

DSG(2011)C273

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14 November 2011

Dear Mr Taylor

REMEDICATION OF RADIOACTIVELY CONTAMINATED SITES

Thank you for your letter of 26 October, which I have now had a chance to discuss with my Chief Executive, Dr. Campbell Gemmell, who was instrumental in setting up the Dounreay Particles Advisory Group (DPAG). I am happy to provide further detail, below, but let me be clear, in summary, that I am confident that the approach taken by SEPA's Board is entirely appropriate in relation to our understanding of the radioactive releases from the Dounreay site and our duties in that regard.

The 1998 statement of SEPA's North Regional Board, relating to the Dounreay particles offshore, applied specifically to the situation at Dounreay. This was made at a time when no national legislation was in place aimed specifically at addressing existing situations on such areas of radioactively contaminated land.

At that time relatively little was known of the provenance, distribution or impact of the particles. Since 1998 significant investigation of the issues relating to the Dounreay particles has been undertaken by the operator together with specific health impact research by SEPA and a group of independent experts (Dounreay Particles Advisory Group, DPAG) has been established which has produced 4 comprehensive reports on the issue. Most DPAG meetings also had an open forum for public and media questions. These DPAG reports and recommendations are those to which our board paper refers and these have all been published (2001, 2003, 2006, and 2008). They remain available on our web site and were widely reported in the press when released. They were also made available to the Dounreay Local Liaison Committee and its successor the Site Stakeholder Group, of which your council is a member.

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 article 48 and the requirement for Justification when applied to interventions which explicitly requires that they should do more good than harm.

It would be inappropriate to require remediation to a level where the final state of a site was worse than prior to remediation. For example at Dounreay it would be disproportionate to remove every 'minor' particle from the seabed when such particles pose no realistic risk to health and would be highly likely to result in the destruction of an entire ecosystem.

While today our national regulations concerning any conventional contaminated land or radioactively contaminated land both derive from Part 2A of the Environmental Protection Act 1990, the International Commission on Radiological Protection (ICRP) provides the basis for the protection standards for humans and the environment from radioactivity. The ICRP clearly defines three types of potential exposure situations: emergency, planned and existing situations. The ICRP advice on these matters is subsequently incorporated into international legislation by the International Atomic Energy Agency (IAEA) and also by the



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EU under the EURATOM Treaty. The UK is a signatory to both of these treaties and is therefore legally bound to ensure a system of protection which is consistent with those treaties. ICRP recommendations are widely consulted upon during their development.

In 2007, EURATOM requirements for existing situations were given effect by the Radioactive Contaminated Land (Scotland) Regulations which set up a regime for dealing with existing radioactively contaminated land issues which were not otherwise being addressed via the planning route. These were subject to normal consultation arrangements. This provides a clear basis for intervention which is consistent with the approach for conventional contaminated land sites; that land should be made fit for current use with any subsequent further remediation being controlled by the land use planning system. This approach has been applied by local authorities and environmental regulators in the UK since at least 1990.

The difference between the RCL and conventional contaminated land regimes is that administratively the RCL regulations are a duty on SEPA whilst conventional contaminated land regulations are a duty placed primarily on local councils; however the overall objectives are consistent between both regimes.

It is my belief that the SEPA's recent board statement on RCL sites in Scotland is consistent with international treaties, best practice and with the approach for conventional contaminated land sites.

With respect to the dissemination of our Board paper this was made publicly available on our web site prior to our board meeting, and as you acknowledge, stimulated press interest and coverage in both Scottish and UK media.

As your letter to me was copied to the Cabinet Secretary for Rural Affairs and Environment, Richard Lochhead, I am similarly copying him on my response. In addition, as your letter appears to set out the formal position of Shetland Islands Council on this matter, I am copying my response to both the Chief Executive and Leader of the Council respectively.

Yours sincerely

**c.c. Richard Lochhead, Cabinet Secretary for Rural Affairs and the Environment
MSP, MP
SIC Media List
Dounreay Stakeholder Group
Campbell Gemmell, Chief Executive SEPA**