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OUR REF T2783.4/CWI/FCG
YOUR REF EN010103
24 March 2023

David Wagstaff OBE
Deputy Director
Energy Infrastructure Planning Delivery
Department of Energy Security & Net Zero
1 Victoria Street
London
SW1H 0ET

Dear Sir

**North Sea Midstream Partners (Teesside Gas Processing Plant Limited/Teesside Gas & Liquids Processing)
Planning Act 2008 and the Infrastructure (Planning Examination Procedure) Rules 2010
Application by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited ("the Applicant") for an Order granting Development Consent for the Proposed Net Zero Teesside project ("the proposed Development")**

We refer to your letter of 10 March 2023 and confirm that we act on behalf of Teesside Gas Processing Plant Limited ("TGPP") and Teesside Gas & Liquids Processing ("TGLP") in relation to the above DCO application. TGLP and TGPP's interests are managed by North Sea Midstream Partners ("NSMP").

Before responding to Item number 6, we propose to briefly set out the nature and importance of our clients' facility. The Gas Processing Plant located at Seal Sands on Teesside is a highly efficient and flexible gas processing plant which has, since construction in 1993, been operated and managed to world class standards. As a major gas processing facility, the Gas Processing Plant is vital national infrastructure and supports the operation of approximately 30 natural gas fields in the North Sea. Any negative impact on the Gas Processing Plant's operation would have considerable impact on the UK's energy security. Together, the facilities have a combined capacity to process up to 19 million cubic metres of gas per day, representing approximately 10% of daily UK gas demand. The Gas Processing Plant also has unique processing equipment for deep liquids extraction, not available at any other processing facility on Teesside.

The engagement between the Applicant and our clients only occurred after the Examination had commenced. As a consequence, the first representation made to the Examination on behalf of our clients was not made until 23 June. Thereafter, our clients fully participated in the Examination and attended both ISH 5 and CAH 3 hearings. A fuller description of the plant and its nature is set out in Rep 5-041. During the course of the Examination, the following written representations were made: 3-018, 4-043, 5-041, 6-142, 9-035, 11-040, 12-167 and 13-032.

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Protective Provisions and Compulsory Acquisition matters

Our clients' position in respect of the protective provisions was set out in Rep 13-032 and the summary in relation to compulsory acquisition matters was set out in Rep 12-167.

Update

Since the close of the Examination, our client has sought to progress negotiation of a contractual settlement agreement with the Applicant. The settlement agreement contains detailed provisions to manage access to and construction of the Applicants' proposed Development within the vicinity of our clients' Gas Processing Plant, principally affecting Plots 108, 103, 105 and 106 including to facilitate the Applicant's access to Plots 110, 112, 113 and 114. The Applicant's proposed DCO and protective provisions do not adequately address our clients' concern in respect of maintaining unimpeded 24 hour access over the sole access road (within Plots 108, 103 and 106) to the Gas Processing Plant in a sufficient level of detail. In addition, the Applicant's proposed protective provisions are fundamentally inadequate in providing protection for our clients and the key national infrastructure which they operate.

Throughout the Examination, the Applicant has stated that it does not intend to use Plot 108 and 103 to access Plot 110, 112, 113 and 114 and that access to those plots will be taken from the main terminal road through the adjacent Cats North Sea Limited ("**CATS**") site. To date, our client has received no update as to the progress of securing rights over the CATS site. The access route required by the Applicant from the terminal road through the CATS site is not situated wholly within the order limits and our client has real concerns that the "fall back" position is to take access over Plots 108 and 103. Accordingly, the provisions in the settlement agreement to regulate access over roads our clients use is becoming more significant.

The proposed protective provisions put forward by the Applicant do not address key areas of risk to our clients of having the proposed Development on and adjacent to the Gas Processing Plant site and other assets owned, operated or used by our clients. In particular, the liability protection offered by the Applicant covers only the construction phase of the proposed Development and not its operation, which is intended to continue for decades and includes the ongoing operation and maintenance of a major gas pipeline. For detail on these and other fundamental gaps in the liability protection offered by the Applicant, please see our clients' written representation 13-032 which appends our clients' proposed protective provisions. In the event the DCO is granted, we urge you to mandate the adoption of our clients' proposed protective provisions to provide protection to our clients' key national infrastructure.

As of today's date, the settlement agreement is not in agreed form and there remain several key outstanding commercial matters such as the level of liability cap in respect of indemnities provided in the settlement agreement, scope of the indemnity protection, minimum level of insurance cover, satisfying our client on the covenant strength of the Applicant and level of costs to be covered by the Applicant. To assist the Applicant, our client has provided a list of rights, easements and pipelines that the Applicant should be aware of and consider as part of its design of the proposed Development. This was provided during the Examination period in 2022 but to date no response or comments have been received in respect of that list.

The last turn of the settlement agreement was sent to the Applicant's solicitor on 15 February together with a request for the Applicant to set out their counter proposals for the outstanding matters. A holding response was received on 08 March requesting dates for an all parties call but no response or counter proposals were put forward. A further request for counter proposals was issued on 13 March and to date no further response has been received.

With regards to voluntary acquisition of rights, our client has had no engagement from the Applicant since the Examination period. As a minimum, it is expected that the Applicant will require an easement across parts of our clients' freehold land in Plot 105. This land is subject to a lease and therefore a tripartite agreement will be required in order to properly grant the easement over Plot 105.


Conclusions

As you will appreciate from the terms of this letter and no doubt from the Examination Authority's Recommendation Report, this project is proposed at a location where there is a concentration of nationally important energy infrastructure. The Applicant should have been fully aware of the sensitivities of locating this development in this type of environment. Against that background, our clients are very disappointed about the failure of the Applicant to meaningfully try and resolve the various land and related issues arising from the promotion of the project. Our clients have extensive experience in dealing with other infrastructure providers and sharing facilities with them. Our clients have been willing and ready to have detailed discussions with the Applicant in order to try and finalise the matters in relation to the Settlement Agreement and any voluntary land agreements. The lack of engagement by the Applicant suggests that they would prefer to defer matters until the DCO has been granted.

We would invite the Secretary of State to carefully review the level of outstanding land and related issues and to reflect on this in the context of the decision making. In the absence of meaningful engagement, we would invite the Secretary of State to include our clients' specific protective provisions which were set out in representation 13-032. It is only by imposing these requirements that a base level of protection can be provided.

Yours faithfully



Colin Innes
For and on behalf of Shepherd and Wedderburn LLP
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