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Our Ref: AT/MR/EL26211  
Your Ref:

Date: 26 October 2011

Dear Mr Sigsworth,

### 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.

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.

I should advise you that we have sent a similar letter to Richard Lochhead MP, Cabinet Secretary for Rural Affairs and the Environment.

Yours sincerely,

Austin Taylor  
Heritage Manager

Cc:

MSP, MP  
SIC Media List  
Dounreay Stakeholder Group  
Campbell Gemmell, Chief Executive SEPA

