

Memorandum

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and
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To: **Glen Bridge** NII Information Officer

M3185-A23

From: **John H Large**

23 November 2009

Cc: David Hoadley – SCANS

Subject: **SOTONSAFE – NII RESPONSE TO M3185-A16**

Thank you for your response to my M3185-A16 request of 29 October 2009 - I have reproduced the text of your response belowⁱ for ease of reference.

First, I am appreciative of your informative and generally helpful response.

For your further information and understanding, you should note that I am aware of the relationship between the NII and DNSR over the regulation of non-licensed naval nuclear sites specifically *G/INS/004* and *G/INS/005* dealing with Z-berths and, of course, *SIM 07/2001/46* reviewing the *HSE/MoD General Agreement*.ⁱⁱ

I framed my request M3185-A16 on my understanding that the NII's access to design and operational features of naval nuclear propulsion plants, including the nuclear fuel and the hull/bulkhead containment envelopes, is unlikely to have been entirely unfettered. I judged that these very same design and operational features would determine the nature, extent and, along with the prevailing atmospheric conditions, the dispersion of any radioactive release that this, itself, would result in, *inter alia*, the dose exposure in the public area beyond the berth EZ (ie the submarine itself). It follows, therefore, that for the HSE-NII to have arrived at the informed opinion necessary to set the radiation emergency area it should have had complete access to all relevant design and operational features.

This was the basis of my M3185-A16 request, being the quite clear and straightforward question:

Did the NII have complete and unrestricted access to the full nuclear safety case prepared by DNSR?

With respect, this question is not answered by the 2nd paragraph of your response.

Moreover, your statement following referring to HSE and DNSR jointly assessing the off-site emergency zones, alludes to restrictions imposed (ie it was 'governed') by the General Agreement between the HSE and MoD and, in your 3rd paragraph although you state that all relevant documents were available, it was the 'outcome' of 'DNSR's part' of the regulatory assessment suggests to me that the HSE-NII had to rely upon an *outcome* or summary of the DNSR's regulatory HIRE assessment. The role of or 'part' played by DNSR is also referred to in HSE-DNSR regulatory assessment statement of 30 April 2009 (D3NON 70059) which refers to the joint strategy adopted to assess the HIRE with

'DNSR *providing the detailed technical assessment*', again suggesting that HSE was reliant upon DNSR in the absence of the NII having full access to the detailed HIRE assessment.

At the Southampton public meeting of 4 November 2009 Commander Dabell, a MoD nominated member of the SEPG, refused to answer the very same question, stating that it was a matter for the HSE NII to address. However, for some reason the NII representative of the SEPG chose not to attend the public meetingⁱⁱⁱ and so was not available to respond to this and other questions from the public.

So as it stands at this time and in light of your written response to my M3185-A16 request, nobody seems to be prepared or is available to answer my straightforward question.

Perhaps, further light will be shed on this apparent concealment when, eventually, you provide me with the Catalogue or Index requested under *Item 1*) of my first request M3185-A8 of 25 October 2009.

ⁱ 20 November 2009 14:35
Freedom of Information Request No: 2009110142

Dear Mr Large

Please let me clarify the position regarding the preparation and the assessment of the nuclear safety case, Hazard Identification and Risk Evaluation or Reports of Assessment in the context of your request. These documents were all produced by the operator, that is MoD Fleet and its supporting organisations. The role of DNSR in this area is that of a regulator, working with the statutory regulator, HSE.

The regulatory assessment underpinning HSE's determination of the extent of the off-site planning zone for the Southampton operational berth was carried out jointly by DNSR and HSE's NII. The conduct of this assessment was governed by the General Agreement between MoD and HSE and implemented through a joint assessment strategy.

Whilst many of the documents considered contained classified information, all details of the nuclear safety case, Hazard Identification and Risk Evaluation or Reports of Assessment were included within the scope of this joint assessment. The division of work in the assessment strategy reflected the two parties' specialisms, but all relevant documents were fully available to both bodies. The outcome of DNSR's part of the regulatory assessment was fully considered by HSE/NII in reaching its determination regarding off-site emergency planning.

Regarding the 1958 UK - US Mutual Defence Agreement, the full text is in the public domain and you should be able to find it through an internet search engine.

We hope that you find this sufficient in terms of answering your request as below, please contact myself via ND Enquiries (NDenquiries@hse.gsi.gov.uk) if you have any further requirements.

ⁱⁱ I am also aware that the licensing requirements of the *Nuclear Installation Act 1965* do not apply to the use of a site (in this instance the Z-Berth) involving nuclear reactors comprised in a means of transport and that, similarly, the NII cannot seek to influence the design of such a nuclear plant and thus dictate in any respect the manner and outcome of the relevant nuclear safety case for which DNSR is the sole authority responsible for judging the adequacy of the nuclear plant, its fuelling system and radiological containment barriers. So far as its involvement in any aspect of the nuclear plant, etc., of a Royal Navy submarine, I understand that the NII does not have a right to obtain clarification of information held by the Ministry of Defence (MoD) which may be restrained by the terms of the *UK-US 1958 Mutual Defence Agreement*.

And, more generally, my understanding is that the NII's *Safety Assessment Principles* (SAPs) have not necessarily yet been integrated into the regulatory process for the nuclear propulsion plant; that the hazards arising from potential interaction with other equipment and substances carried on board the submarine are not openly accessible to the NII in that, specifically, G/INS/004 refers to '*those hazards inaccessible to NII regulation*'; and that the DNSR HIRE assessment is confined to the nuclear propulsion plant and excludes malicious action as a result of saboteur or terrorist attack, and other external events that are considered by DNSR to be '*outside the scope of submarine operations*'.

Moreover, I understand that there are no arrangements whatsoever for the HSE-NII to have access to any part of the operation, risk assessment, and outcome of any nuclear safety case of an overseas nuclear powered and/or armed warship that may be invited to berth at Southampton.

ⁱⁱⁱ As an aside, I find it difficult to understand and reason why the NII representative to the SEPG did not attend this public meeting, particularly in that i) the public meeting opened immediately following the SEPG meeting, ii) when the presence of SCANS was well publicised ahead of the meeting by Graham Wyeth, Chairing the SEPG, and iii) when the individual NII representative must have been aware of the not inconsiderable public concern being raised over the proposed revisions to the Z-Berth emergency planning zones, these being exclusively set by the HSE NII.