

Mike Hedges AM,
Chair of Climate Change, Environment, and Rural Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

21 November 2017

Dear Mike Hedges AM,

RE: Disposal of dredged sediment at sea under marine licence 12/45/ML

Thank you for your letter dated 13 November. Please see below responses to the questions that you raised in your letter.

Question 1: Can you explain the process NRW will undertake to ensure that the dredged sediment is “suitable” for deposit in the Cardiff Grounds site?

We approved the licence holder's most recent sample plan in January 2017 (as required by licence condition 9.3). We consulted with Cefas¹ as part of this process to secure expert technical advice on the appropriateness of the proposed sample plan.

It is the applicant's responsibility to arrange for the samples to be collected from the locations identified in the approved sample plan. We understand that the licence holder has also commissioned Cefas to collect and then analyse the samples. Chemical contaminants will be assessed against Cefas Action levels (Cefas's guideline action levels for the disposal of dredged material are not statutory contaminant concentrations for dredged material but are used as part of a weight of evidence approach to decision-making on the disposal of dredged material to sea). The radiological assessment will follow the conservative generic radiological assessment procedure developed by the International Atomic Energy Agency (IAEA). Cefas will provide us with their advice on the suitability for deposit in the Cardiff Grounds site based on the results of those assessments.

We will then consider the conclusions of this advice in consultation with our internal technical experts (our internal radiological experts will liaise with Environment Agency (EA) nuclear regulatory contacts in providing comments) and Public Health Wales.

¹ [Centre for Environment, Fisheries and Aquaculture Science](#)

NRW will then determine if it is satisfied that the material is suitable for disposal in the Cardiff Grounds site. The licence holder will require prior written approval from NRW before it commences any disposal activities.

Question 2: *Can you clarify how you will assess whether the grounds for suspension outlined in Section 72 have been met in relation to the results of the new samples acquired in May and reported to NRW in September 2017? Against what criteria would those grounds be assessed?*

We should clarify that NRW did not receive any sample results in September 2017. We understand that a new suite of samples has been taken and we are awaiting the results and conclusions from the licence holder.

There is no need to consider licence suspension. Licence condition 9.5 prohibits the licence holder from depositing any material after 4th March 2016 without our written confirmation that we are satisfied that the material is suitable for deposit in the Cardiff Grounds site. We will not give this approval unless we are satisfied that the material is suitable for disposal.

Question 3: *EDF Energy has told the Committee that its initial tests investigated over 50 radio-nuclides but only three radio-nuclides were detected. Can you confirm this is the case?*

It would be helpful if the Committee could confirm which specific report is being referred to and we will provide a further response.

However, with respect to the separate independent radiological assessment that NRW contracted Cefas to undertake as part of the Marine licence determination process “*Radiological Assessment of Dredging Application for Hinkley Point C Power Station, Somerset (2013) CEFAS Environment Report RL 05/13*”, a sampling and analysis programme was developed in accordance with IAEA guidelines.

Samples were collected and analysed by gamma-ray spectroscopy to determine the levels of gamma emitting radionuclides (both man-made and naturally occurring) and results were reported for Am-241, Co-60, Cs-137, K-40, Ra-226, Th-232, U-238. In addition to these, the Am-241 data was used to derive estimates for Pu-239,240, Pu-241 and Pb-210. The activities of these alpha-emitting radionuclides were included in the same assessment.

The Cefas report concluded that the total radiation doses to individual members of the public and (dredging) crew, and collective doses, were within de-minimis criteria using assessment methodology developed by the IAEA. The results of which were reviewed by NRW with support from the EA to support our decision to issue a marine licence.

Question 4: *Would you be prepared to consider commissioning a third party to review the findings of those tests? I trust that you will, in any event, share with this Committee and make public the findings of the most recent tests from May 2017.*

Cefas are an independent third party and are recognised experts in this field of work. We are confident in their competence as a provider of expert technical advice. Our radioactive substances regulation specialist was also consulted on the 2013 radiological assessment. The specialist liaised with the EA’s lead regulator for Hinkley. Both agreed that the Cefas

report was an adequate assessment of the radiological impacts and agreed with its conclusion.

We will follow the same process when we receive the suite of results for the 2017 samples, as well as consulting Public Health Wales.

We will be happy to share the results with the Committee and make them public once we have concluded our assessment.

Question 5: *What is NRW's view on this issue? Is NRW satisfied that no further analysis of samples from beneath the surface is necessary?*

NRW is satisfied that no further analysis of samples from beneath the surface is necessary, because of the sampling that was undertaken at various depths in 2009.

There is no scientific evidence of higher radioactivity residing at depth in sediments in the Hinkley area. Radiological monitoring of sediments at Hinkley Point is undertaken each year as part of the food, environmental and dose monitoring programme, the results of which are reported in the annually published "Radioactive in Food and the Environment (RIFE)" report. The RIFE report represents collaboration by the environment agencies, Food Standards Agency and Food Standards Scotland across the UK, independent of industry.

Analysis of the monitoring provided by the applicant as well as the ongoing trend analysis of the results of the annual RIFE monitoring programme, shows no indication that deeper sediment layers have higher levels of radioactivity than the surface layers at Hinkley Point.

Question 6: *Has an Environmental Impact Assessment been undertaken in relation to this specific licence? If not, why? Is NRW satisfied that in looking at this application for a licence to dispose dredged material at sea, that a robust process was followed that gave sufficient consideration to the protection of the marine environment and protection of human health?*

The applications were initially received and processed by Welsh Government (WG) Marine Consents unit. Significant progress had been made on both applications when they were transferred to NRW on vesting day (1 April 2013), when NRW was delegated the Welsh Marine Licencing function on behalf of Welsh Ministers.

We understand that the Welsh Government, as appropriate authority, took the decision that it was not necessary to determine this application under the Environmental Impact Assessment process. We therefore, in good faith, continued the determination of the marine licence application on that basis.

When NRW issued the marine licence in July 2014 we were satisfied that a robust process had been followed to ensure that the licence fulfilled its requirements of preventing pollution of the environment, harm to human health or impact to legitimate users of the sea.

Question 7: *Is NRW satisfied it has sufficient data and information on the material, such as sediment samples at depth and testing for radioactivity, to assess in a reliable way the impact of the disposal of the material?*

We are confident that, providing the agreed sampling plan is followed, we will have sufficient data when the reports are submitted. We are satisfied that samples at depth have already been taken and that an appropriate assessment of any potential radiological contamination has been undertaken of all sample results received to date.

We await the submission of the results and conclusions of the samples taken in 2017. We will follow the same procedure, with advice from technical experts, to satisfy ourselves that the sediment does not contain any chemical or radiological contamination which would make it unsuitable for disposal in the Cardiff Grounds site.

Question 8: Can you explain the process undertaken by NRW to scrutinise this latest analysis and in doing so, satisfy itself that the conditions of the licence continue to be met?

As stated above we have yet to receive the sample results and conclusions for the samples taken in 2017.

The approval of a sampling plan under licence condition 9.3 does not mean we have approved the disposal of the sediment. As stated above this requires prior written approval following our assessment of the sample results.

A monitoring plan must also be submitted for our approval under licence condition 9.1 (this plan is aimed at monitoring any build-up of material on the sea bed, rather than chemical or radiological contamination). There have been some discussions between us, the licence holder and our technical experts regarding the scope of such a plan, but we have not received a plan for our approval.

Question 9: Can you inform the Committee of any advice NRW received from the Cabinet Secretary or her officials on this issue and the actions you are taking in response?

We have not received any advice from the Cabinet Secretary or her officials in the context of discharging any of the conditions associated with this Marine licence. However, as NRW is an arms-length sponsored body, which makes decisions independently, we would not expect to receive, or seek, such advice from Welsh Government since we make our evidence-based decisions independently.

We have, however, as is normal practice, met with officials from WG 's Marine and Fisheries Department to agree our communication strategy, and share our current position statement. Such actions were necessary given the level of public interest with this proposed dredge/disposal operation so that Welsh Government were briefed on our previous and current regulatory activities associated with this Marine licence.

Question 10: Are you satisfied that the public were consulted sufficiently during the process under Section 69 of the Marine Act?

We are satisfied that a public consultation was undertaken during the determination of the licence application in accordance with our procedures and legal obligations. The consultation period commenced on 13th September 2012 for and lasted for 28 days.

This included the advertisement of public notices in the Western Mail. The notices directed the public to the application documents which were held at Cardiff Central Library.

Question 11: Can you confirm that NRW is satisfied that the marine licensing process is robust, fit for purpose and that NRW has sufficient resources to administer it? Are there any aspects of the marine licensing process you believe could be improved, or any matters you would like to draw to this Committee's attention?

We are proud and confident of the level of experience, knowledge and technical ability we have developed within NRW to support the delivery of the Marine licensing function, following its delegation to us in 2013.

We are satisfied that the Marine licensing process is robust and fit for purpose and that the licences that we issue adequately protect the environment, human health and legitimate users of the sea.

In April 2017, Welsh Government brought in a new fees and charges system and enabled NRW to move to a model of full cost recovery from our licensing activities. This new model allows us to ensure that the level of resources can be adapted to reflect the level of licensing work being received. It also supports the procurement arrangements we have in place for the provision of specialist technical advice and support, through a dedicated budget.

To provide a forum for communication and a joined-up approach to the delivery of marine regulation in Wales, NRW and Welsh Government have created the Wales Marine Licensing Group. This forum creates the opportunity for liaison between WG Policy, WG Enforcement, WG Marine Planning, NRW Regulatory Advisors and NRW Marine Licensing.

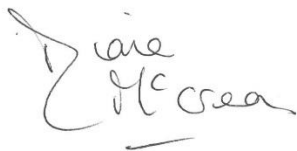
NRW and WG have also established a Marine stakeholder group to help inform the strategic direction of marine regulation in Wales. The stakeholder group also provided valuable input in the recent marine fees and charges review. NRW are active members of industry groups such as Marine Energy Wales, the Welsh Ports Group and the Marine Aggregates sector. These interactions help improve our understanding of our customers, and provide us with vital feedback to further improve our customer experience.

NRW endorses and supports the principle of 'continuous improvement'. Since the Marine licensing regime was brought into the NRW Permitting Service, we have already seen many process efficiencies, such as shared services for administrative tasks and knowledge transfer across the licencing regimes through a Technical Leads Group. We recognise that there are always areas where improvements can be made, such as in the production of guidance and additional website information for customers. We very much see this as an ongoing process that we need to deliver in conjunction with our partners and stakeholders.

It is worth drawing the Committee's attention to the WG's draft Welsh National Marine Plan (WNMP), which is nearing completion. Once implemented, we hope that it will provide better clarity for developers on the appropriate locations for particular marine activities and support NRW with its marine licensing decision making process.

I hope that you find these responses satisfactory. Please let me know if you would like any further clarification or information on the responses in this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Diane McCrea'. The signature is written in a cursive style with a large initial 'D'.

Diane McCrea

**Cadeirydd, Cyfoeth Naturiol Cymru
Chair, Natural Resources Wales**