

# Net Zero Teesside Project (EN010103 / IP Ref: 20029846)

## Deadline 6 submission

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### Comments on information submitted at Deadline 5 and in response to ExQ2 DCO.2.13

1. At Deadline 5 the Environment Agency provided the following confirmation in respect of the carbon capture requirements that it anticipates being included in the relevant environmental permit for the proposed development (REP5-032, pp 4 and 9):

*“The Applicant will need to apply for a UK Emissions Trading Permit and Monitoring, Reporting & Verification requirements are addressed in the regulations and guidance for this. In addition, the Environmental Permit will require the capture plant to be built to achieve a specified capture rate (our current BAT position is a capture rate of CO<sub>2</sub> of at least 95%). We will utilise both the Environmental Permit and the UK Emissions Trading Scheme Monitoring, Reporting & Verification to verify performance.”*

2. The Applicants have stated that, in light of this statement, securing the capture rate in the DCO would “duplicate the controls exercised through the environmental permitting regime” (REP5-025, p. 16). However, this is not correct.
3. As ClientEarth has explained at Deadlines 2 and 4,<sup>1</sup> there is currently no indication that the environmental permit will require that the generating station is operated only when the carbon capture plant is also in operation, at a particular capture rate or otherwise. As the Environment Agency has confirmed above, rather than imposing a minimum level of emissions abatement on

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<sup>1</sup> At paras 2(a) and 2(b) respectively.

the generating station, the environmental permit will impose BAT capture rate requirements on the capture plant: “... *the Environmental Permit will require the capture plant to be built to achieve a specified capture rate ...*” (emphasis added).

4. If alternatively these capture requirements were to extend to the operation of the generating station, that the capture plant will required to be “*built to achieve*” a specified capture rate suggests that these requirements will relate only to the capture plant’s capability; in other words, it is not clear if and to what extent the permit will require the capture plant to achieve the specified capture rate during its commercial operation.
5. Accordingly, on the current information, there is no indication that securing a minimum level of captured emissions in the terms of the DCO would duplicate the environmental permitting regime. Moreover, the Applicants have not suggested that requiring the captured carbon dioxide to be exported to the wider offshore storage network in the DCO would result in duplication.
6. ClientEarth also observes that provisions securing both of these aspects were included in the final preferred Keadby 3 DCO, notwithstanding that the same confirmation on the scope of the environmental permit was provided by the Environment Agency in the Keadby 3 examination (as noted by the Applicants at Issue Specific Hearing 3).<sup>2</sup> ClientEarth maintains its position on the need for equivalent provisions also to be included in the Net Zero Teesside DCO.
7. ClientEarth would be happy to provide any additional information or clarification if it would assist the Examining Authority.

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ClientEarth is an environmental law charity, a company limited by guarantee, registered in England and Wales, company number 02863827, registered charity number 1053988, registered office 10 Queen Street Place, London EC4R 1BE, a registered international non-profit organisation in Belgium, ClientEarth AISBL, enterprise number 0714.925.038, a registered company in Germany, ClientEarth gGmbH, HRB 202487 B, a registered non-profit organisation in Luxembourg, ClientEarth ASBL, registered number F11366, a registered foundation in Poland, Fundacja ClientEarth Poland, KRS 0000364218, NIP 701025 4208, a registered 501(c)(3) organisation in the US, ClientEarth US, EIN 81-0722756, a registered subsidiary in China, ClientEarth Beijing Representative Office, Registration No. G1110000MA0095H836. ClientEarth is registered on the EU Transparency register number: 96645517357-19. Our goal is to use the power of the law to develop legal strategies and tools to address environmental issues.

<sup>2</sup> Environment Agency’s response to the Examining Authority’s further written questions and requests for information in the Keadby 3 examination, 12 April 2022: “*The Applicant will need to apply for a UK Emissions Trading Permit and Monitoring, Reporting & Verification requirements are addressed in the regulations and guidance for this. In addition, the Environmental Permit will require the capture plant to be built to achieve a 95% or greater capture rate of CO2 – the EA will utilise the UK Emissions Trading Scheme Monitoring, Reporting & Verification to verify performance.*”