6 June 2012

Your ref: EN030001
Our ref: DC9194

Tom Carpen
The Infrastructure Planning Commission
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Dear Mr Carpen

PLANNING ACT 2008

THE [DRAFT] PREESALL (UNDERGROUND GAS STORAGE FACILITY)
DEVELOPMENT CONSENT ORDER 201[X]

WRITTEN REPRESENTATION

Please find enclosed the Marine Management Organisation’s written representation in respect of the above application.

Yours sincerely,

Laura Calvert
Marine Management Organisation

Enc: EN030001 - DC9194 - MMO Written Representation

Copies to: Hyder Consulting (UK) Limited
PLANNING ACT 2008

THE [DRAFT] PREESALL (UNDERGROUND GAS STORAGE FACILITY) DEVELOPMENT CONSENT ORDER 201[X]

WRITTEN REPRESENTATION

MMO REF: DC9194

IPC REF: EN030001

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1. **Preesall Underground Gas Storage**

1.1. On 10 January 2012, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “2008 Act”) that the Infrastructure Planning Commission (the “IPC”)¹, had, on 23 December 2011, accepted an application made by Halite Energy Group Limited (the “Applicant”) for an order granting development consent (the “DCO Application”) (MMO ref: DC9194; IPC ref: EN030001).

1.2. Amongst other things, the DCO Application includes a draft development consent order (the “DCO”) and an environmental statement (the “ES”). The draft DCO includes a draft Deemed Consent under the Marine and Coastal Access Act 2009 (the “2009 Act”) (the “Deemed Marine Licence”).

1.3. The DCO Application seeks authorisation for the construction and operation of an underground gas storage facility and associated development, including brine pipeline and gas connector pipeline, in Preesall, Lancashire (the “Project”).

1.4. The Project would comprise a range of terrestrial and marine developments and several work items have the potential to impact on the marine area.

2. **Scope of these representations**

2.1. This document comprises the MMO’s comments in respect of the DCO Application in the form of a written representation². This is without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This is also without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for anything else.

2.2. The MMO has already provided initial comments in respect of the DCO Application in the form of a relevant representation, submitted to the IPC (now, PINS) on 10 February 2012. The MMO’s written representation provides an update on the progress made with the Applicant regarding issues initially raised, and in view of the discussions that have taken place with the Applicant to date on the Statement of Common Ground (“SoCG”) and the Deemed Marine Licence. This written representation outlines those parts of the DCO Application with which the MMO agrees, those parts with which the MMO does not agree, and those issues which are outstanding.

2.3. The MMO’s written representation comprises updates on:

- The DCO – **section 3**
- The environmental impact assessment – **section 4**

¹ Since the IPC was subsumed by the Planning Inspectorate in April 2012, they are hereafter referred to in this document as “PINS”.
² Submitted in pursuance of rule 10(1) of the Infrastructure Planning (Examination Procedure) Rules 2010.
• Associated applications – section 5

2.4. The MMO will continue to consider the DCO Application and reserves the right to add to, amend or withdraw, from time to time, part or all of these representations.

3. **Update on the MMO’s comments on the DCO**

3.1. On 29 March 2012, the MMO received a revised draft DCO from the Applicant. Within this, the draft Deemed Marine Licence had been significantly amended by the Applicant in order to bring it in line with statutory drafting practices and to incorporate comments made by the MMO in its relevant representation. A copy of the revised draft Deemed Marine Licence is presented at appendix A.

**Schedule 7 – Deemed Consent under Part 4 (Marine Licensing) of the Marine and Coastal Access Act 2009**

3.2. The precise wording of the draft Deemed Marine Licence is a matter of ongoing discussion between the Applicant and the MMO. The MMO is content with the consultation method undertaken by the Applicant at pre-application stage and expects this to continue throughout the examination period.

3.3. A letter outlining the MMO’s most recent comments on the revised draft Deemed Marine Licence is presented at appendix B and was issued to the Applicant on 4 May 2012.

3.4. Further revisions of the Deemed Marine Licence may be required in light of comments made by other interested parties in their relevant and/or written representations. Should any issues be raised which would be best regulated by the Deemed Marine Licence, the MMO should be notified and included in discussions relating to this.

**Schedule 9 - Requirements**

3.5. As noted in the MMO’s relevant representation, the MMO considers that matters which fall within the scope of the marine licensing provisions of the 2009 Act are generally best regulated by conditions on marine licences.

3.6. The MMO’s preferred approach would be for matters arising from the works in the marine area to be dealt with by way of conditions on the Deemed Marine Licence, if granted, rather than by way of requirements on the DCO. This should minimize the risk of inconsistency between different schemes of regulation, or of a duplication of controls.

3.7. In the draft DCO received by the MMO on 29 March 2012, the Applicant has included a new Article 42(2) which states that:

“save for paragraph 2 of Schedule 9, Schedule 9 shall not apply to those parts of the authorised development which fall within the UK marine area.”
3.8. The MMO understands that this is in response to the comments made in its relevant representation. The MMO agrees with this approach and is content that this addition addresses these concerns.

4. **Update on the MMO’s comments on the environmental impact assessment**

4.1. Marine/estuarial ecology, marine water quality and the Deemed Marine Licence have been topics of conversation between the Applicant and the MMO. A SoCG will be submitted for each.

4.2. The MMO would expect the Applicant to address any outstanding issues in response to the MMO’s written and relevant representations.

**ES Chapter 5 – Environmental Impact Assessment Methodology**

4.3. The issue raised by the MMO regarding water abstraction is outstanding.

**ES Chapter 7 – Archaeology and Built Heritage**

4.4. The comments made by the MMO regarding an application for a borehole survey have been agreed (see paragraphs 5.1 and 5.2 of this document).

**ES Chapter 9 – Ecology and Nature Conservation**

4.5. With regards to ecology and nature conservation, the Applicant has provided satisfactory clarification to the MMO during SoCG discussions. As such, the MMO withdraws the comments made in its relevant representation.

4.6. It should be noted, however, that while the baseline information was considered appropriate and agreed for the purposes of the ES, the MMO and the Applicant have agreed that updated sublittoral surveys are required prior to the construction of the Project to substantiate the findings of the 2001 survey and to inform the micro-siting of the brine outfall pipeline. This has been captured as a condition within the draft Deemed Marine Licence.

**ES Chapter 10 – Geology, Hydrogeology and Stability**

4.7. The issue raised by the MMO regarding the environmental impact of a ‘blow-out’ is outstanding.

**ES Chapter 11 – Land Use and Socio-Economics**

4.8. The issue raised by the MMO regarding impacts on local fisheries and recreational anglers is outstanding.

**ES – Chapter 18 Cumulative Effects**

4.9. With regards to cumulative effects, the Applicant has provided satisfactory clarification to the MMO during SoCG discussions. As such, the MMO withdraws the
comments made in its relevant representation relating to Shell Flat offshore wind farm.

5. **Update on associated applications**

5.1. During an initial assessment of the DCO Application, the MMO noted that the borehole survey mentioned in ES chapter 7 appears to fall within the scope of the marine licensing provisions of the 2009 Act. As such, a marine licence would be required for the borehole survey. This was explained in the MMO’s relevant representation.

5.2. Further discussions have taken place between the Applicant and the MMO during the pre-examination period regarding the marine licensing requirements for the borehole survey. It has now been agreed that this could be included within the Deemed Marine Licence.

5.3. During further assessment of the DCO Application, the MMO has noted further activities, relating to monitoring conditions of the Environment Agency (“EA”) Discharge Consent, which also appear to fall within the scope of the marine licensing provisions of the 2009 Act.

5.4. Discussions are ongoing between the Applicant and the MMO as to whether these activities should be incorporated into the Deemed Marine Licence or whether permission should be sought by way of a separate marine licence application to the MMO under the 2009 Act.

5.5. It should be noted that any works which involve the deposit or removal of articles or substances below the level of mean high water springs require a marine licence under the 2009 Act unless a relevant exemption applies. Should any further associated activities be highlighted as possibly requiring a marine licence, the MMO should be advised at the earliest opportunity.

Marine Management Organisation 6 June 2012
Appendix A

Draft Deemed Marine Licence as revised by the Applicant
SCHEDULE 1

MARINE LICENCE UNDER PART 4 (MARINE LICENSING) OF THE MARINE AND COASTAL ACCESS ACT 2009

PART 1

Interpretation

1.—(1) In this Schedule:-

“the 2008 Act” means the Planning Act 2008;
“the 2009 Act” means the Marine and Coastal Access Act 2009;
“authorised development” means the development and associated development described in Schedule 1 (authorised development) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;
“commencement” means beginning to carry out any material operation (as defined in section 155 of the 2008 Act) other than operations consisting of marine and benthic surveys, archaeological investigations and investigations for the purpose of assessing ground and geological conditions and “commence” and “commenced” shall be construed accordingly;
“dredging” means using any device to move material (whether or not suspended in water) from one part of the sea or sea bed to another part;
“licence conditions” means the licence conditions set out at paragraphs 12 to 40;
“licence holder” means the “undertaker” as defined in Article 2 (interpretation) of this Order to whom this licence is issued;
“licensed activity” means an activity described in paragraph 7 of this licence;
“licensed location” means the area bounded by the coordinates set out at paragraph 8 of this licence;
“licensed works” means any works constructed in the course of a licensed activity;
“licensing authority” means the Secretary of State;
“local district marine officer” means the relevant district marine officer of the MMO in the area in which the authorised development is situated whose address is given at paragraph 11(2)(b);
“maintenance” includes maintain, inspect, repair, adjust, alter, remove, clear, refurbish, reconstruct, decommission, demolish, replace and/or improve;
“MMO” or “the Marine Management Organisation” means the body created under the 2009 Act responsible for the monitoring of this licence or any successor to its statutory functions;
“pipeline” means the brine discharge pipeline comprised in the licensed works;
“sea” means any area submerged at mean high water spring tide and the waters of every estuary, river or channel, so far as the tide flows at mean high water spring tide;
“sea bed” means the solid surface of the earth which lies under the sea;
“vessel” means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;
“working day” means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(2) Unless otherwise indicated:
(a) all times shall be taken to be Greenwich Mean Time; and
(b) all geographical co-ordinates contained within this licence shall be taken to be latitude and
longitude degrees and minutes to three decimal places.
(3) Except where otherwise indicated:
(a) the point of contact with the MMO shall be at its main office(2);
(b) details for contact with the MMO’s local district marine officer shall be at the relevant local
MMO office(3);
(c) details for contact with the MMO’s marine pollution response team shall be at its main office(4).

Inspection of records etc.

2. The licence holder shall:
(a) permit any person who is appointed by the MMO for the purpose to inspect, and make notes from,
all books, papers, maps and other records of any kind kept by the licence holder in pursuance of
this licence or in connection with activities associated with this licence; and
(b) furnish that person at reasonable times with such information at reasonable times with such
reasonable assistance as may be requested by that person in connection with or arising out of an
inspection in pursuance of this paragraph.

Rights of access

3. Any person authorised by the MMO shall be entitled at all reasonable times to enter into and upon
any of the licence holder’s installations, vessels or equipment used or to be used in connection with the
activities authorised by this licence in accordance with Chapter 2 of Part 8 (common enforcement powers)
of the 2009 Act.

Transfer

4. In the application of section 72 of the 2009 Act to this licence, subsection 72(8) of the 2009 Act shall
not apply to a transfer made in accordance with article 8 (transfer of benefit of Order) of this Order.

Force majeure

5.—(1) If by reason of force majeure any substances or articles are deposited or removed otherwise
than at the licensed location then the licence holder shall notify the MMO of the full details of the
circumstances of that deposit within 48 hours of the incident occurring.
(2) For the purposes of this paragraph, “force majeure” means when, due to stress of weather or any
other cause, the master of a vessel determines that it is necessary to deposit substances or articles otherwise
than at the licensed location because the safety of human life or the vessel is threatened.

Licence conditions binding other parties

6. The licence conditions shall bind any person who for the time being owns, occupies or enjoys any use
of the licensed works.

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(2) Marine Management Organisation, Marine Consents Team, PO Box 1275, Newcastle upon Tyne, NE99 5BN; telephone 0300 123 1032; fax: 0191 376 2681; and email: marine.consent@marinemanagement.org.uk.
(3) Marine Management Organisation, 9 Calder Court, Shorebury Point, Amy Johnson Way, Blackpool, Lancashire, FY4 2RH; telephone 01253 362130; fax: 01253 362139; and email: blackpool@marinemanagement.org.uk.
(4) Marine Management Organisation, Marine Pollution Response Team, PO Box 1275, Newcastle upon Tyne, NE99 5BN; telephone 0870 785 1050 or 07770 977825; and email: dispersants@marinemanagement.org.uk.
PART 2

Licensed activities

7. Subject to the licence conditions this licence authorises the licence holder (and any agent or contractor acting on its behalf) to carry out any licensable marine activities listed in section 66(1) of the 2009 Act for the construction, operation and maintenance of Work Nos. 12, 13, 14, 15, 16J, 16K and 16L defined in Schedule 1 (authorised development) of this Order and any further associated development listed at items (a) to (j) in Schedule 1 in connection with those Work Nos.

Licensed location

8. The licence holder (and any agent or contractor acting on its behalf) may engage in the licensed activities in the area bounded by the following coordinates:

[SD 328828,445722
SD 331223,445699
SD 331269,445260
SD 318842,445302]

[Note to MMO - Halite is in the process of revising these co-ordinates to be in the MMO’s preferred format, as set out in its relevant representation, and to create a set of co-ordinates which reflect the redline boundary of the limits of deviation for Work Nos. 12, 13, 14, 15, 16J, 16K and 16L (as shown on the works plan drawings submitted with the application), so far as these fall within the UK marine area (as defined in the 2009 Act, i.e. any area submerged at mean high water spring tide, and the waters of every estuary, river or channel, so far as the tide flows at mean high water spring tide). It is envisaged that there will be one bounded area at the foreshore for 16J, 16K and 16L and another where 12, 13, 14 and 15 cross the river Wyre. These co-ordinates will follow under separate cover]

Reporting of engaged agents, contractors or sub-contractors

9.—(1) The licence holder shall notify the MMO in writing of any agents, contractors or sub-contractors that will be carrying out the licensed activities on behalf of the licence holder no less than 5 working days before the commencement of that activity.

(2) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments has been read and understood by any agents, contractors or sub-contractors that will be carrying out the licensed activities on behalf of the licence holder.

Notification of vessels

10.—(1) The licence holder shall ensure that the MMO is provided with notification of any vessel being used to undertake the licensed activities no less than 24 hours before that vessel first commences licensed activities.

(2) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments has been read and understood by the masters of any vessel being used to undertake any licensed activity, and that a copy of this licence is held on board any such vessel.

Distribution of copies

11.—(1) The licence holder shall ensure that a copy of this licence and any subsequent revisions or amendments made to it in accordance with paragraph 4 (variation, suspension, revocation and transfer) are given to:

(a) any agent or contractor appointed to undertake a licensed activity;
(b) the master of any vessel undertaking a licensed activity;
(c) the transport manager responsible for any vehicle undertaking a licensed activity.

(2) The licence holder shall keep a copy of this licence at its registered address.

PART 3

Licence conditions prior to commencement of the licensed activities

12. The licence holder shall, unless otherwise agreed in writing with the MMO, within ten working days of receipt of a copy of this licence notify the MMO that it accepts the terms and conditions of this licence; and no licensed activities may be carried out until that notice has been given.

13. No licensed activities shall commence until a written scheme setting out all the stages of the licensed activities has been submitted to and approved by the MMO.

14. The licence holder shall, unless otherwise agreed in writing with the MMO, no less than ten working days prior to the commencement of any stage of the licensed activities notify the local district marine officer of the proposed commencement date of that stage; and no stage of the licensed activities may be carried out until notice for that stage has been given.

15. —(1) The licence holder shall, unless otherwise agreed in writing with the MMO, no less than two months prior to the commencement of any stage of the licensed activities submit to the MMO a method statement for that stage, the scope of which is to be agreed by the MMO prior to its submission; and no stage of the licensed activities may commence until the method statement for that stage has been approved in writing by the MMO.

(2) The licence holder shall carry out any stage of licensed activities in accordance with the approved method statement for that stage, unless otherwise agreed in writing by the MMO.

16. —(1) The licence holder shall, unless otherwise agreed in writing with the MMO, prior to the commencement of any stage of the licensed activities carry out a marine benthic ecology and habitats survey for that stage; and no stage of the licensed activities may commence until such a survey for that stage has been carried out.

(2) The scope of any marine benthic ecology and habitats survey shall be agreed with the MMO in writing prior to it being carried out.

(3) The final report arising from any marine benthic ecology and habitats survey and any necessary monitoring requirements shall be agreed in writing with the MMO prior to the commencement of the stage of the licensed activities to which that survey relates; and no stage of the licensed activities may commence until such monitoring requirements (if any) for that stage have been agreed.

17. —(1) The licence holder shall, unless otherwise agreed in writing with the MMO, prior to the commencement of any stage of the licensed activities agree in writing with the MMO a vessel movement plan for that stage; and no stage of the licensed activities may commence until such a plan for that stage has been agreed.

(2) The licence holder shall carry out the licensed activities in accordance with the approved vessel movement plan, unless otherwise agreed in writing by the MMO.

18. —(1) The licence holder shall, unless otherwise agreed in writing with the MMO, prior to the commencement of any stage of the licensed activities agree in writing with the MMO a construction monitoring plan for that stage; and no stage of the licensed activities may commence until such a plan for that stage has been agreed.

(2) Unless otherwise agreed in writing with the MMO, any construction monitoring plan shall include but not be limited to a pre-construction, construction and post-construction plan for monitoring the laying of the pipeline, consisting of trawl surveys within the transshipment area and barge approach routes for the delivery of rock armouring, and surveys of the pipeline corridor to ensure that the pipeline does not become exposed.

(3) The licence holder shall carry out any stage of the licensed activities in accordance with any approved construction monitoring plan for that stage, unless otherwise agreed in writing by the MMO.
19.—(1) The licence holder shall no less than six weeks prior to the transshipment of rock armouring comprised in any stage of the licensed activities submit a method statement relating to such transshipment for that stage, including details of the location of the transshipment area and barge approach routes for the delivery of rock armouring; and no stage of the licensed activities may commence until such a method statement for that stage has been approved in writing by the MMO.

(2) The licence holder shall carry out any stage of the licensed activities in accordance with the rock armouring transhipment method statement approved for that stage, unless otherwise agreed in writing by the MMO.

20.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities agree with the MMO the lighting and marking of the licensed works comprised in that stage.

(2) The details of such lighting and marking shall be included in the method statement to be submitted for approval under paragraph 14.

21.—(1) The licence holder shall prior to the commencement of any stage of the licensed activities notify local mariners’ and fishermen’s organisations of that commencement by procuring issue of a notice to mariners; and no stage of the licensed activities may commence until such notice for that stage has been given.

(2) For the purposes of this paragraph, “notice to mariners” includes any notice to mariners issued by the Admiralty, Trinity House, Queen's harbourmasters, government departments or harbour or pilotage authorities.

**Licence conditions during construction of the licensed works**

22. The licence holder shall minimise the re-suspension of sediment during any stage of construction of the licensed works. Details of how this is to be achieved shall be included in the method statement for that stage to be submitted for approval under paragraph 15.

23.—(1) The licence holder shall in the course of any stage of construction of the licensed works take appropriate steps to minimise damage to the foreshore. Details of such steps shall be included in the method statement for that stage to be submitted for approval under paragraph 15.

(2) For the purposes of this paragraph, “the foreshore” means land which is covered and uncovered by the ordinary movement of the tide.

24. The licence holder shall in the course of construction of any stage of the licensed works ensure that the pipeline, anchoring and rock armouring (if present during construction of that stage) are fully covered and do not protrude above the seabed. Details of the necessary steps shall be included in the method statement for that stage to be submitted for approval under paragraph 15.

25. The licence holder shall in the course of construction of the licensed works ensure that any jack up barges or vessels utilised, when jacked up, shall exhibit signals in accordance with the UK standard marking schedule for offshore installations(5).

26. The licence holder shall in the course of construction of any stage of the licensed works only access the licensed location within a defined and marked out area which shall be set out in the method statement to be submitted for approval for that stage under paragraph 15, thereby limiting personnel and plant access to the licensed location.

27. The licence holder shall in the course of construction of the licensed works fit diffusers to the discharge end of the pipeline, unless otherwise agreed in writing by the MMO.

28.—(1) The licence holder shall in the course of construction of the licensed works ensure that all chemicals utilised are selected from the list of notified chemicals assessed for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002[(6)] or has gone through a similar level of ecotoxicological hazard or risk assessment.

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(5) Obtainable by post to the Department of Energy & Climate Change, OED - EDU, Environment Management Team, 4th Floor, Atholl House, 86-88 Guild Street, Aberdeen, AB11 6AR; by telephone to 01224 254050; or email to EMT@berr.gsi.gov.uk.

(2) The licence holder shall obtain from the licensing authority prior written approval for the use of drilling fluids other than water-based mud for carrying out drilling operations comprised in any stage of the licensed activities.

(3) The licence holder shall comply with any guidance provided to it by the licensing authority in relation to the disposal of any arisings resulting from drilling operations using drilling fluids other than water-based mud.

29.—(1) The licence holder shall in the course of construction of the licensed works ensure that any coatings or treatments are suitable for use in the marine environment and are used in accordance with best environmental practice.

(2) For the purposes of this paragraph, “best environmental practice” means best environmental practice as defined in Appendix 1 of the 1992 OSPAR Convention of the Protection of the Marine Environment of the North-East Atlantic.

30. The licence holder shall in the course of construction of the licensed works, unless otherwise agreed in writing by the MMO, ensure that a soft-start procedure is used, whereby pile power is incrementally increased over a time period of not less than twenty minutes until full operational power is achieved. In the event that piling ceases for a period greater than ten minutes, the soft-start procedure shall be repeated.

31.—(1) The licence holder shall in the course of construction of the licensed works install bunding and/or storage facilities to contain and prevent the release of fuel, oils, and chemicals associated with plant, refuelling and construction equipment into the marine environment.

(2) There shall be containment facilities secondary to the bunding or storage facilities described in sub-paragraph (1).

(3) The capacity of those secondary containment facilities shall not be less than 100% of the storage capacity of the bunding or storage facilities described in sub-paragraph (1).

32. The licence holder shall ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO’s marine pollution response team by email or by telephone.

33. The licence holder shall in the course of construction of the licensed works ensure that during the works all waste is stored in designated areas which are isolated from surface water drains, open water and bunded to contain any spillages.

34.—(1) The licence holder shall in the course of construction of the licensed works, unless otherwise agreed in writing by the MMO, ensure that no waste concrete slurry or wash water from concrete or cement works is discharged into the marine environment.

(2) Concrete and cement mixing shall, unless otherwise agreed in writing by the MMO, be contained and sited at least ten metres from any watercourse or surface water drain.

(3) For the purposes of this paragraph “watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain.

35. The licence holder shall ensure that any vessels used for rock transhipment or delivery operations:

(a) are suitably constructed and loaded to prevent rock falling over the side; and

(b) use suitable screening to prevent the loss of rock or shingle through drainage holes.

36. The licence holder shall ensure that any rock misplaced or lost below the level of mean high water springs in the course of construction of the licensed works is reported to the local district marine officer within 48 hours and, unless otherwise agreed in writing by the MMO, located and recovered.

Licence conditions following completion of the licensed works

37. The licence holder shall ensure that following completion of the licensed works, backfill operations shall return the intertidal area to its profile prior to the commencement of the licensed activities, unless otherwise agreed in writing by the MMO.
38. The licence holder shall within six weeks of completion of the licensed works ensure that any equipment, temporary structures, waste and/or debris associated with those works are removed, unless otherwise agreed in writing by the MMO.

39.—(1) The licence holder shall as soon as reasonably practicable following completion of the licensed works notify the Hydrographic Office of that completion.

(2) The “Hydrographic Office” means the Hydrographic Office of the Ministry of Defence, Taunton, Somerset TA1 2DN.

PART 4

Changes to this licence

40. If the licence holder becomes aware of any material change or likely material change to the information submitted with the application for this licence it shall as soon as reasonably practicable notify the MMO of that change.

41.—(1) If the licence holder wishes to undertake the licensed activities in a manner which is contrary to the terms and conditions of this licence it shall inform the MMO at the earliest opportunity.

(2) The licence holder shall not carry out the licensed activities in a manner contrary to the terms and conditions of this licence without the prior written approval of the MMO.
Appendix B

MMO comments on the revised draft Deemed Marine Licence
BY EMAIL ONLY

4 May 2012

Our ref: DC9194

Press gas Underground Gas Storage – Revised Development Consent Order including Deemed Marine Licence (Schedule 7)

Dear David,

Thank you for consulting with the Marine Management Organisation (“MMO”) on the revised Development Consent Order including Deemed Marine Licence, which we received on 29 March 2012. Please see comments below.

Yours sincerely,

Laura Calvert
Marine Management Organisation
1. **Development Consent Order, Part 4**

1.1. A new Article has been included at 42(2) which states that “save for paragraph 2 of Schedule 9, Schedule 9 shall not apply to those parts of the authorised development which fall within the UK marine area.” We understand that this is in response to comments made in our relevant representation regarding Requirements which fall within the UK marine area and are happy that this Article covers them.

2. **Development Consent Order, Schedule 1**

2.1. Schedule 1, Authorised Development, outlines work activities relating to the seawater pump station at Work No 15. The incorporation of filters into the existing water intake structure is not included in this, or any other, Work No. As you now refer to Schedule 1 within the deemed marine licence rather than listing each activity which is to be licensed (see paragraph 5.5 of this letter) we require everything which is to be licensed to be covered within Schedule 1. In order for it to be clear within the deemed marine licence exactly which activities are being licensed we therefore request that Work No 15 be amended to include this.

3. **Development Consent Order, Schedule 7, Preamble**

3.1. The pre-amble before Part 1 of the licence has been deleted. In general we agree that this kind of introductory text, whilst suited to a standalone licence, is not appropriate in a Schedule to a statutory instrument.

3.2. We do not agree, however, to the removal of the valid from and to dates as these are required for enforcement purposes post consent. In order to advise the MMO of the licence valid from and to dates, we would suggest that condition 12 or 14 be reworded as outlined in paragraph 6.3 of this letter.

4. **Development Consent Order, Schedule 7, Part 1**

4.1. In paragraph 1(1) “licensable activity” has been amended to “licensed activity”, the definition of “disposal sites” has been deleted and the term “location” changed to be “licensed location”. The definition of “working day”, from section 336 of the Town and Country Planning Act 1990, has been added. We agree with these amendments.

4.2. As there are no timing restrictions included within Schedule 7 we would suggest that the reference to Greenwich Mean Time at paragraph 1(2) is removed.

4.3. The contact email address for the MMO main office should be amended from marine.consents@marinemanagement.org.uk to infrastructure@marinemanagement.org.uk

4.4. The contact email address for the MMO Marine Pollution Response Team is incorrect and should be amended to dispersants@marinemanagement.org.uk

4.5. The table of returns previously at paragraph 1.3 of Schedule 7 has been deleted. These licence conditions are already set out in detail at paragraphs 12 – 21 therefore we agree to this deletion.
4.6. The text in the original licence in relation to variation, suspension, revocation and transfer has been deleted and replaced with paragraph 4, transfer. We agree to this amendment.

4.7. The wording regarding licence conditions binding other parties at paragraph 6 has been reworded. We agree to this amendment.

5. **Development Consent Order, Schedule 7, Part 2**

5.1. Part 2 of Schedule 7 has been revised considerably. The licence categories, description of project, and works methodology sections have been deleted and replaced with paragraph 7, licensed activities. In general we agree with this approach, however, request that the licence condition at paragraph 13 is amended as per paragraph 6.4 of this letter, in order to ensure the MMO is provided with a list of all licensable activities.

5.2. Paragraph 7 needs to be reworded to reflect that this licence authorises the licence holder (and any agent, contractor or subcontractor acting on its behalf) to carry out any licensable marine activities.

5.3. Paragraph 7 states that the licence holder can carry out any licensable marine activities “for the construction, operation and maintenance” of works. It is possible for the deemed marine licence to include the licensing of maintenance activities, however, the details of any licensable activities would need to be included in the method statement. You would also need to ensure that the environmental impact assessment undertaken for this application is sufficient to cover these maintenance activities. We suggest you also amend the licence condition at paragraph 13 to reflect that the written scheme will outline any maintenance works (see paragraph 6.4 of this letter).

5.4. Paragraph 7 states that Work Nos 12, 13 and 14 include licensable marine activities as listed in section 66(1) of the Marine and Coastal Access 2009. These Work Nos refer to the laying of pipelines under the Wyre estuary which is a licensable activity under the 2009 Act but due to the methods proposed the works may be exempt under paragraph 35 of the Marine Licensing (Exempted Activities) Order 2011 if the conditions of the exemption can be met. We would suggest that any references to Work Nos in Schedule 1 which do not include licensable activities are removed.

5.5. It should also be noted that not all of work activities to be deemed within the deemed marine licence are covered by paragraph 7. Work No 15 in Schedule 1 requires amendments as outlined at paragraph 2.1 of this letter.

5.6. Paragraph 11(1), distribution of copies, states “paragraph 4 (variation, suspension, revocation and transfer)”. This is incorrect and should be amended to read “paragraph 4 (transfer).”

5.7. Paragraph 11(1)(a) requires amending to state that “any agent, contractor or subcontractor appointed to undertake a licensed activity”.

6. **Development Consent Order, Schedule 7, Part 3**
6.1. The reasons behind each of the licence conditions have been moved from Part 3 of Schedule 7 to the explanatory notes section at the end of the Order. We agree with this approach.

6.2. We understand that there is currently discussion regarding the inclusion of a licence condition relating to marine archaeology and would suggest the following wording:

The licence holder may not commence any licensable activity until a written scheme of investigations, prepared by the licence holder in consultation with English Heritage, has been submitted to and approved by the MMO.

In undertaking a licensable activity, the licence holder shall act in accordance with the written scheme of investigations, if any, approved by the MMO in relation to that licensable activity.

6.3. As outlined in paragraph 3.2 of this letter, we would suggest that either paragraph 12 or 14 of the revised draft deemed marine licence be reworded to state that the licence holder must advise the MMO in writing of the start and end dates of the licence prior to works commencing (i.e. the date of the making of the order and 5 years from that date).

6.4. Paragraph 13 states that “no licensed activity shall commence until a written scheme setting out all of the licensed activities has been submitted to and approved by the MMO”. We request this to be re-worded to state explicitly that this will include a list of all licensable activities, including any maintenance works.

6.5. Paragraph 15 has been amended to reduce the period pre-commencement for a submission of a method statement from six months to two months. In principal we agree with this amendment, however, remind you that no works can commence until the MMO have approved the method statement. We are unable to estimate how long this may take as it depends on such things as the quality of the report submitted, which are outside of the MMOs control.

6.6. We would request that paragraph 16(3) be reworded to state that any report arising from any marine benthic ecology and habitats survey must be agreed in writing with the MMO. There may be requirements for interim reports which we would also wish to see.

6.7. Paragraph 16(3) should also be reworded to state that no stage of the licensed activities may commence until such monitoring requirements and amendments to licence conditions for that stage have been agreed.

6.8. We would suggest the following addition to the licence condition at paragraph 27 regarding diffusers to be fitted to the discharge end of pipeline:

The details of such diffusers shall be included in the method statement to be submitted for approval under paragraph 14.

6.9. The licence condition included at paragraph 25 is enforced by the Department for Energy and Climate Change, not the MMO. We would therefore request that this is removed.
6.10. We are currently reviewing the licence condition at paragraph 28. This may need to be amended and we will provide further information regarding this as soon as possible.

6.11. You have included a phasing system in the licence conditions at part 3. In our relevant representation (at paragraph 6.16) we requested that the licence conditions be divided up by activity type for ease of reference for contractors and enforcement officers. This is usually suggested as we understand that you may employ different contractors to carry out different works and at different times.

6.12. Splitting licence conditions by licensed activity allows you to direct contractors to the relevant section of the deemed marine licence and to work in accordance with only the licence conditions in that relevant section. If the licence conditions are not split by licensed activity it would mean that every contractor would have to adhere to every condition, which may impose additional restrictions on some work areas.

6.13. Each of the activity specific licence condition sections could then be further split into prior to commencement, during construction, and following completion of.

6.14. As there is not a large amount of activities to be licensed within the Preesall deemed marine licence we do not object to the structure of this section remaining as is currently drafted however.

7. Development Consent Order, Schedule 7, General Comments

7.1. We reserve the right to add to, amend or withdraw part or all of the comments made in this letter as the drafting of the deemed marine licence continues.

7.2. Please could you advise if there were any issues raised in the s56 period by other bodies which might best be regulated through the deemed marine licence. As per the relevant representation from the Maritime and Coastguard Agency, other bodies may have suggested conditions which we would be happy to review.

8. Next Steps

8.1. Hyder have actively engaged with the MMO when drafting the DCO and deemed marine licence and we wish to continue to work closely with them in this positive manner.