

From: Kipling, Sam [mailto:SAM.KIPLING@environment-agency.gov.uk]
Sent: 21 May 2015 06:05
To: White Rose CCS
Subject: EA Representations - 10030429

Dear Sir or Madam,

Our network appears to have been restored so I am now able to access our representation files, which I attach to this email.

Notification of wish to speak at a compulsory acquisition hearing

We can confirm that we do not wish to speak at the compulsory acquisition hearing.

Notification of wish to speak at the issue specific hearing on the draft Development Consent Order (DCO)

We do not consider it necessary for us to attend the DCO hearing and are content to make representations about the DCO in writing.

Notification of wish to speak at issue specific hearing on environmental issues

We may wish to attend the issue specific hearing on environmental issues, depending on the progress made with the applicant on our outstanding concerns between now and then. It is our hope that these can be resolved and that attendance will not be necessary, but we cannot yet be sure of this.

Notification of wish to speak at an open floor hearing

We can confirm that we do not wish to speak at an open floor hearing.

Notification of wish to attend accompanied site inspection

We can confirm that we do not wish to attend the accompanied site inspection. We have previously visited the site.

Statements of Common Ground requested by the ExA – I can confirm that the EA were provided with a very early draft of a SoCG in September 2014. At the time we declined to review it on the basis that, at the time, there was little ground to agree or disagree having not had the benefit of receiving either DCO or permit applications. We contacted CPL on 10 April 2015 requesting an updated SoCG following our review of the DCO application and the submission of our RR and were told in an email from CPL on that same day that we would be provided with one within 3 to 4 weeks. I can now confirm that we received an updated SoCG in an email from Geoff Bullock of Dalton Warner Davies (working on behalf of CPL) dated 20 May 2015. Comments have been requested by no later than 3 June 2015. We clearly have had insufficient time to review this document so are unable to provide any agreed SoCG to the ExA.

I apologise again for having missed Deadline 1 and for any inconvenience caused.

Kind regards

Sam Kipling

Sustainable Places - Planning Specialist

Environment Agency Yorkshire Area
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sam.kipling@environment-agency.gov.uk

I split my time between Coverdale House in York and Lateral in Leeds. Please direct any post to our York office.

New Flood Risk Standing Advice

Our Flood Risk Standing Advice has been updated and can be found [here](#).

Changes to the DMPO

There have been recent changes to the [DMPO](#) and to our consultation arrangement.

Planning Advice Cost Recovery

From 3rd March 2014 we began recovering our costs for some of our planning advice by charging.

For more information please see our web pages at

<https://www.gov.uk/government/publications/planning-advice-environment-agency-standard-terms-and-conditions> or speak to your local Sustainable Places team.

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National Infrastructure Directorate
Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our ref: RA/2015/131206/02-L01
Your ref: EN10048
Our ID: 10030429
Date: 20 May 2015

WRITTEN REPRESENTATION

Dear Sir/Madam,

THE WHITE ROSE CCS (GENERATING STATION) DEVELOPMENT CONSENT ORDER. LAND WITHIN AND ADJACENT TO THE DRAX POWER STATION SITE, DRAX, NEAR SELBY, NORTH YORKSHIRE.

Further to our previous Relevant Representation we would like to provide the following Written Representation. Since our Relevant Representation we have received an Environmental Permit application and have held further discussions with National Grid. As such, this Written Representation will expand upon or repeat previous points which remain unchanged, as well as updating previous points which have changed as a result of these further discussions.

1.0 Flood Risk (These comments have been updated to reflect the jetty works)

1.1 We have been involved with pre-application discussions regarding the proposed works in respect to flood risk and, in particular, breach analysis. We can confirm that the submitted FRA, and associated breach analysis, are acceptable. We are content that the risks are adequately understood and that suitable mitigation measures have been proposed.

1.2 We would however like to request some minor amendments to proposed requirement 13, so that it more precisely reflects the mitigation measures put forward in the ES. These changes, requested in our Relevant Representation, do not appear to be reflected in revision 2 of the draft DCO and therefore remain outstanding.

13.(1) No part of the authorised development may commence until a scheme for the mitigation of flood risk during the construction and operation, has, for that part, been submitted to, and following consultation with the Environment Agency,

been approved by the relevant planning authority. *The scheme shall include, but will not necessarily be limited to, the following:*

(a) A Flood Emergency Response and Contingency Plan;

(b) Land-raising of the development platform to a minimum height of 5.0 metres Above Ordnance Datum;

(c) Finished floor levels of all buildings shall be set at a minimum level of 5.13 metres Above Ordnance Datum;

(d) Sensitive equipment shall be raised to a minimum level of 5.13 metres Above Ordnance Datum.

(2) The scheme submitted and approved must be in accordance with the principles set out in the environmental statement, *in particular the FRA (ES Volume 2 Chapter C.1) and Indicative Site Raising Drawing (Work Nos. 1A and 1B).*

(3) The flood risk mitigation must be constructed in accordance with the approved details unless otherwise agreed with the relevant planning authority.

(4) The authorised development may not be commissioned until the flood risk mitigation has been constructed.

(5) The approved flood risk mitigation scheme must be maintained throughout the construction and operation of the authorised development.

1.3 It should also be noted the River Ouse is classified as a Main River. The formal consent of the Environment Agency will therefore be required, under either the Water Resources Act 1991, or the Yorkshire Land Drainage Byelaws, for any works in, over, under, or within 8 metres of a Main River and/or the toe of a flood defence. The works to the east of the site, referred to as Works No. 6 in Section 4.4 of the Design & Access Statement, including those post-submission changes to the works on the jetty, appear to fall under this requirement. This requirement does not appear to be reflected in the document '5.3 Other Consents and Licences' which should be updated accordingly.

2.0 Surface Water Management (These comments have been updated since our RR)

2.1 We have reviewed the proposals for surface water management during both the construction and operation phases of development. We are content with the assessment provided but would like to request some amendments to proposed requirement 12, so that it more precisely reflects the mitigation measures put forward in the ES. These changes, requested in our Relevant Representation, do not appear to be reflected in revision 2 of the draft DCO and therefore remain outstanding.

12.(1) No part of the authorised development may commence until details of the temporary surface and foul water drainage systems (including means of pollution control, in accordance with the construction environmental management plan), have, for that part, been submitted to, and following consultation with the Environment Agency, approved by the relevant planning authority. *The details shall include a management and maintenance schedule to ensure that the drainage system remains fully operational throughout the construction of the development.*

(2) Details of the permanent surface and foul water drainage systems (including a programme for their implementation) must be submitted to and approved by the relevant planning authority, *in consultation with the Environment Agency*, prior to the start of construction of any part of those systems. *The surface water drainage details shall be based on sustainable drainage principles and shall include the following:*

(a) Provision of a minimum of 4,500 cubic metres of attenuation storage for the areas being drained north of Carr Dyke, which will be

- discharged along with the treated process water at a rate that is no greater than the existing permitted discharge for Drax Power Station;*
- (b) Provision of a minimum of 1,150 cubic metres of attenuation storage for the area being drained south of Carr Dyke, which will be discharged at a rate to be agreed with the IDB;*
- (c) A management and maintenance schedule to ensure that the drainage systems remain fully operational for the lifetime of the development.*

(3) The details submitted pursuant to sub-paragraphs (1) and (2) must be in accordance with the principles set out in the environmental statement,

particularly Section 4.2, of the submitted FRA (ES Volume 2 Chapter C.1) and the Surface Water and Flood Risk Technical Report (ES Volume Chapter C).

(4) The temporary and permanent surface and foul water drainage systems must each be constructed in accordance with the relevant approved details unless otherwise agreed with the relevant planning authority.

(5) The authorised development may not be brought into commercial use until the permanent surface and foul water drainage systems have been constructed.

3.0 Biodiversity (These comments have been expanded and updated since our RR)

3.1 We have reviewed the application and considered the proposed development's impact on those aspects of biodiversity which lie within our remit, i.e. water-related biodiversity. Matters of terrestrial ecology fall outside our remit and we would defer judgement on these issues to other more appropriate bodies such as Natural England.

3.2 Within our relevant representation we requested clarity about those mitigation measures necessary under Requirement 16. We received an email from Roderick Ellison of ERM (working on behalf of CPL) on 27 April 2014, which appended a memo titled 'Mitigation Gains and Losses Habitat Calculations' (dated 24 April 2015). The memo helpfully summarises the permanent and temporary habitat losses resulting from the proposed development. We feel it would be useful for this memo to be provided to the ExA by the applicant. An updated version has since been provided by Les Hatton of ERM dated 14 May 2015.

3.3 Amongst other losses, the memo confirms the permanent loss of ~1.48ha of pond and swamp as well as the temporary loss of ~0.18ha of pond. The memo describes that this will be mitigated for through the provision of a multi-functional attenuation/biodiversity pond (see our response to first written questions) of ~0.22ha. The memo acknowledges however, that there is a deficit in mitigation of ~1.26ha which is, as yet, unaddressed. This figure also assumes that the applicant will be able to adequately demonstrate that the proposed attenuation/biodiversity pond can be relied upon as biodiversity mitigation.

3.4 The issue of habitat loss and the need for adequate mitigation or compensation/offsetting has not been satisfactorily addressed through the application and, given this new information, we do not feel it is appropriate to defer this issue for resolution through Requirement 16. We request that the applicant provides evidence that the impacts of the scheme can be adequately mitigated, compensated for, or offset - in line with the Defra 2012 offsetting methodology.

3.5 We are in discussions with the applicant and other relevant organisations (Yorkshire Wildlife Trust and Natural England) to try to identify opportunities on and off site for providing the necessary biodiversity mitigation/compensation/offsetting and enhancement. An initial teleconference was held on 12 May 2015, with a follow-up

planned on 26 May 2015. We will update the ExA as and when further information on this matter is provided by the applicant.

3.6 As outlined in 3.2 of our Relevant Representation, we believe that currently, the investigation into opportunities for biodiversity enhancement is inadequate. The applicant has provided no evidence of any investigation into opportunities to contribute to biodiversity enhancement in line with 5.3.4 of EN-1. There currently exists no definitive list of enhancements which the applicant is committed to providing, and those measures discussed are vague and open-ended. At this stage, we would have expected to see a clear list of commitments from the applicant, demonstrating that, in accordance with 5.3.4 of EN-1, the applicant has taken advantage of opportunities to provide biodiversity enhancements.

3.7 As such, we would strongly recommend, as we have previously, that the applicant produces a clear schedule of biodiversity enhancement evidencing the investigation they have taken into identifying and evaluating opportunities to contribute to ecological enhancement through the project. This would enable the ExA to evaluate compliance with 5.3.4 of EN-1 and give certainty over the potential for positive biodiversity impacts to arise from the scheme. Given the possibility that the applicant may need to look off-site for biodiversity mitigation/compensation/offsetting, the applicant may wish to explore whether the requirement to take advantage of opportunities for enhancement may be best delivered through over mitigating/compensating/offsetting off site.

4.0 Environmental Permit (These comments have been updated)

4.1 The proposed project by Capture Power Ltd will fall under the Environmental Permitting Regulations 2010 (EPR) (as amended) which state that a permit is required for combustion of fuels in installations with a total rated thermal input of 50MW or above; this means that Capture Power Ltd or the operator, as defined in the Environment Agency RGN1 guidance, will need to apply for an Environmental Permit for the Project.

4.2 The provisions of the permit, as set out in the Industrial Emissions Directive 2010/75/EU (IED), are to ensure:

- All the appropriate preventative measures are taken against pollution (note: pollution includes substances, vibrations, heat or noise that may be harmful to human health or the quality of the environment).
- The best available techniques are applied.
- No significant pollution is caused.
- The generation of waste is prevented in accordance with Directive 2008/98/EC.
- Where waste is generated, it is, in order of priority and in accordance with Directive 2008/98/EC, prepared for re-use, recycled, recovered, or, where that is technically and economically impossible, it is disposed of while avoiding or reducing any impact on the environment.
- Energy is used efficiently.
- The necessary measures are taken to prevent accidents and limit their consequences.
- The necessary measures are taken upon definitive cessation of activities to avoid any risk of pollution and return the site of operation to the satisfactory state defined in accordance with Article 22 of the IED,

4.3 We have discussed the proposal with the applicant and promoted the benefits of parallel tracking the planning and permit applications to give us the opportunity of identifying any key issues of concern and to enable these to be resolved.

4.4 We will be assessing air emissions as part of the permit determination process. We provided the applicant with detailed feedback at pre-permit stage, explaining what will be required in the permit application in order for us to be able to accept the application and subsequently make an assessment.

4.5 An application to vary the existing Environmental Permit was received from CPL on 16 April 2015. There is currently insufficient information for the application to be duly made. We have notified the applicant that we will be asking for further information and explanations of the assumptions made in the application. Examples of the information we have requested include: a map showing the sources, site buildings and location of human and habitat receptors; running hours of the auxiliary boiler; baseline data used; clarification of buildings used in modelling; assessment of the impact of NMVOCs. The permit application will only be duly made when sufficient information has been provided.

4.6 Although we have reviewed the air quality modelling methodologies, we have not commented on the validity of the modelling conclusions. This will be done as part of the Environmental Permit determination. We therefore cannot comment at this stage on whether we are satisfied with them. To do so may prejudice our determination of the Environmental Permit application. We will update the ExA in due course regarding permit progress.

4.7 We have also made several observations relating to the applicant's use of expected guidance and methodologies for noise assessment. Noise impact from the installation will form part of a full technical assessment of the EPR permit application. Please also see our response to first written questions.

4.8 The ExA will be aware that the Environment Agency is unable to provide letters of no impediment in advance of Environmental Permit determination because we risk pre-determining the permit in breach of our duties to both consult and to have regard to those consultation comments we receive. In addition, the project's inclusion of novel and complex CCS technology means we are unlikely to be in a position during the course of the examination to provide any additional information to the ExA.

4.9 There are only two points in our permitting process where we can give a more detailed view: at a consultation on our draft decision, and on final permit determination. If we were to give a view on the permit application outside of these circumstances this could leave us open to legal challenge if it were considered that we had pre-judged an application without going through due process of assessment and consultation.

5.0 Abstraction Licence (These comments have been updated)

5.1 It is the applicant's position, as set out in document '5.3 Other Consents and Licenses', that a minor amendment to an existing Water Abstraction Licence will be needed from the Environment Agency under Section 24 of the Water Resources Act 1991 (as amended) to reflect the change to who uses the water. We would like to clarify that it will also be necessary to ensure that the water loss-factors (i.e. the proportion of abstracted water which is actually lost from the system through processes such as evaporation from cooling towers) included in the existing licence, do not need amending. If loss-factors are increased there may be an environmental impact which would need to be assessed as part of the abstraction licensing process. Any such impact would also need to be screened under the Habitats Regulations.

5.2 We would also like to clarify that whilst minor amendments to the existing Abstraction Licence may be possible, if a new licence or substantial variation is needed, the Canal and River Trust (CRT), who now manage this part of the River Ouse, would need to be the licence holder.

5.3 We have also included the following comments in response to first written question 7.9. There is currently insufficiently detailed information within the application to fully understand how water will be used as part of the project. Without this information we cannot definitively advise on what permits are required or what existing permits will need to be varied. They may not have to increase the overall licensed volumes, but it may be necessary to amend what the licence says about what the water is used for, including associated losses. Should any such change result in a significant shift in the abstraction's perceived impact on the environment, this will need to be fully assessed and considered as part of the abstraction licensing process.

5.4 Water use varies year to year. Currently they use approximately 77% of their borehole water, but it has been known for usage to be as high as 90%. The licence for surface water (from the River Ouse) has about 30% headroom. Further detailed information on this matter should be provided by the applicant.

6.0 Habitats Regulations Assessment (These comments remain unchanged)

6.1 The Environment Agency is the competent authority for the Environmental Permit under the Conservation of Habitats and Species Regulations 2010. As we have no permit before us, we have, to date, been unable to carry out a Habitats Regulations Assessment. However, we would be happy to engage in discussions about the principles of competent authority co-ordination with PINS, DECC and Natural England, where appropriate.

6.2 Capture Power's intention is that the White Rose project will stay within the existing permitted limits for water abstraction and discharge. Despite this, when considering subsequent applications, even if the limits aren't changing, we must still satisfy ourselves in relation to alone and in-combination effects based on the latest information about other projects and about relevant designated sites.

7.0 Waste Management (These comments have been updated since our RR)

7.1 We request that '*in consultation with the Environment Agency*' is added to the end of the first part of proposed requirement 25. This is to ensure that we are suitably involved with the proposals for waste management. This change does not appear to be reflected in revision 2 of the draft DCO.

7.2 We also request that the Soil Management Plan and Sediment Control Plan mentioned in section 6.2.2 of ES document '6.2.6 ES - Vol 1 Ch 6 – Summary of Construction Stage Effects', are properly secured through an addition to the second part of proposed requirement 18. These changes do not appear to be reflected in revision 2 of the draft DCO. We would suggest the following wording:

- (e) A Soil Management Plan; and
- (f) A Sediment Control Plan

8.0 Groundwater & Land Contamination (These comments have been updated)

8.1 We agree with the conceptualisation of the geology and hydrogeology of the site. The ES adequately identifies all potential sources of contamination existing on the site, as well as the environmental receptors and potential pathways.

8.2 The main environmental risks to groundwater come from the construction phase and are identified in the report. Moderate risks to groundwater exist from the operational and decommissioning phases.

8.3 The principal aquifer under the site is well protected by thick superficial deposits and the main environmental risks are to the shallow secondary aquifer beneath the site.

8.4 We accept the proposed mitigation measures and agree that if implemented will reduce the risk to sensitive receptors and minimise the environmental effects.

8.5 Dewatering on site during construction is expected to be temporary and small scale and unlikely to affect the discontinuous groundwater flow.

8.6 Please also see our comments provided in response to first written question 7.6.

9.0 Dis-application & Protective Provisions (These comments remain unchanged)

9.1 We note that there are no proposals in the draft DCO to dis-apply any legislation we would rely upon to control certain activities through the issuing of other permits or licenses. As such, the requirements of the Water Resources Act and Yorkshire Land Drainage Byelaws remain in force.

9.2 In the interests of clarity, our position is that paragraph 16 of Part 4 Supplemental Powers in no way over-rides the need for consent from the Environment Agency, or any relevant Lead Local Flood Authority or IDB under the Water Resources Act or the Yorkshire Land Drainage Byelaws.

10.0 Land Interest (These comments remain unchanged)

10.1 The Environment Agency has no interest in land directly affected by the proposed project. As such we are not affected by any compulsory purchase proposals nor is there any need for way-leaves or easements to be agreed with us for the project to progress.

Should you require any additional information or clarification, please don't hesitate to contact me on the details below.

Yours faithfully

Mr Sam Kipling
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