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Our Ref: AT/MR/EL26411
Your Ref:

Date: 26 October 2011

Dear Minister,

Remediation of Radioactively Contaminated Sites

The Council wishes to express its profound concern that SEPA has adopted a major change in its policy towards the remediation of radioactively contaminated sites in Scotland without a full consultation involving stakeholders and the public.

I am writing to ask you if you were aware of this major shift in policy and at what point did you become aware that the SEPA Board was considering this matter and whether you were consulted? We would also respectfully ask that you request SEPA to suspend any actions on this shift in policy until a full and comprehensive consultation is undertaken.

SEPA has agreed the following policy statement for existing contaminated sites and others that may arise: *"after compliance with the contaminated land regulations has been achieved SEPA encourages further remediation by the responsible person and will work to enable this provided that this achieves more good than harm and accepting that at some sites it will not be practical to return the land to a pristine condition"*.

To support this change in policy the report (SEPA 24/11) to the Board referred to "the series of reports and recommendations SEPA has received" although no references or any details were provided in support of this statement.

It is the issue of Dounreay's radioactive contamination of the seabed and foreshore that the Council has been most closely concerned with. However, the Council is also concerned at the implications for other sites in Scotland already known to be contaminated or those sites identified in the future. Indeed the decommissioning of Scotland's nuclear power and other

licensed sites has the potential of identifying a significant number of locations judging by the experience at Dounreay and other decommissioning sites in the UK.

Currently, of course, the change in policy most concerns the contamination of Dalgety Bay. Local residents will be unaware of the new SEPA policy and probably mistakenly think the environment agency's primary aim is to try and return the beach to its former pristine condition. There must be concern that the Ministry of Defence, anxious about the financial implications, will welcome the policy shift and try to highlight any potential environmental harm as early as possible.

The report to the Board (SEPA 24/11) is surprisingly brief and only refers in passing to the Radioactive Contaminated Land (Scotland) Regulations 2007 and the amendments in 2009.

While there is reference to the 1998 Board decision regarding the seabed around Dounreay, there is no explanation of the Board's existing policy towards the remediation of contaminated sites other than the Dounreay seabed and foreshore. It is assumed that the reference to "other areas" refers solely to Dounreay.

However, SEPA 24/11 seems to imply that the 1998 policy adopted for Dounreay also applied to other contaminated sites, for example, the reference to "pristine condition" in paragraph 2.4 when referring to other land sites.

The Board's previous policy for Dounreay, and possibly other sites, was that "the primary aim" should be to restore the affected area to a clean pristine condition". It is quite clear that the policy does not state that affected areas must be restored to a pristine condition, only that this should be the "primary aim".

This is a perfectly reasonable primary aim when considering remedial work at any contaminated site. Further research, investigation and remedial work might show this primary aim to be unachievable, or possibly even undesirable. Then, after consultation with stakeholders and the public, a secondary target might be adopted, which had an aim of getting as near as possible to a pristine condition.

The Council believes SEPA's significant policy change regarding radioactive contaminated land should be subject to public scrutiny through a consultation that provides full information, including an explanation of the regulations and their application to both the previous and proposed new SEPA policies, and publication of the reports and recommendations referred to in SEPA 24/11.

Finally the Council notes from SEPA 24/11 that the change of policy would "be communicated publicly through the auspices of the meeting". However, the only press reports the Board decision generated, as far as the Council is able to determine, concerned Dounreay and the particle contamination. The fact the new policy applied throughout Scotland was completely missed.

It is clear that the details and implications of the new policy have not been effectively communicated to the public so the Council is writing to other local authorities and NGOs to highlight the wider significance of SEPA's decision and is also informing the media of our actions.

Yours sincerely,

Austin Taylor
Heritage Manager

MSP, MP
SIC Media List
Dounreay Stakeholder Group
Campbell Gemmell, Chief Executive SEPA
Convenors - Highland Council, Western Isles Council, Orkney Islands Councils
SCCORS
Nuclear Free Local Authorities (Scotland)



Agency Board Meeting 20 September 2011

Board Report Number: SEPA 24/11

Remediation of Radioactively Contaminated Sites

Summary:

Following discovery of seabed contamination near Dounreay the SEPA Board, in 1998, recommended that the seabed around Dounreay should be returned to a 'pristine condition'. At this time no legislation covering radioactively contaminated land was in place in the UK. Since that time significant work has been undertaken on the seabed particle contamination and it is now known that a literal return to a pristine condition is a far from simple or even achievable concept. The process of trying to achieve this pristine condition might also cause more harm than good. It is recommended that SEPA, whilst seeking full compliance with the legislation now in place, should encourage remediation of radioactively contaminated land sites in so far as it is practically achievable noting proportionality and the balance of doing more good than harm. In some cases it is impracticable and unnecessary to return the environment to a pristine condition. This paper proposes a practical way forward in the light of the series of reports and recommendations SEPA has received.

Risks:

Adoption of the recommendation would allow SEPA to have a consistent approach to the achievement of clean, safe and desirable end points for tackling radioactively contaminated land across Scotland.

Financial

Nil

Implications:

Staffing

Existing resources

Implications:

Environmental and

Nil

Carbon Impact:

Purpose of the

For approval

report:

Report Author:

Dr Paul Dale, Principal Policy Officer, Radioactive Substances
Dr Campbell Gemmell, Chief Executive

Appendices:

None

Remediation of Radioactively Contaminated Sites
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1. Introduction

- 1.1 Following the detection of fragments of irradiated nuclear fuel ("particles") around Dounreay and further detection of particles on the seabed in 1997 the SEPA North Region and consequently Agency Board recommended in 1998 that the seabed around Dounreay should be returned to a 'pristine condition'. At this time relatively little was known of the provenance, distribution or impact of the particles nor was any legislation in place to deal with radioactively contaminated land. SEPA's position helped to ensure effective investigation of the issues via ongoing monitoring by the operator, health impact research by SEPA and establishment of a group of independent experts (Dounreay Particles Advisory Group, DPAG) to provide advice to SEPA and the Dounreay operator on the particle issue.

2. Development of the Issue

- 2.2 Since 1998, much work has been undertaken on the particles issue and there has been significant progress in our understanding of the radioactive particles derived from fuel fragments at Dounreay and found in the neighbouring environment. After four detailed reports by the DPAG, much more has been learnt about the particles' origins, provenance, transport and mobilisation and deposition on and offshore. SEPA has also gained much more knowledge about the hazard they pose to health. This has allowed the classification and categorisation of particles and appropriate monitoring and recovery regimes on and off shore to be developed. Depending on their potential health impact particles are now categorised from minor to significant. In addition in 2007 the Radioactive Contaminated Land (Scotland) Regulations were introduced setting up a regime for dealing with such radioactively contaminated land issues.
- 2.3 It is now understood that large scale disruption of the sea-bed and near-shore environment to retrieve the greater proportion of *all* radioactive particles, including minor ones which are not now assessed as posing a threat to human health, would have the potential to cause more harm than good, which runs contrary to the requirements of the EURATOM Basic Safety Standards 96/29 and would exceed the requirements of the Radioactive Contaminated Land (Scotland) Regulations. A literal return to a pristine condition is neither practical nor appropriate. A selective and targeted approach is now right for this situation.
- 2.4 Other radioactively contaminated land sites have been identified in Scotland and others may arise. The principles of compliance with the standards set by the 2007 regulations together with support for further operator led remediation in so far as more good than harm is achieved while recognising that in some cases it is impracticable and unnecessary to return the environment to a pristine condition should also be applied to them.
- 2.5 It is therefore recommended that the Board supports a statement that "for existing radioactively contaminated land sites after compliance with the contaminated land regulations has been achieved SEPA encourages further remediation by the responsible person and will work to enable this provided that this achieves more good than harm and accepting that at some sites it will not be practical to return the land to a pristine condition".

3. Recommendations

- 3.1 The Board is invited to approve the statement set out in paragraph 2.5 above and to note that it will be communicated publicly through the auspices of the meeting.

Dr Paul Dale
Principal Policy Officer
Radioactive Substances

Dr Campbell Gemmell
Chief Executive

25 July 2011

