda: it presented its view on siting partnerships to HMG at the end of January, the process it favours for the issuing of invitation and the expression of a willingness to participate has been submitted to Defra, its views on packages are soon to be finalised and submitted and planning issues and those relating to the right to withdraw have been the subject of a commissioned piece of work through Hetherington Consulting. At the time of the meeting, this latter work was in draft form.

NuLeAF is holding a briefing session on 21 March to hear the NDA's latest thinking on development of the outline repository development plan, and the EA's thinking on their role in the siting process. In the autumn, a national conference is being planned through the Local Government Association to raise the profile of the issue within local government. Ministerial input is expected in order to help in this task.

Siting partnerships: position was similar to that of CoRWM except that the role of the partnerships was seen to be more of a vehicle through which local participation could be maintained, progress monitored and advice and recommendations to the implementer and local decision makers provided. NuLeAF see partnerships as being locally driven vehicles, working in a 'spirit of partnership' in which national bodies – such as the NDA – fully contribute to the Partnership's work, but do not have a formal decision making role.

Consideration of the topics of invitations and responses to those invitations reveal very quickly how much work is involved to prepare the ground even before the invitations are sent out. There are many steps to take before a decision to participate or not is reached and results from these steps should all add to the data base of knowledge feeding into the appraisal of whether to volunteer or not.

Screening: the view was expressed that HMG may be changing their view to fall in line with CoRWM's proposal to screen before invitations are issued. It was felt that the difference between screening and siting criteria should be made clear. The former should be applied at a high level prior to issuing invites to participate. The latter should be applied once Siting Partnerships have been established to identify potential sites within a participating area. NuLeAF paper 4 discusses these issues in detail.

NuLeAF stressed the importance of a national framework to be agreed and criteria discussed before proceeding to siting. The issue of the lead LAs should take was returned to and it was clear that NuLeAF's position is that local authorities should take the decision about whether to participate after extensive consultation to gauge the climate of opinion within the community. While LAs should take the lead it was agreed that they should also ensure ensure that the process was promulgated throughout their area. This is not discretionary.

For areas that cross local authority boundaries or have two tier local government, NuLeAF has recommended that the implementation framework set out the Government's expectation that local negotiations should take place to reach agreement about how the relevant local authorities will take decisions about whether to participate.

If a small community was in favour and the larger community, at district or county level was opposed, there would be a need for negotiation. In such circumstances, the relevant local authority/ies, would need to take into account the views across its constituent communities in reaching a decision about whether to participate. NuLeAF's view is that, as democratically accountable bodies, the local authority/ies should decide, taking into account the views of all its local communities.

NuLeAF stressed the importance of taking sufficient time and their concern that the government and NDA might act precipitately.

The preparatory period before invitation to participate is critical.

The decision must be that of the LAs which must ensure that it has a very good idea of the views of the community in order to strike a balanced view which considers the local mood in perspective with the views of the wider community. ('Why allow a very local community to take the decision?', was a comment from NuLeAF.) Local views should be taken fully into account, but should not 'win the day' if wider opinion within a local authority area is strongly against participation.

Before taking a decision about whether to participate, LAs should also seek the views of 'self-defining' communities of 'single interest groups' (i.e. predominantly NGOs), but such groups should not be able to take a decision on behalf of a location to participate in the siting process as they are not democratically accountable and could possibly wield disproportionate power. As the LAs were the legal representatives of the community, they have an obligation and a duty to represent the community and to establish a process for the preparation of the response to an invitation. This preparatory work comes between the ending of the national framework and criteria setting and before the issuing of invitations. It would be beneficial if there was to be a jointly agreed CoRWM/NuLeAF position on this area of the preparatory work to put to HMG.

NuLeAF's position is that LAs should provide leadership but ensure appropriate engagement using deliberative methods should be undertaken with the public and local communities.

On this issue of how and whom to engage, the possibility of referenda was raised. There was opposition to the idea especially at the start of the process, when a decision was needed about whether to participate in the exploration of the potential suitability of an area. It was felt that a referendum would not be appropriate at this stage when the assessments had not been undertaken or publicly discussed.

Two views were expressed. One – from a CoRWM member - was that it would maximise legitimacy and minimise controversy and provide a strong basis on which to proceed. The other was that they give snapshots at a particular time rather than in-depth appreciation of the issues. Without the appropriate time and resources , they can be an unsuitable method at the early exploratory stage of the process although the CoRWM member expressed the view that such time and resource allocation should be part of the build up to the referendum.

On partnerships, NuLeAF's view is that the partnership is essentially advisory and should have no statutory decision making powers. The NDA should not be a formal member of the Siting Partnership but should contribute fully: a national body should not be involved in community decisions.

As to the representation on the partnership, NuLeAF favours an approach where decisions are taken on the basis of commissioned research ('social mapping'). The partnership should regularly review its membership to ensure it is appropriate to the size of the community involved or the decision-making body's locus.

Planning issues were discussed briefly but were subsumed by the Hetherington work which is in draft form.

The right to withdraw should and could not be arbitrary but must relate to pre-defined conditions which could be invoked to trigger a withdrawal. The right to withdraw should only be exercised at a credible point in the process. This was unlikely to be after substantial expenditure had been incurred on underground excavations.

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#### 6. Actions for CoRWM (what, when, whom):

It was agreed that a further meeting on planning was required and this has been arranged through Steve Mansfield and Fred Barker.

Note key points: LAs take lead role but want to ensure that invitation to participate is discussed throughout their areas.

Importance of national framing, identification of criteria and rules of engagement etc. before proceeding to siting. The process should not be hurried.

LA has primary role as representative authority but mechanisms needed in case of differences between tiers or between community and LA

Emphasis on public and community engagement but referendum not favoured especially during the exploratory phase of process

LA to identify membership of partnerships based on commissioned research

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#### 7. This note written by: Pete Wilkinson, Andy Blowers with input from Fred Barker, NuLeAF

## **ANNEX 5: LGA CONFERENCE, 6 SEPTEMBER 07**

### **Title**

The Long-Term Management of Radioactive Wastes – the Role of Local Government

### **Background**

In October 2006, the UK Government and Devolved Administrations published their response to the recommendations of the Committee on Radioactive Waste Management<sup>1</sup>.

This accepted that “geological disposal coupled with safe and secure interim storage is the way forward for the long-term management of the UK’s higher activity wastes”<sup>2</sup>.

The response stated that “Government is not seeking to impose a geological disposal facility .. on any community”. Instead, the Government is committed to seeking a solution based on a partnership approach.

Government has been in discussion with the LGA’s Nuclear Legacy Advisory Forum (NuLeAF) about what such an approach might mean in practice. These discussions are informing the development of a draft ‘implementation framework’ and ‘outline repository development plan’, which Government intends to consult on in the second half of 2007.

These documents will raise many questions of interest and concern to local government, including:

- Who will receive invitations to participate in the siting process for a geological repository?
- How should local decisions about whether to participate be taken?
- In areas that participate, what sort of Partnership arrangements should be put in place?
- What funding will be available to meet the costs of participation?
- What are the potential impacts of hosting a geological repository?
- What benefits will be available to host communities?
- How will the siting process interact with planning requirements?
- What right of withdrawal would a participating community have?
- What are the roles of the NDA, Environment Agency and CoRWM?

The conference – timed to coincide with Government consultation – will address these key questions and enable participants to discuss the local government response.

### **Who Should Attend?**

The conference is intended for:

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<sup>1</sup>‘Response to the Report and Recommendations from the Committee on Radioactive Waste Management’, UK Government and Devolved Administrations, October 2006.

<sup>2</sup> The management of Low Level Wastes as been subject to a separate policy process. Although the primary focus of the conference is on the management of higher activity wastes, speakers should make reference to LLW management and be prepared to respond to associated questions.

- Council Leaders
- Portfolio Holders (eg planning, economic development, community involvement)
- Chief Executives
- Chief Planning Officers
- Senior Members and Officers

## **Outline Programme**

The following is proposed:

### Morning Session

- 1 Overview of the Government's Approach – Secretary of State or Minister
- 2 Key aspects of the Implementation Framework – DEFRA
- 3 The Outline Repository Development Plan – NDA
- 4 Questions and discussion (use 'at table' discussion to identify priority questions to put to speakers)

### Afternoon Session

- 5 The Role of the Regulators in Repository Siting - Environment Agency
- 6 The Role of the Municipality in Sweden – speaker from Oskarshamm
- 7 The Local Government Perspective in England and Wales – NuLeAF
- 8 Questions and discussion (use 'at table' discussion to identify key points in response to the consultation)

## **Conference Pack**

This could consist of:

- The consultation paper
- NuLeAF Briefing Papers on key aspects of implementation
- The latest NuLeAF e-bulletin

## **ANNEX 6: RADIOACTIVE TIMES ARTICLE AND RESPONSE**

### **NULEAF: SON OF CORWM - LOCAL COMMUNITIES BEWARE**

**Radioactive Times, January 07, p12**

NuLeAF is the self-styled Nuclear Legacy Advisory Forum. It is the government's fifth column in the attempt to put Nuclear Waste in a Hole NearYou (NuHoNY), especially if you live in a poor area. Having set up one bogus outfit (CoRWM) to find through 'stakeholder dialogues' that the best option for nuclear waste was to tip it into a hole and tiptoe away, there yet remained the question of how to implement such a process in the teeth of the public's opposition to having the waste near them and to watch their children die of cancer. CoRWM having performed its job, a new outfit was needed. Enter NuLeAF, ([www.nuleaf.org.uk](http://www.nuleaf.org.uk)), alias Fred Barker, who was also a member of CoRWM and could write (to himself) welcoming the final report advising the hole option.

Investigation of the website shows that NuLeAF was funded in 2005/06 by the Nuclear Decommissioning Authority NDA (£60,000) and NIREX (£25,000). In the next year it will get a £40,000 income from DEFRA and increase its income from the others to a total of £121,000. Fred Barker estimates his income as Project Director for the next two years as £110,000; he will have a Personal Assistant earning £48,500 and also a Project Officer earning £58,000. OK, so what will these three do for all this money?

They'll go around the country bribing local authorities to agree to have the hole in the ground near them.

#### **Enabling CoRWM on the ground**

The important point to note is that decisions about where the nuclear waste will be put, where the hole is, will not be made by local communities. It will be made by Local Authorities (in consultation). We all know what that means. In Ceredigion, where the town of Aberystwyth is, planning decisions about the town are made by the County Council, which is based in Aberaeron and has members from all over the county. Decisions opposed by the Town Council are routinely implemented by the County Council. And in the case of the nuclear waste, shed loads of money and massive planning gains are to be offered to gain the acceptance of the hole. It is NuLeAF's job to facilitate this bribery. Dressed up as Regional Seminars and other meetings, Local Authorities will be bribed at whatever level it takes to find somewhere to put the waste. And, of course, this is an issue of Environmental Justice. Because, make no mistake: it will be the poor areas where the authorities will take the bait. It will not be Stratford on Avon, or Guildford where the hole ends up, but somewhere in Wales, or Cheshire, or the West Midlands, where poor people can suffer the increases in cancer and the deaths of their children, so that various local councillors can benefit, or the area can obtain a new Leisure Centre. And these Authorities will not be told the truth about the health effects of the substances in the hole or the migration of these substances into the bodies of their children.

The Regional seminar for Wales held in Llandudno on 22 November, 2006 lists as attendees only councillors and local authority bureaucrats. Included by Gwynedd Council are Dylan Rhys Griffiths, Regeneration Programmes Manager, Sioned E Williams, Head of Economy and Regeneration. Regeneration is appropriate; another phrase might be New Growth. Then poor people will get more cancer (a well known phenomenon). They smoke more!

#### **Response: Letter to the Editor of Radioactive Times, 22 February 2007**

The editor of the RAT should check facts before going to publication, as there were a number of inaccuracies in the recent piece about NuLeAF ('NuLeAF: son of CoRWM – Local Communities Beware').

Contrary to the claims in the article, NuLeAF's aim is to take the views of local government into the heart of decision-making about nuclear legacy management, thereby strengthening the influence of local communities and helping to democratise decision-making. Our role is to represent the views of our member local authorities, not to tell them what to think or to promote the views of any single player in the industry, whether it be CoRWM, the NDA or Government.

More specifically:

- NuLeAF cannot be "son of CoRWM" as it was established in November 2003 at around the same time as CoRWM and long before the committee's recommendations were known.
- NuLeAF's views on CoRWM's evolving work were submitted in June 05 and in May 06. I took up my post as NuLeAF Executive Director, initially on a part-time basis in February 06 (becoming full-time in September 06). I did not draft NuLeAF's submission to CoRWM of May 06. That submission set out the views of the NuLeAF Steering Group, not any individual officer.
- NuLeAF encourages its member authorities to provide feedback, so that their views inform Steering Group discussions and policy development. One of the main reasons for holding a series of regional seminars for local authorities was to ensure that our work reflects the views of our members.
- On the siting of a geological repository, NuLeAF's job is not to "bribe local authorities to agree to have the hole in the ground near them". Instead it is to develop and present proposals for what local government would view as a fair and robust siting process, based on concepts of willingness to participate and partnership. It should be up to individual authorities, informed by the views of their constituent communities, to decide whether to participate in any siting process.
- The RAT article neglected to mention that the figures for the salaries of NuLeAF staff "for the next two years" include 'on-costs', particularly pensions and national insurance.
- NuLeAF has indeed secured income from the NDA, Nirex and Government. In each case, funding has been accompanied by a letter of agreement that states that "nothing in this letter of agreement shall in any way constrain or be regarded as exerting influence on the viewpoints reached by NuLeAF ..".

For readers who want to make up their own minds, please visit our website ([www.nuleaf.org.uk](http://www.nuleaf.org.uk)).

Yours sincerely,

Fred Barker  
Executive Director,  
NuLeAF