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Our Ref: CDP/PREEX/1

15 August 2024

Dear Mr Underwood,

## **EN010128 CORY DECARBONISATION PROJECT – PROJECT UPDATE AND NOTIFICATION OF INTENTION TO SUBMIT A CHANGE REQUEST**

I write to update you on matters pertinent to the preparation for the Examination of the Cory Decarbonisation Project ('the Proposed Scheme') and to notify you of the Applicant's intention to submit a Change Request in relation to the Proposed Scheme.

### **Project Update**

#### Proposed Upcoming Submission

In light of the fact that it is understood that a Preliminary Meeting for the Proposed Scheme is unlikely to take place until November 2024, the Applicant is taking a pro-active approach to dealing with the issues raised in Relevant Representations and on-going engagement with stakeholders, and undertaking an errata check of its documentation, to enable the Examination to start on the basis that progress has been made and some of the matters that may be of concern to you are already dealt with.

To that end, therefore, the Applicant is currently in the process of developing:

- a Response to Relevant Representations document setting out its response to the points raised by Interested Parties;
- an Errata Schedule setting out any errors or omissions to Application documents which are minor and do not change the overall findings of the documents, but which it is considered that it would be helpful to correct

them to ensure that there is clarity in the position expressed by the Applicant in the relevant Application document;

- updates to the DCO, Application Guide and Certified Documents to reflect the responses to Relevant Representations, the errata check undertaken by the Applicant to these documents, engagement with stakeholders and the remaining aspects of PINS' section 51 advice not already dealt with in the Applicant's 30 May 2024 submissions;
- an update to the Schedule of Negotiations and Powers Sought to reflect recent discussions with land interests and to update it to reflect the parties who have submitted Relevant Representations. In light of recent Rule 6 Letters on other DCO projects, the Applicant will also add the following columns to this Schedule in providing this update. It is hoped that this will be sufficient to deal with the matters that the ExA will need to report on without the need for the Land Rights Tracker proposed on other projects:
  - what category of land interest (for section 44/57 purposes) each party is;
  - confirmation whether the plot is Special Category Land or not;
  - confirmation whether the party is a statutory undertaker or not; and
  - confirm the status of Heads of Terms/Side Agreements/Protective Provisions for the party;
- Statements of Common Ground ('SoCG') will as appropriate be sought with the following parties who have submitted Relevant Representations:
  - London Borough of Bexley;
  - Greater London Authority;
  - Environment Agency (EA);
  - Port of London Authority (PLA);
  - Natural England;
  - Marine Management Organisation (MMO);
  - Friends of Crossness LNR/Save Crossness LNR;
  - Greater London Archaeology Advisory Service;
  - Historic England;
  - Iron Mountain and Realty Income;
  - Thames Water Utilities Ltd;
  - Peabody Trust and Tilfen Land Ltd;
  - Landsul Limited and Munster Joinery (UK) Limited; and
  - Seamus Gannon.



In relation to SoCG, the Applicant would also note the following:

- due to the limited nature of their representations, the Applicant is seeking to engage with Kent County Council, Dartford Borough Council and National Highways to alleviate their concerns in relation to traffic impacts to (a) demonstrate that there are no significant impacts to their networks and (b) update the Framework CTMP where necessary, such that a SoCG is not required;
- the Applicant will be updating the Framework CTMP as far as it is willing to, to deal with Royal Mail Group's concerns, such that a SoCG will not be needed with them;
- whilst it is recognised that RPSB and Buglife have submitted Relevant Representations, their concerns are related to ecological impacts where the Applicant considers it is unlikely that any matters will be able to get to an 'Agreed' position in light of the location of the Proposed Scheme put forward. The Applicant will respond to their concerns about its ecological assessment work in its Response to Relevant Representations document, and those parties will be able to respond to that document, but the Applicant considers that given their starting position, a SoCG with them would not be of benefit to any of the parties or the Examining Authority, as such it is not intending to develop one with them; and
- although they have not submitted Relevant Representations, the Applicant is also seeking to develop SoCG with UKPN, Lidl, Aviva, Asda, Creekside Developments and Alaska PropCo, as the Applicant has been engaging with productive discussions with them.

The Applicant intends to submit these documents (in the case of SoCG, to the extent that it has been possible to agree them with the relevant Interested Parties) on **25 September 2024**, to enable the ExA to be able to have at least two weeks to consider them before a Rule 6 Letter would be required to be circulated to meet the 21 days' notice period for a Preliminary Meeting in the first week of November.

It is hoped that the submission of this documentation, alongside the approach to the Change Request set out below, will assist the Examining Authority in preparing the Rule 6 Letter and First Written Questions, but, crucially, also enable the former to be issued in sufficient time before a November Examination start, whilst also allowing that Examination to start without delay.

## Other Matters

The Applicant would highlight that it has noted the recent Government consultation on changes to the NPPF and reforms to the NSIP regime. In the Applicant's view, the vast majority of the proposed changes to the NPPF, and the questions asked in the accompanying consultation are not of relevance to the Proposed Scheme, given their focus on housing, economic growth development and renewable energy development. As such, the Applicant considers that an update to the Planning Statement [**APP-040**] and its accompanying Policy Accordance Tracker [**APP-041**] is not required. However, to the extent that the draft NPPF changes and consultation's comments on Green Belt matters have any relevance to the Proposed Scheme's interaction with Metropolitan Open Land ('MOL'), this will be covered in the Applicant's Response to Relevant Representations document which will have a specific section considering MOL issues, given the number of Relevant Representations on the Proposed Scheme's impacts to MOL.

The Applicant acknowledges that the Government has indicated that it will be looking to update the Energy NPS in the Autumn. The Applicant commits that if any updates are made to those documents, it will update its Policy Accordance Tracker accordingly.

The Applicant also notes that in other recent Examinations, the ExA has requested that 'Examination Progress Trackers' be produced. The Applicant considers that the Relevant Representations submitted demonstrate that the issues set out in its Potential Main Issues for Examination [**APP-048**] make up a large majority of the issues raised.

In particular, in relation to Optioneering issues, as seen from the Relevant Representations, it is considered unlikely that Affected and Interested Parties are likely to accept the Applicant's site selection, to be able to move to an 'agreed' position.

It is acknowledged that marine impacts as have been raised by the EA, MMO and PLA will need to be resolved, but it is considered that these should be able to be managed through the SoCG with those parties. The Applicant considers this is also true of the Air Quality and GHG issues raised by London Borough of Bexley and the GLA, which are specific to their statutory responsibilities.

As such, the Applicant would respectfully suggest that producing such a tracker for this Proposed Scheme would likely be of limited utility.



## **Change Request Notification**

This section of this letter has been produced mindful of the requirements of Step 1 of the PINS Advice Page (as at 8 August 2024) on *Changes to an application after it has been accepted* ('the PINS AP').

### Bullet Points 1 and 2: Description of and Need for the Change

The Proposed Scheme is a carbon capture scheme, a technology which is explicitly supported by the Energy National Policy Statements and identified as critical national priority infrastructure.

Section 3.5 of NPS EN-1 sets out the need for carbon capture infrastructure; in particular, paragraph 3.5.7 refers to the Government's investor and supply chain roadmaps to ensuring a carbon capture sector is investible, cost effective and focused on delivery.

Building on this, the (former) Government in December 2023 released its CCS Vision, recognising the evolving nature of Non-Pipeline Transport as part of the carbon capture network. In Spring 2024, consultation on the economic models for Non-Pipeline Transport was undertaken, again recognising it as a developing part of the sector.

The Proposed Scheme is one of the first projects in the UK looking to facilitate Non-Pipeline Transport as part of its CCS cycle, and in the above context, the Applicant has, since the submission of the Application, been working with other stakeholders in the CCS space (and in particular Viking, as the potential store) to continue to develop its understanding of the best way of taking forward the usage of the Proposed Jetty, to ensure its usage best achieves the aims of Government in bringing forward Non-Pipeline Transport as part of the CCS sector.

This work has led to the Applicant considering that the Proposed Jetty, and associated dredging, should now be designed to facilitate a maximum vessel size of approximately 20,000 m<sup>3</sup>, rather than the maximum 15,000m<sup>3</sup> previously considered in the application documentation (the 'Change').

Such a change will mean that less vessel movements (as only one movement would be required rather than two of the smaller vessel sizes previously assumed) which would:

- facilitate more economically efficient operation (aligned with Government objectives) due to less fuel consumption, port fees and capital costs;
- allow for faster CO<sub>2</sub> unloading rate when it reaches its destination terminal, which will be beneficial to the CCS sector as a whole given the other potential users that would be using the Immingham Green Energy Terminal if Viking was taken forward; and
- would allow for lower carbon intensity of the transport movements associated with the Proposed Scheme.

Facilitating vessels of approximately 20,000m<sup>3</sup> means that the following matters of relevance to the Proposed Scheme will be sought to be dealt with in the Change Application:

- a change to navigational risk given the size and number of vessel movements will be changed, necessitating an update to the Preliminary Navigational Risk Assessment ('NRA') which the Applicant will undertake in engagement with key stakeholders such as the PLA and CLdN (discussed further below);
- although the limits of the deviation shown on the Works Plans will not change as a result of the Change, there would be:
  - an increase in assumed capital dredging volume by approximately 40,000 m<sup>3</sup> to account for small tweaks in jetty design, which, although not a secured number, will need to be considered from an assessment perspective; and
  - a likely increase of the size of the sheet pile retaining wall either side of the dredge pocket by a combined approximately 70m, which, although not a secured parameter, will need to be considered from an assessment perspective; and
- the downwards limits of deviation for dredging setting out in article 2 of the draft DCO will need to be increased from minus 10.50 chart datum to minus 11.00 chart datum.

This is the only design change to the Proposed Scheme required (which would be achieved through amending article 2 of the DCO) and no changes are required to any of the certified plans. In particular, the Applicant confirms that the change to provision for vessels of approximately 20,000 m<sup>3</sup> would not require any changes in the size of the LCO<sub>2</sub> Buffer Storage Area, because the area is already of sufficient size to facilitate loading of that capacity.



The Applicant considers that none of the above would mean that, if the Change was accepted, the Proposed Scheme would be a materially different project from what was submitted. The Proposed Scheme remains a Carbon Capture Facility with a Proposed Jetty to allow the export of the proposed carbon. The Change simply modifies the way that the latter activity will happen.

The Applicant therefore considers, mindful of the '*What will the Examining Authority consider*' section PINS AP, that the Change is therefore one open to the ExA to be able to accept, if, once submitted, it is minded to exercise its discretion to do so.

#### Bullet Point 3 – Interaction with the CA Regulations

No additional land outside of the Order limits is required for the Change and no upgrade of the powers sought over the plots as shown on the Land Plans is required. The Change therefore also does not require the inclusion of “additional land” as defined in the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 and so those Regulations are not engaged.

#### Bullet Point 4 – Environmental Effects

The Applicant has given early consideration of the change in the context of the environmental impact assessment ('EIA') carried out in respect of the Proposed Scheme, the findings of which are reported in the Environmental Statement (ES) [**APP-050 to APP-120**].

For all the technical topics of the ES [**APP-050 to APP-120**] the proposed change is within the Site Boundary and Study Area assessed.

For the below technical topics, based on the early review undertaken the change is not considered likely to result in changes to the significance of effects as reported in the ES, its associated appendices, and the mitigation measures presented remain appropriate:

- Chapter 5: Air Quality [**APP-054**]
- Chapter 6: Noise and Vibration [**APP-055**]
- Chapter 7: Terrestrial Biodiversity [**APP-056**]
- Chapter 8: Marine Biodiversity [**APP-057**]
- Chapter 9: Historic Environment [**APP-058**]
- Chapter 10: Townscape and Visual [**APP-059**]
- Chapter 12: Climate Resilience [**APP-061**]
- Chapter 13: Greenhouse Gases [**APP-062**]



- Chapter 14: Population, Health and Land Use [**APP-063**]
- Chapter 15: Socio-economics [**APP-064**]
- Chapter 16: Materials and Waste [**APP-065**]
- Chapter 17: Ground Conditions and Soils [**APP-066**]
- Chapter 18: Landside Transport [**APP-067**]
- Chapter 20: Major Accidents and Disasters [**APP-069**]
- Chapter 21: Cumulative Effects [**APP-070**]

With respect to Chapter 11: Water Environment and Flood Risk [APP-060] and in particular Appendix 11-4: Coastal Modelling Studies [APP-109], a sensitivity test of the model mesh and location of the Proposed Jetty within the coastal processes model has been undertaken. The results from the sensitivity test show that the differences in water surface elevation, current speed, and bed shear stress resulting from the Change are not significant and thus does not change the significance of effects or mitigation measures proposed in the assessment.

For the avoidance of doubt, the Applicant also considers that there would be no change to the conclusions of the Information to Inform Appropriate Assessment [**APP-090**].

As noted above, the Applicant will update the Preliminary NRA [**APP-115**] given the change to navigational risk given the size and number of vessel movements. Once complete a review will be undertaken of Chapter 19: Marine Navigation (APP-068). Based on the information known to date the change is unlikely to result in changes to the significance of effects as the Applicant will seek to ensure that the updated Preliminary NRA reaches the same conclusion that risks have been kept As Low As Reasonably Practicable.

In summary therefore, the Change is not expected in result in any new or different likely significant environmental effects than those reported in the ES.

The Applicant intends to present the detailed findings of the environmental review and appraisal as part of the Change Application. This will include consideration of any changes in the calculations which have underpinned the GHG assessment in Chapter 13: Greenhouse Gases.

#### Bullet Points 5 – 7: Impacts to Programme including Consultation

The Applicant considers that it is possible for the Change to be brought forward prior to any Examination starting in November, meaning that there need be no change to the planning of any date for the Preliminary Meeting, whilst



acknowledging that whether to accept the Change and the programme set out below is ultimately a decision for the ExA to make.

In this context, the Applicant proposes the following programme for the development and consideration of the Change Application:

- 15 August: Change Request Notification.
- 28 August: ExA Procedural Decision on whether to accept this programme and scope of consultation. The Applicant respectfully requests the ExA to confirm acceptance by this date to allow the remaining timetable set out below to be achieved.
- Consultation to then be undertaken on the following basis:
  - Given the technical nature of navigational risk assessments, the Applicant will be carrying out specialist engagement with the PLA and CLdN to consider the Change from a navigational risk perspective, including inviting them to necessary simulation workshops.
  - Further, the Applicant recognises that other groups such as recreational users of the Thames and other statutory bodies such as Natural England and Environment Agency will be interested in the Change. The Applicant therefore proposes:
    - writing a consultation letter to all section 56(2)(a)-(c) parties, CLdN, Erith Yacht Club and Erith Rowing Club;
    - putting a notice in the local newspaper, The Bexley and Bromley News Shopper;
    - putting a notice in a national newspaper, The Guardian as well as publishing the same notice in the London Gazette, Lloyd's List and Fishing News; and
    - placing notices on site (and to be sent to PINS to be put on the PINS page for the Proposed Scheme).
  - These letters and notices will notify parties of the Change and point them to the Applicant's website, which will contain information on the Change, why it is needed, what it means for the Application documentation and a summary of the Applicant's view of the environmental impacts of the change compared to the submitted ES and HRA documentation.



- The Applicant does not propose writing to any section 44/57 parties as the only land interest of the plots in which the jetty will be constructed and dredging will take place is the PLA, who will be written to in any event as a section 56(2)(a) party and engaged with as per the first sub-bullet point above. The Applicant does not consider it is necessary to write to land interest of any other plots, as their land interests will not be affected by the Change.
- It is proposed that the notices would be published/letters would arrive by 5 September, to allow the consultation to start on 6 September and close on 5 October.
- 18 October: NMC Change Application submitted, containing the information required by Step 4 of the PINS AP.

This approach would then allow the ExA to determine whether or not to accept the Change either before, or at, a Preliminary Meeting in November, and for it to be examined alongside the rest of the Application as originally submitted.

The Applicant hopes that this letter is helpful to the ExA in considering next steps. If the ExA or the case team have any question on any of the above, please do not hesitate to contact me or my project team.

Yours sincerely,



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