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To all interested parties, affected  
persons and other persons

Your Ref:

Our Ref: EN020016

Date: 30 March 2016

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Dear Sir/Madam,

**The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 8(3) and Rule 17**

**Application by Western Power Distribution (South Wales) plc for an Order Granting Development Consent for the Brechfa Forest Connection**

**Procedural Decision**

Having reviewed documentation submitted for Deadline 6, 17 March 2016, I have decided that there are some outstanding matters upon which further information is required. Requests for further information are directed at particular parties however all parties are welcome to respond.

Where information has been submitted for Deadline 7, 31 March 2016 this should be noted rather than the answer repeated.

The deadline for responses to these queries is **noon 5 April 2016**. This will become Deadline 8 of the examination timetable. Responses will be published as soon as reasonably practicable however it should be noted that all representations to be taken into account as part of the examination should be submitted by this deadline.

**To Mrs Rentmore:**

Section 6.2 of the J H Haterhall Report dated March 2016 [REP6-008] states:

*'The risk assessment assumes that there is **potential**<sup>1</sup> for a connection between the proposed poles and source springs. Such a connection cannot be verified for the reasons outlined above but the conceptual model is such that this must be considered to be a **possibility**<sup>2</sup>.'*

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<sup>1</sup> ExA emphasis

<sup>2</sup> ibid

Can you (or your hydrogeological consultant Mr Haterhall) point to any published record where wooden overhead line poles whose foundation depths do not exceed 2.7m from natural ground level (Requirement 27 of Draft Development Consent Order (DCO) Version E [REP5-023]) have been shown to have interrupted the pathway connecting any water supply with its source (surface water or groundwater)?

**To Natural Resources Wales (NRW) and Carmarthenshire County Council (CCC):**

Do NRW or CCC have any records of incidents where wooden overhead line poles, whose foundation depths do not exceed 2.7m from natural ground level (Requirement 27 of Draft DCO Version E [REP5-023]) have been shown to have interrupted the pathway connecting the water supply with its source, surface water or groundwater)?

**To the Applicant:**

The Applicant is requested to respond in detail to the content and conclusions of the J H Haterhall Report dated March 2016 [REP6-008]. The Applicant should clearly detail all their proposed mitigation proposals for the protection of water sources.

**CROWN LAND**

**To the Applicant:**

What is the current status of the Applicant's progress in obtaining consent under section 135(1) [and section 135(2)] of the Planning Act 2008 ('PA2008 ') from the appropriate Crown authority (or authorities) for the following plots with a Crown interest: B6, C216, C218, C219, C220, C221, C222, C223, C224, C225, C226 and C227?

The following is an extract from the 'Applicant's Written Submissions following the Compulsory Acquisition Hearing held on Wednesday 10 February 2016' [REP5-033]:

*"The Applicant's answer to CA2-09 is set out at REP4-027.*

*Crown Estate (River Towy Crossing):*

*Draft HoTs have been prepared by Cooke and Arkwright acting on behalf of the Crown Estate. This has been reviewed by the WPD project team and returned with amendments for the Crown's consideration. However, because the Crown Estate do not hold the land on behalf of the Crown, but as the Crown, they do not engage the provisions of s.135 (1)."*

Please explain how the Applicant comes to the conclusion that section 135(1) is not engaged in such circumstances, bearing in mind that section 135(1) of the PA 2008 includes the following words (emphasis added):

"...held otherwise than **by** or on behalf of the Crown..".

## **PROTECTIVE PROVISIONS**

### **To the Applicant:**

Details of the current progress of discussions on Protective Provisions were provided in [REP4-043]. The Applicant is requested to provide an update on progress since Deadline 4:

The Applicant is reminded that in order for section 127 PA2008 to cease to be engaged, representations relevant to section 127(1) would need to be formally withdrawn from the examination in writing. Protective Provision agreements are still outstanding with:

- Dŵr Cymru;
- BT/Openreach<sup>3</sup>;
- Mainline Pipelines and
- Wales & West Utilities.

## **THE DRAFT DCOs**

### **To the Applicant:**

Can the Applicant provide a tracked change copy, showing changes from the application draft DCO [APP-039] submitted in May 2015 and the final versions of the Applicant's draft DCOs for Option A, currently [REP5-023], and Option B, currently [CR-011]?

The Applicant is also requested to provide word versions of the draft DCOs Option A and Option B and confirmation that these are in the Statutory Instrument template.

The Applicant is requested to ensure that all language used within the draft DCOs is in line with Planning Inspectorate Advice Note 15: Drafting Development Consent Orders. Specific attention should be paid to the drafting conventions.

### **To the Applicant:**

Article 34: Certification of Plans.

The Applicant is requested to consider whether the draft DCOs need to be explicit that the Secretary of State will be certifying the Outline Plans and that the Final Plans described in Requirements 15, 18, 21 and 24 are to be approved by the planning authority in consultation with NRW where required.

### **To the Applicant and CCC:**

The Applicant and CCC are asked to update the ExA on the current status of the:

- Section 106 agreement; and
- Statement of Common Ground on the draft DCOs for Option A and B?

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<sup>3</sup> E mail of 27 October 2015 is not a signed agreement

If you have any further queries, please do not hesitate to contact the case team.

Yours faithfully

*Martin Broderick*

**Martin Broderick**  
**Examining Authority**

Annex A: Revised Examination Timetable

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

Annex A: Revised Examination Timetable

| Item | Matters  | Due Dates  |
|------|--|--|
| 22   | <p><b>Deadline 7</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Responses to comments on the ExA's consultation draft DCO</li> <li>• Comments on any further information requested by the ExA</li> </ul> | <p><b>Thursday 31<br/>March 2016 at<br/>noon</b></p> |
| 23   | <p><b>Deadline 8</b></p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> <li>• Responses to Rule 17 issued 30 March 2016</li> <li>• Comments on any information received for Deadline 7</li> </ul>                      | <p><b>Tuesday 5<br/>April 2016 at<br/>noon</b></p>   |
| 24   | <p>The ExA is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting.</p>  | <p><b>Wednesday 6<br/>April 2016</b></p>             |