

Economy, Culture and Environment

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Guidance Consultation
Nuclear Unit
Department for Business, Enterprise and Regulatory Reform
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Dear Sirs

CONSULTATION ON FUNDED DECOMMISSIONING PROGRAMME GUIDANCE FOR NEW NUCLEAR POWER STATIONS

Thank you for giving Cumbria County Council the opportunity to respond to your consultation paper on "Funded Decommissioning Programme Guidance for New Nuclear Power Stations".

The County Council has carefully considered the important issues that you have raised. A discussion on this consultation was held at the meeting of the Council's cross-party Nuclear Issues Working Group on 1 April 2008. That discussion had been informed by:

- the County Council's response to the Energy Review consultation, in March 2006;
- the County Council's response to the Future of Nuclear power consultation, in October 2007.

County Council policy supports new nuclear build, subject to assurances about safety and adequate progress with the implementation of national policy for higher activity legacy wastes.

The County Council welcomes the full public consultation approach adopted by BERR in developing its recommendations for a future UK energy policy. We have endeavoured to look at your key questions from a national, regional and, particularly, a Cumbrian point of view. You will appreciate that with four nuclear licensed facilities – Calder Hall, Sellafield, Windscale and the Repository at Drigg – plus some 60% of the UK's radioactive waste in Cumbria, the nuclear power question holds great significance for the County Council.

In response to your key questions, we have agreed the following responses:

We have looked at **questions 1 and 2** together. We would like to see the powers to approve, modify or reject an operator's Funded Decommissioning Programme shared between BERR and DEFRA. Moreover, we believe that there should be third party scrutiny through the National Audit Office and by Parliamentary Committee.

Government's intention to set a 'materiality threshold', requiring the operator to submit a modification to the Funded Decommissioning Programme if an operational or technical change would materially increase the cost estimates of decommissioning or significantly increase the amount of waste to be disposed, is welcome though it is not clear how this would operate in practice. Conversely, the Council consider that setting a minimum threshold for inclusion of changes to costs in the operator's annual report, would not provide an accurate audit trail, nor would it provide stakeholder confidence of an open and transparent process.

The Council welcomes the fact that both sets of guidance will be amended to take account of future changes in circumstances.

Turning to **question 3**, the aim of the Decommissioning and Waste Management Plan, to ensure that planning for the decommissioning and management of radioactive wastes is carried out prior to construction of a new station and is based on accurate and up-to-date estimates of the costs, is to be welcomed.

In general, we agree that the Base Case sets out a realistic and prudent way to estimate the potential costs of waste management and decommissioning. However, there are other costs that we consider should be taken into consideration;

- costs associated with segregation, accumulation and safe short-term storage, especially of LLW, but potentially of higher activity wastes (in the light of recent proposed changes at the LLWR near Drigg, whereby the onus will be on the consignor)
- costs associated with any future decision by Government that spent fuel reprocessing will be allowed in connection with new nuclear build
- costs associated with safe and secure interim storage of higher activity wastes if required for more than 100 years
- costs associated with establishing community funding - whether a community benefits package or general socio-economic funding. The 'full share' of these costs should be apportioned to operators of new nuclear stations.
- costs associated with funding R&D into more effective waste management technological solutions
- costs associated with funding of open, transparent and inclusive stakeholder dialogue
- costs associated with record keeping and input to the NDA's National Nuclear Archive

The County Council seek clarity on some of the assumptions underlying the Base Case, as set out in Table 5. Under 'Regulatory regime' it says that "Definitions of waste categories will remain unchanged" – from what? It is understood that there is an Environment Agency exercise underway at present, which is expected to redefine Very Low Level Waste, if not other categories.

Under 'Site end state', there is an assumption that "This is likely to be a state similar to Greenfield, depending on the state of the site prior to construction of the station" – why? As with existing practice, the site end state should be agreed not only with the regulators and the planning authority, but also with the community affected by the facility. It may be considered more beneficial for an area to have continued industrial activity, to replace job losses from a power station closure and an end to clean-up activity.

Under 'Cost calculation', it says that "Costs estimates will be calculated on a money of year basis" [sic] – please clarify this statement.

Under 'Intermediate Level Waste management and disposal', it says that "ILW from operations and decommissioning will be stored in safe and secure interim stores on the site of the power station.....". This conservative assumption is prudent and supported though the potential for storage rationalisation between sites, which could cut the costs of each site building their own store, should also be investigated.

Under 'Low Level Waste management and disposal', it says that "LLW disposal facilities will be available to new nuclear power stations whenever required". Although LLW from new nuclear power stations will not arise for some years, it must be remembered that the LLW Repository near Drigg is currently only licensed to *store* LLW in Vault 9, a situation which may or may not change with any further vaults, plus the LLW facility to be built at Dounreay will only take their waste (on current expectations) or, at most, Scottish LLW. Therefore, this statement is dependent upon the outcome of the National LLW Strategy process and whether a new facility (or facilities) have been through the regulatory and planning processes, and are constructed and available.

With regard to **question 4**, the Guiding Principles in the Funding Arrangement Plan are to be welcomed. In general, we agree that the Funding Arrangement Plan guidance sets out a prudent way to ensure that operators make adequate provision for meeting their liabilities. However, there are a few comments that the County Council wish to make.

With reference to the fund structure, we believe that Government should undertake an assessment of fund options (or publish previous optioneering work), in order to identify whether a 'shared' fund offers benefits in terms of further reducing the remote risk that public funds need to be called upon to meet liabilities. We consider that shared funds across a single operator's plants would help to reduce risk. There is a risk that a number of operators setting up individual funds within an umbrella fund could obscure the transparency and separation required by the Guiding Principles.

Also relating to the fund structure, if, as we have suggested, the operators can draw on the fund (or its interest) to finance community benefits and stakeholder engagement on waste management and decommissioning, then the bullet "not pledge its credit for the benefit of others", under (c) Activities of the fund, may have to be reconsidered.

With regard to winding up the fund, we believe that the Government should reconsider its proposal that any surplus monies held by a fund should be returned to the operator once all their liabilities have been discharged. There may be a case for any surplus being held in a national contingency fund, in order to ensure that public funds do not

need to be called upon to meet unforeseen or under-funded liabilities from any new nuclear power stations.

The County Council would also like to make the following comments, not directly arising from the questions posed by Government.

The formation of the Nuclear Liabilities Financing Assurance Board (NLFAB) is welcomed, though we are concerned that, as a “purely advisory body”, there is a risk that their advice may be ignored. The County Council considers that Government should be under an obligation to publicly respond to the NLFAB’s recommendations, showing where and why advice has or has not been followed. Furthermore, we consider that the Board should be empowered to review and compare the performance of the decommissioning funds that are established, with the ability to recommend modifications, where appropriate to encourage the worst performing fund(s) to adopt the practice of the best.

If, as Table 1 shows, the Terms of Reference for NLFAB are published in Quarter 2 of 2008, which is very soon after the close of this consultation on 16 May, it begs the question to what extent any comments on the Board, arising from the consultation, will be taken into account.

The Council has some concerns that the financial modelling being undertaken by Government, in order to estimate the financial impact of the additionality of new build wastes in a deep geological repository, may not be comprehensive enough. For example, there will need to be an increase in the scale of community benefits to the repository host community, proportionate to the increased radiological inventory of the repository – assuming that the hosts will allow emplacement of ‘new’ wastes that were not part of their original acceptance conditions. The host community may also wish to see retrievability of wastes incorporated into the repository design, which needs to be accounted for. There should be a ‘social premium’, as well as a ‘risk premium’, built into the costing model. We would welcome Government’s comments on this.

Furthermore, there could be hidden costs in unexpected problems arising with the new build wastes which, at present, cannot be adequately characterised - this would make it difficult to provide a fixed upper price to potential investors. Overall, a detailed explanation of what financial implications are considered in the modelling would be welcome.

The Roadmap and indicative timeline, for publication of the cost estimates for waste management, disposal and decommissioning, are welcomed, as is the commitment to publish updated cost estimates. We would wish to see regular updating of the timeline, when more detail is added or dates are confirmed, as well as the publication of regular cost estimate updates – both these publications should contain sufficient information to ensure stakeholder confidence in the robustness of this process.

With regard to the reporting requirements set out in Annex A, we consider that a quinquennial in-depth review is too long a time period for such important information. The operator must have the information required at their finger-tips at all times, so it would seem more appropriate if the in-depth reports were annual or, at the very least, biennial.

We hope you find these comments helpful. We would be grateful for your acknowledgement of receipt of the County's submission, and confirmation that it will receive full consideration.

Yours sincerely

A handwritten signature in black ink that reads "Shaun Gorman". The signature is written in a cursive style with a long horizontal stroke at the end.

Shaun Gorman
Head of Environment