



Department
of Energy &
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Dear Sirs

**PLANNING ACT 2008
APPLICATION FOR THE PREESALL (UNDERGROUND GAS
STORAGE FACILITY) ORDER**

I. Introduction

1.1 I am directed by the Secretary of State for Energy and Climate Change (the "Secretary of State") to advise you that consideration has been given to the application ("the Application") made on 30 November 2011 (as amended on 15 August 2012) by Halite Energy Group Limited ("Halite") for a development consent order ("the Order") under sections 114, 115, 120, 122, 123, 142 and 149A of the Planning Act 2008 ("the 2008 Act") for an Underground Gas Storage Facility at Preesall, Lancashire ("the Development").

1.2 The Application also sought a deemed marine licence and powers of compulsory acquisition ("CA") of land and rights. A separate parallel application was submitted for a deemed Hazardous Substances Consent direction in November 2011 under section 12 of the Planning (Hazardous Substances) Act 1990 as amended by Schedule 2, paragraphs 42 and 45 of the 2008 Act (the "HSC Application").

1.3 An examining panel of three Commissioners of the Planning Inspectorate, Paul Hudson, Libby Gawith and Emrys Parry ("the Examining Authority"), conducted

the initial examination into the Application, including the HSC Application. Dr Ramues Gallois was appointed to assist the Examining Authority on geology and geotechnical matters during the examination of the Application.

1.4 The examination into the Application and HSC Application began on 24 April 2012 and was completed on 24 October 2012. The examination was conducted on the basis of written evidence submitted to the Examining Authority and discussed at hearings held on 24 July, 18 and 19 September, 9, 17 and 18 October 2012.

1.5 On 9 April 2013, the Secretary of State refused¹ consent for the Application. On 17 January 2014², the High Court of Justice (Patterson J) quashed the decision of the Secretary of State to refuse the Application. The Secretary of State is now required to redetermine the Application following the judgment of the High Court (see III. Procedure following Quashing of the Secretary of State's Decision below).

1.6 The Order, if made, would grant development consent for the construction and operation of the Development. The purpose of the Development is to inject gas into, store gas in, and extract gas from underground salt caverns. The total storage capacity applied for was a total storage capacity of up to 900 Million cubic metres ("Mcm") and a working capacity of up to 600 Mcm at standard temperature and pressure. The underground caverns are proposed to be constructed on the east side of the Wyre Estuary. Elements of the surface infrastructure are proposed on both the east and west sides of the Estuary.

1.7 The Examining Authority's report ("ER")³ was published on the Planning Inspectorate's website alongside the decision of the Secretary of State dated 9 April 2013. The Examining Authority's findings and conclusions are set out in sections 5, 6, 7 and 8. Its consideration of CA, the Order (including the deemed marine licence), the S.106 Agreement and the HSC Application are at sections 8 and 9 respectively. The Examining Authority's overall conclusions and recommendation are set out at section 10.

II. Summary of the Examining Authority's report and recommendations

2.1 The Examining Authority's report included their findings and conclusions on the following principal issues:

¹ http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/3.%20Post%20Decision%20Information/Decision/130409_EN030001_P reesall_Decision.pdf

² [2013] EWHC 17 (Admin): [http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/4.%20Redetermination/Correspondence%20received%20by%20Secretary%20of%20State/Approved%20Halite%20judgment%20-%202017%20January%202014%20\(33897406\)%20\(2\).pdf](http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/4.%20Redetermination/Correspondence%20received%20by%20Secretary%20of%20State/Approved%20Halite%20judgment%20-%202017%20January%202014%20(33897406)%20(2).pdf)

³ http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/3.%20Post%20Decision%20Information/Decision/130121_EN030001_P reesall_Report.pdf

- geology;
- landscape, visual impacts and design;
- flooding and surface water drainage;
- pipelines;
- brine discharge to the Irish Sea;
- noise;
- habitats regulation assessment and ecology;
- disposal of insoluble wastes;
- access;
- rights of way;
- built heritage and archaeology;
- socio-economic effects;
- need;
- compulsory acquisition matters; and
- the proposed Order (including deemed marine licence) and Hazardous Substance Consent.

2.2 The Panel's overall conclusions and recommendation are as follows:

“10.1 In coming to our overall conclusions, we have had regard to the matters listed in s104 (2) of the Planning Act 2008 as amended.

10.2 We conclude for the reasons set out above that the proposal would accord with NPSs EN-1 and EN-4 [‘Overarching National Policy Statement for Energy (EN-1)’ (‘EN-1’) and ‘National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)’ (‘EN-4’)]. Section 104(3) of the Planning Act 2008 requires that the application must be decided in accordance with any relevant national policy statement, unless one or more of the exceptions in s104 (4) to (8) applies. We have had regard to the LIRs [Local Impact Reports] submitted by LCC [Lancashire County Council] and WBC [Wyre Borough Council].

10.3 We have considered the application against the test set by s104 (7) of the Planning Act 2008 and conclude, for the reasons stated in this report, that subject to the modifications to the Order that we propose, the adverse impacts of the proposed development would not outweigh its benefits.

10.4 As to the other exceptions referred to in s104, we find no reason to suppose that deciding the application in accordance with the relevant national policy statements would either:

- *lead to the United Kingdom being in breach of its international obligations*
- *lead to the Secretary of State being in breach of any duty imposed on the Secretary of State by or under any enactment*
- *be otherwise unlawful by virtue of any enactment.*

10.5 We have further considered the effect the proposal would have on all potentially affected European and Ramsar sites. With the safeguards that would be secured by the requirements we recommend should be attached to any Order that the Secretary of State is minded to make, our conclusion is that the integrity of none of the sites would be compromised.

10.6 We have also considered the request for powers of compulsory acquisition to be included in any Order that is made and conclude that there is a compelling case in the public interest for the grant of the compulsory acquisition powers sought by the Applicant in respect of the CA Land shown on the Land Plans (as amended).

10.7 For the reasons set out above the Panel, as the Examining authority under s74 of the Planning Act 2008, concludes that subject to receipt of the certificate under s131(3)(b) referred to at paragraph 8.41, development consent for the Preesall underground gas storage facility should be granted and therefore recommends the Secretary of State to make an Order under s114 of the Planning Act 2008 in the form at Appendix D.”

2.3 The Secretary of State notes that the Open Space Land certificate referred to in the report [ER 8.38-8.41] was subsequently given by the Secretary of State for Communities and Local Government on 4 February 2013.

III. Procedure following Quashing of the Secretary of State’s Decision

3.1 Pursuant to Rule 20(2) of the Infrastructure Planning (Examination Procedure) Rules 2010 (“the 2010 Rules”), following the judgment of the High Court, the Secretary of State wrote to interested parties on 8 April 2014⁴ to set out the matters in relation to which the Secretary of State considered further representations were needed for the purposes of the re-determination of the Application. These were:

- i) further geological information to demonstrate the Applicant’s case that the anticipated total storage capacity of up to 900 Mcm and working storage capacity of up to 600 Mcm at standard temperature and pressure in the area for cavern development (shown on development plan A-1000-030 Rev B)⁵ can be achieved;

⁴ <http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/4.%20Redetermination/Correspondence%20received%20by%20Secretary%20of%20State/Statement%20of%20Matters%20for%20redetermination%20of%20the%20Preesall%20Underground%20Gas%20Storage%20Facility.pdf>

⁵ http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/2.%20Post-Submission/Application%20Documents/Drawings/2.5_f%20Gas%20Storage%20Cavern%20and%20Wellhead%20Compounds.pdf

- ii) the extent to which the Development is consistent with EN-4⁶;
- iii) whether, if the Secretary of State decides on redetermination to grant development consent for the Development, the Secretary of State should do so subject to the terms of Requirement 6 of the draft Order as recommended by the Examining Authority in its report of 21 January 2013;
- iv) the adequacy of the environmental information produced in support of the application for the Development⁷ and whether further or updated environmental information is now necessary; and
- v) any other matters arising since 9 April 2013 which interested parties consider are material to the Secretary of State's re-determination of the Application.

3.2 To assist on geological matters, an independent geological assessor, Senergy (GB) Limited ("Senergy"), was appointed by the Secretary of State to assess the technical information received in response to the above consultation and to produce an independent geological report for the Secretary of State's consideration.

3.3 The Executive Summary of Senergy's report, "*Preesall Gas Storage Project: Independent Geological Assessment July 2014*"⁸, set out its consideration of the geological information provided by Halite. It states that "*A dataset comprising newly-acquired 2D seismic, plus re-processed legacy lines, was supplied by the Applicant, along with an updated geological model built by Geostock, the company responsible for generating the updated Cavern Development Plan and associated volumetric capacity. Borehole geophysical logs were included in the geological model. Previous test data (e.g. pressure test data) and modelling work was re-presented in an updated geological summary report.*" Senergy noted that for whatever reason, the data received was sometimes "*incomplete or late and delivered in obscure formats*" and the report was therefore "*necessarily limited to the data received*".

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47857/1941-nps-gas-supply-oil-en4.pdf

⁷ The Applicant's Environmental Statement (APP17-APP21) and library of all other Examination documents are available at Appendix C of the Examining Authority's Report to the Secretary of State:
http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/3.%20Post%20Decision%20Information/Decision/130121_EN030001_Preesall_Report.pdf

⁸ <http://infrastructure.planningportal.gov.uk/document/2631604>

3.4 Senergy considered that the *“Data coverage within the planning polygons has been much improved by the seismic data”*. They found that *“In general, the interpretation presented is geologically-reasonable and can be validated by the available geological data down to the top of the salt”*. However, Senergy also noted that *“The Base Salt is not adequately imaged by the new seismic in parts of the proposed polygon areas, and there is no borehole data to confirm seismic picks with the development polygons. For these reasons the interpretation within the development polygons is speculative and unconstrained in the deeper parts of the basin, and this leaves considerable uncertainty in the volumetric calculations. Alternative interpretations which are equally geologically-valid given the dataset, are presented which illustrate the uncertainty in the subsurface interpretation of Base Salt, and fault presence and distribution in some parts of the basin.”*

3.5 Senergy considered that the key risk to the current development plan is that *“if the Base Salt is shallower than currently mapped, the cavern placement, size and therefore capacity will be affected.”* Senergy therefore produced a volumetric calculation based on its evaluation of the various input parameters and their associated uncertainty and presented a range of working gas volume probabilities using a *“Monte Carlo simulation”*. Senergy concluded that its analysis indicated a 90% probability of achieving a working gas volume of 124 Mcm, a 50% probability of achieving 190 Mcm, a 10% probability of achieving 258 Mcm and less than a 2% probability of achieving 300 Mcm.

3.6 The Secretary of State gave interested parties a further opportunity on 31 July 2014⁹ to make representations on Senergy’s July 2014 report and also the representations received during the first consultation round. Further geological information was also produced by Senergy to supplement its report and circulated by the Secretary of State to interested parties for comment on 14 August 2014.¹⁰ The further information provided by Senergy was accompanied by the following statement:

“This short note and attachment responds to the letter from the Protect Wyre Group of 8th August, where PWG noted that only 4 of the 8 seismic lines shot by HEG [Halite Energy Group] appeared in the report constructed by Senergy. This attachment now shows all 8 seismic lines in two-way-time shot by HEG with the top and base salt interpretations picked by the British Geological Survey. The sections demonstrate that while the top salt seismic pick is seen to be quite robust, the base salt pick in many of the lines is seen to carry much more uncertainty.”

⁹ <http://infrastructure.planningportal.gov.uk/wp-content/uploads/projects/EN030001/4.%20Redetermination/DECC%20consultation/Further%20in%20formation%20requested%20by%20the%20Secretary%20of%20State/2nd%20Round%20consultation%20on%20redetermination%20of%20the%20Preesall%20Underground%20Gas%20Storage%20Facility%20July.pdf>

¹⁰ <http://infrastructure.planningportal.gov.uk/document/2653448>

3.7 Senergy also provided a further response, “*Senergy (GB) Ltd Response to Issues raised related to their Independent Geological Assessment of the Proposed Preesall Gas Storage Site*”, dated 29 October 2014¹¹ to issues raised relating to its July 2014 report. Based on additional information provided by Halite, including clarification on the mode of operation as a fast cycle facility, Senergy revised its Base Case volumetric calculation to show an increase in the working gas volume to 216.9 Mcm (i.e. an increase of 7% compared to the earlier estimated estimate of 202.8 Mcm in Senergy’s July 2014 report). Senergy also revised its earlier Monte Carlo analysis to show a 90% probability of achieving a static working gas volume of 134.6 Mcm, a 50% probability of achieving 203.7 Mcm, and a 10% probability of achieving 285.5 Mcm. It considered there is a 50.4% probability of achieving a static working gas volume of 200 Mcm and a 5.8% probability of achieving a static working gas volume of 300 Mcm.

3.8 The Secretary of State also sought further clarification from Halite on 15 October 2014¹². Halite’s representation “*Response to DECC letter of 15 October 2014*” “H44” dated 22 October 2014¹³ included confirmation that the size of the above ground infrastructure has not changed (and does not need to) from that applied for in the Application for static working gas volume ranges between 100 Mcm and 600 Mcm because, regardless of the working volume, the number of annual cycles of injection and withdrawal would be increased to match the specifics of the storage facility.

3.9 In addition to the above, a number of other representations have been received in response to the Secretary of State’s letter of 6 April 2014 from other interested parties, including the relevant planning authorities, Wyre Borough Council and Lancashire County Council, and other consultative bodies including Natural England, Environment Agency, English Heritage and Highways Agency.

3.10 Some 60 representations under the 2010 Rules were received from other interested parties objecting to the Development. These included representations from individuals, local Members of Parliament and the Protect Wyre Group. In respect of the latter, the Secretary of State notes from the Examining Authority’s report that the Protect Wyre Group represent the local community and previously organised pro forma responses from over 10,800 residents objecting to the Development [ER 2.3]. Some 90 further representations were recently received seeking clarification on the decision maker for the application, which also made reference to safety concerns. The grounds of objection are considered below.

¹¹ <http://infrastructure.planningportal.gov.uk/document/2797058>

¹² <http://infrastructure.planningportal.gov.uk/document/2769701>

¹³ <http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/4.%20Redetermination/DECC%20consultation/Further%20in%20formation%20requested%20by%20the%20Secretary%20of%20State/Halite's%20response%20to%20DECC's%20letter%20dated%2016%20October%202014.pdf>

3.11 Around 120 representations, mainly from the business community, were also received in support of the Development. Grounds for support included the need for additional UK gas storage and economic benefits of the Development.

3.12 All representations received by the Secretary of State have been published on the Planning Inspectorate's Infrastructure Planning Portal¹⁴ and taken into account in the Secretary of State's consideration of the Application.

IV. Secretary of State's decision on and consideration of the Application

4.1 The Secretary of State has carefully considered the Examining Authority's report, the independent geological assessment produced by Senergy and all other relevant information, including the application and its supporting documents, and all representations received from interested parties pursuant to the 2010 Rules and otherwise, and has decided under section 114 of the 2008 Act to grant development consent for the Application and direct deemed consent be granted in respect of the HSC Application. This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. A copy of the Order to be made as part of the Secretary of State's decision is published alongside this letter on the Planning Inspectorate's website¹⁵.

4.2 The Secretary of State's consideration of the Examining Authority's report and other relevant matters including representations received pursuant to Rule 20(2)(b) of the 2010 Rules and otherwise is set out in the following paragraphs. All paragraph references, unless otherwise stated, are to the Examining Authority's report.

4.3 Unless indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the Examining Authority as set out in its report, and the reasons for the Secretary of State's decision are those given by the Examining Authority in support of their conclusions and recommendations. This letter should therefore be read alongside with the Order and Examining Authority's Report that are published on the Planning Inspectorate's website.

4.4 As indicated above, a number of representations have also been received in response to the procedure followed by the Secretary of State pursuant to Rule 20(2) of the 2010 Rules and otherwise. The Secretary of State has considered these representations carefully. Unless otherwise specified in this letter, the Secretary of State considers the representations received since the close of the

¹⁴ <http://infrastructure.planningportal.gov.uk/projects/north-west/preesall-saltfield-underground-gas-storage/?ipcsection=relreps>

¹⁵ <http://infrastructure.planningportal.gov.uk/projects/North%20West/Preesall-Saltfield-Underground-Gas-Storage/>

Examining Authority's examination do not raise substantial new issues not already considered by the Examining Authority in its report. The Secretary of State is of the view that a number of the representations rehearse arguments raised during the examination of the Application and, to the extent that they have already been addressed by the Examining Authority in its consideration and subsequent report, they are not further addressed in this letter. Although these representations cover a number of matters their main themes included: geological suitability including the impact of faulting; safety issues; the need for the Development; perceived impact on house prices; and the adverse environmental impact of the Development (including the visual impact of the above ground infrastructure; impact on the Wyre Estuary Site of Special Scientific Interest ("SSSI"); the impact of construction traffic on local roads; compulsory purchase of land and the impact of pipeline construction on farming activities; and impact of the brine discharge in the North Sea). Although, as indicated above, the Secretary of State is required to take further measures to redetermine the Application, a number of objectors were also dismayed that Halite should be provided with another opportunity to provide further geological information following the Secretary of State's earlier refusal of the Application.

Consistency with National Policy Statements for Energy

4.5 Subject to consideration of adverse planning impacts, the Secretary of State takes the view that granting development consent to the proposed Development would be consistent with EN-1, given the need for this type of Development and the contribution such projects can make to ensuring the UK's security of supply (Parts 3.8.8 -3.8.13 of EN-1 refers).

4.6 In particular, as is explained in paragraph 3.8.9 of EN-1, as United Kingdom Continental Shelf gas production declines, a range of infrastructure is likely to be required including increased gas storage capacity. Gaseous gas in underground gas storage facilities or Liquid Natural Gas in tanks is required *"to provide close-to-market 'swing supply' to help meet peak demand. Demand varies considerably throughout the day and it is necessary for some sources to be close to market so that gas is quickly available. Gas supply infrastructure will also need to keep pace with any changes in the regional demand for gas across the UK – which may change due to changes in location of population and/or commercial or industrial demand."* As also explained in Part 3.8.12 of EN-1, *"Close-to market capacity has advantages complementary to import capacity"* and *"Medium range storage" typically gas stored in caverns in salt strata deep underground has faster withdrawal and refill rates helping gas supply companies to respond to changing market conditions from day to day ("diurnal") and week to week."* The Secretary of State is satisfied therefore that there is a general need for this type of Development to ensure the UK's security of supply.

4.7 The Secretary of State is also satisfied that, in view of the further geological assessment provided since the close of the Examining Authority's examination, Halite has demonstrated *"the suitability of the geology"* for the type of underground storage proposed in accordance with EN-4.

The Planning Balance: benefits weighed against adverse impacts of the project.

4.8 The Secretary of State broadly accepts the Examining Authority's consideration of Landscape, Visual Impacts and Design (ER 6.1-6.33). In particular, the Secretary of State notes its view that, notwithstanding the landscaping mitigation measures proposed under Requirement 9 [and 10] of Schedule 9 to the Order, the likely visual impact of the Gas Compressor Compound would be "*an overall serious disbenefit of the proposal*" [ER 6.33]. The Examining Authority notes in this regard that "*the earth mounding and landscaping has the promise of screening most of the lower elements of the GCC [Gas Compressor Compound] from nearly all directions and therefore substantially reducing its impact on the landscape*", but that "*its size and scale means it will be a large, permanent collection of industrial plant and equipment in what otherwise appears to be a largely undeveloped and rural landscape*" [ER 6.23]. The objections of Lancashire County Council and Wyre Borough Council, who maintain that the Development would have an unacceptable impact on the visual amenities of the area, are also noted [ER 6.2]. The County Council's concerns have also been reiterated in its further representations dated 11 September 2014, which state "*if the proposed capacity is reduced to the degree identified [i.e. in Senergy's further geological assessment], the County Council is concerned that the benefits associated with such a project and the contribution it would subsequently make to national need would not outweigh the impacts of the development on the local landscape*". As indicated above, Halite has also confirmed that the size of the above ground infrastructure will not change regardless of the working gas capacity of the storage facility.

4.9 Given the available geological data and understanding at the time, the Examining Authority adopted a minimum working capacity of 300 Mcm [ER 9.28] as a suitable threshold that needed to be demonstrated by Halite as achievable prior to the commencement of the Development. It considered this was a plausible threshold on which to strike the planning balance between the benefits of the Development in terms of the additional storage capacity it would provide and the adverse impacts of the Development (ER 9.18-9.36). The Examining Authority therefore recommended that two additional sub paragraphs be added to Requirement 6 in the Order requiring a geological survey to be carried out prior to the commencement of the Development, to be proved to the satisfaction of Lancashire County Council that this minimum working capacity could be achieved. Protect Wyre Group's view in its representation of 9 September 2014 is that the application should be refused as, using the ExA's own words, "*If the minimum threshold cannot be met it would mean the development would not be permitted to proceed any further*".

4.10 The Secretary of State acknowledges the Examining Authority's concern that whilst the draft Order submitted by the Applicant provided an upper working gas storage capacity of 600 Mcm, it did not include a lower limit and, therefore, that "*if only a materially lower volume of gas capacity can be achieved it may not give sufficient benefit to outweigh the adverse impacts of the project*" [ER 9.27]. In the Secretary of State's view, the Examining Authority's consideration and identification

of a specific minimum threshold needs to be re-considered in light of the significant further geological information provided by Halite and assessed by Senergy, as the various iterations and representations that followed. In particular, the Secretary of State notes the Examining Authority's acknowledgement that the 300 Mcm threshold was "*to some extent arbitrary*" [ER 9.30]. Though the NPSs do not necessarily require the Applicant to prove the specific volume of gas that the project will service, it is necessary to consider where the planning balance lies in respect of the project in terms of the overall benefit expected. The Secretary of State notes that the further geological assessment now available concludes that the geology has the potential to support significant gas storage capacity, but that it is unlikely to meet the maximum capacity threshold applied for by Halite.

4.11 It is noted that Halite's 'Response to the "Independent Geological Assessment" produced by Senergy (GB) Limited' (H43) dated 10 September 2014¹⁶ considered in paragraph 1.8 that Senergy's storage gas capacity analysis was "*unduly pessimistic*" [paragraphs 1.8 and 4.16 refer]. It states that on a "*conservative assessment the Project would have a static working gas storage capacity of 324 Mcm and, taking account of cycling, an effective annual capacity of 3888 Mcm*". This is based on 12 cycles per year with an injection rate of 32.4 Mcm/day and 10-12 day withdrawal period. As indicated above, Senergy subsequently slightly revised upwards its probabilistic storage capacity calculations to take account of this additional information.

4.12 The Secretary of State has given careful consideration to the two sets of volumetric calculations; first those given by Halite (which the Secretary of State notes from Halite's response of 10 September 2014 are made using "*the site specific data available for the Preesall site*" and from experience gained developing underground gas storage caverns in Cheshire) and secondly the assessments carried out by Senergy (which have been made on a probabilistic basis). Whilst the Secretary of State notes Halite's concerns about Senergy's calculations, there is no suggestion that Senergy's probabilistic calculations are fundamentally wrong. Taking a precautionary approach, the Secretary of State considers the planning balance on the basis of Senergy's independent figures.

4.13 On that basis, the Secretary of State is mindful that a project with a minimum capacity of between 130 Mcm and 200 Mcm (which would appear most likely to be achieved based on Senergy's revised Monte Carlo analysis i.e. at 90-50% probability) would very substantially exceed the 43 Mcm threshold as set out in EN-4 for national significant applications that fall to be considered under the 2008 Act. Furthermore, the Secretary of State notes from National Grid's *Gas Ten Year Statement November 2013* document¹⁷ that a project of such a size would be

¹⁶ <http://infrastructure.planningportal.gov.uk/wp-content/uploads/projects/EN030001/4.%20Redetermination/DECC%20consultation/Second%20Round%20of%20Consultation/Second%20round%20of%20consultation%20response%20by%20Halite%20Energy%20Group%20Ltd.pdf>

¹⁷ <http://www2.nationalgrid.com/UK/Industry-information/Future-of-Energy/Gas-Ten-Year-Statement/>

larger/have a greater daily delivery rate than a number of other operational or under construction UK gas storage projects. As such, even with a (relatively small) level of uncertainty as to the actual storage capacity that could ultimately be achieved, it is clear that the project would still make a “nationally significant” contribution to ensure the UK’s security of supply.

4.14 The Secretary of State notes that the advantage of “*close to market capacity*” over “*import capacity*” and the benefits of salt cavern storage in providing faster gas withdrawal and refill rates, as set out in EN-1, weighs in favour of the Development. As Halite has also highlighted in the sections 5.5.51 – 5.5.69 of its representation dated 10 September 2014, “*Locational Benefits*” of the Project include that it would be a fast cycling facility with gas entering the National Transmission System in response to market conditions and at a location close to five existing and three planned Combined Cycle Gas Turbine generating stations. It will also be expected to support/provide back up for “*substantial offshore wind generation in the vicinity of the Preesall site*” at short notice.

4.15 Turning to the planning balance, the Secretary of State notes the Examining Authority’s comments regarding the relationship between the anticipated storage capacity of the site and the size of the above-ground infrastructure that will be required to deliver that storage at paragraph 7.10 of the ER:

“We have no direct evidence about the relationship of the facilities required at the GCC and the volume of gas stored. But it is unlikely to be a linear relationship, and certain fixed elements of the plant will be needed irrespective of how much actual gas is being transmitted.”

4.16 As indicated above, Halite has confirmed in paragraph 4.1.1 of “*Response to DECC letter of 15 October 2014 - H44*” dated 22 October 2014 that, in respect of a range of working gas volumes between 100 Mcm and 600 Mcm, “*The size of the planned above ground infrastructure has not changed (and does not need to) from that applied for in the application for development consent*” because of the proposed increase in the number of annual cycles of injection and withdrawal. The Secretary of State has therefore decided to proceed on the basis that, to the extent that the project ultimately yields lower storage capacities, the above-ground visual impacts will not be reduced commensurately. On the contrary, the size and scale of the above-ground infrastructure is known and will not change.

4.17 Taking account of the conclusions of Senergy and Halite’s own geological assessment, the range of predictions as to the storage capacity capable of being achieved, and the views of the Examining Authority and interested parties on the adverse visual impacts of the above-ground infrastructure, the Secretary of State is satisfied that, overall, the significant contribution which could be made by the project towards additional gas storage capacity would substantially outweigh the adverse impacts of its above-ground infrastructure.

4.18 Having so concluded, the Secretary of State has considered whether, and if so how, the likely range of volumetric outcomes predicted both by Halite and Senergy should be reflected in the requirements of the Order. The Secretary of State is mindful that setting a minimum capacity threshold could unduly restrict additional storage capacity that might otherwise be achieved. Conversely, the absence of such a threshold could in extreme circumstances result in the adverse impacts of the project, particularly the visual impacts of the above-ground infrastructure, outweighing its benefits.

4.19 As referred to above, the Examining Authority recommended Requirement 6(2), which states that no authorised development shall be carried out if the working capacity of Work No.1A, as agreed with Lancashire County Council pursuant to subparagraph 1(c) is less than 300 Mcm at the standard temperature and pressure. However, that threshold was to some extent arbitrary and has largely been overtaken by events. The Secretary of State has therefore revisited this matter in light of the further geological assessments since carried out and confirmation by Halite on the size of above ground infrastructure that would still be required for a range of working capacities and concluded that it is necessary to specify a minimum threshold in order for the Development to proceed. The Secretary of State considers that a minimum working capacity figure of 130 Mcm in Requirement 6 would be appropriate for that purpose. This is based on Senergy's independent geological assessment and revised 90% probability threshold of 134.6 Mcm. The further geological assessments since conducted and provided by Halite and Senergy satisfy the Secretary of State that, subject to the inclusion of the revised minimum threshold, there is now no need for the Applicant to carry out further geological survey work before the commencement of the project. The Secretary of State has therefore modified the Examining Authority's proposed Requirement 6 to remove the need for prior approval of further geological surveys by Lancashire County Council [ER 9.36]. The Secretary of State has also considered whether it would be appropriate to reduce the maximum total storage capacity and working capacity thresholds specified in Requirement 6. The Secretary of State recognises that, based on the geological assessment, there is no good reason to limit the capacity of the gas storage facility in this way, mindful of Halite's confirmation that the size of the above ground infrastructure required for the Development would not change.

4.20 The Secretary of State has considered Halite's representation included in document H26 submitted on 9 May 2014. The Secretary of State has decided to include Halite's additional suggested Requirement 6(2), requiring Halite to provide to Lancashire County Council the safety reports to be submitted to the Competent Authority pursuant to the COMAH [Control of Major Accident Hazards] Regulations in order to keep them informed of progress and determination of the Project. Whilst noting Halite's view that Requirement 6(4) in the Order (i.e. as annexed in the Examining Authority's report) relating to cavern design is no longer necessary, the Secretary of State notes this subparagraph was previously proposed and agreed with Halite and Lancashire County Council. The Secretary of State considers the Requirement provides clarity on the cavern design parameters to be set and that it is therefore appropriate to keep the Requirement in the Order.

Safety Matters

4.21 The Secretary of State acknowledges that a range of issues relating to the safety of the underground gas storage facility were raised during the Examining Authority's examination. These are considered in section 5 of the Examining Authority's Report. The Secretary of State notes the Examining Authority also acknowledges that "*fear is a real and major issue for the community, whether statistically justified or not*" [ER 5.190]. It is noted that safety and fear of gas migration and explosion are also major concerns raised in subsequent representations received from interested parties under Rule 20(2) of the 2010 Rules. These relate to risks associated with: ground subsidence; crown hole collapse; inadequate maintenance after decommissioning; permeability of the halite, mud interbeds and faults; insufficient depth of caverns; proximity of the caverns to historic brinewells and salt mines; seismic activity; hydrofracturing ("fracking"); and gas leakage from above ground infrastructure.

4.22 Whilst noting and appreciating the safety concerns and fears of local people also raised again in subsequent representations received under the 2010 Rules, the Secretary of State agrees with the Examining Authority's consideration of these matters in section 5 of their report and the view that "*there is no reason to suppose that stringent safety requirements which would be imposed upon the operation of the scheme by the Competent Authority [the Health and Safety Executive ("HSE") and the Environment Agency ("EA") acting jointly] under the COMAH Regulations would not lead to an entirely safe and stable UGS [Underground Gas Storage] facility, examples of which exist in other parts of the UK, and indeed in much larger numbers elsewhere in the world*" [ER 7.27]. These regulations aim to prevent major accidents involving dangerous substances and limit the consequences to people and the environment of any that do occur. COMAH Regulations would apply throughout the life cycle of the underground gas storage (i.e. from the design and build stage through to decommissioning). Similarly, the Secretary of State agrees with the Examining Authority's consideration of the safety of the National Transmission System interconnector gas pipeline [ER 5.167-5.168] and the view that "*the pipeline route and design will be subject to the Pipeline Safety Regulations 1996 (APP30, paragraph 9.5) which will ensure that the gas interconnector pipeline is designed, constructed and operated safely*".

4.23 It is noted that there is also a high level of concern about responses from the emergency services and evacuation procedures in the event of an emergency. The Examining Authority states that this is attributed to "*the inadequacy of the road network from the peninsula and the high number of elderly residents in the area*" [ER 5.199]. However, whilst acknowledging "*the potentially congested nature of the road network and particularly the difficulties that might be encountered on the A588 if emergency services were trying to access the Preesall site while residents were leaving the area either towards Poulton-le-Fylde or Lancaster*" [ER 5.200], the Examining Authority notes that an evacuation plan will be part of the off-site emergency plan generated as part of the COMAH approval for the site [ER 5.201].

4.24 In view that emergency evacuation procedures will be assessed by Lancashire County Council and HSE, and the risk assessment shows that the likelihood of a major emergency is very low, the Examining Authority concludes that *“the possible evacuation of the public is not a significant factor whether or not the Order should be made”* [ER 5.202].

4.25 In the circumstances, whilst the Secretary of State sees no reason to disagree with the Examining Authority’s consideration of matters relating to safety, the Secretary of State is sympathetic to the concerns of local people, particularly given the long planning history relating to previously unsuccessful underground gas storage projects at Preesall. The further geological information now provided by Halite should go some way towards allaying those concerns.

Socio-Economic Effects

4.26 In respect of the Examining Authority’s consideration of Socio-Economic Effects (ER 6.153-6.158), the Secretary of State notes that it is anticipated that: the project would generate 200 to 300 full-time jobs during construction and 35 to 40 full-time jobs during operation; where possible, opportunities would be provided for apprenticeships, graduate placements and young people not in education or training; and an observation platform on the sea wall at Rossall would be constructed for those using the coastal path at that location [ER 6.154]. The Secretary of State notes that assertions that house prices would be damaged (and also tourism and local business would suffer) have not been supported with factual evidence and these concerns should not attract significant weight [ER 6.157]. The Secretary of State agrees with the Examining Authority that there are no grounds to refuse the Order on the socio-economic impact of the proposals [ER 6.158].

Brine Discharge Pipeline and Sea defence scheme

4.27 The Secretary of State has carefully considered the further representations received from Wyre Borough Council dated 8 May 2014, which confirm that since the Application was considered by the Examining Authority, full planning permission has been given for the sea defence scheme extending north from Rossall and work has commenced in implementing the scheme. The Secretary of State notes the Council indicated they would therefore expect the details for the brine discharge pipeline to be revised to accord with the new sea defences plan and to be to their satisfaction/agreement.

4.28 Requirement 4 in the Order makes provision for modifications to and breaking through the sea wall to allow the passage of the pipeline beneath the promenade etc. The Council’s preference would be for a realignment of the pipeline route to cross the sea wall at the point where the old sea wall meets the new. However, Halite has pointed out in its representation dated 10 September 2014 that this realignment would be outside the limits of deviation and land rights in the Order, which the Examining Authority has recommended be approved (i.e. it could

therefore not be achieved under requirement 4) and to which the Council did not object during the Examining Authority's examination. It is noted that Halite's representatives met the Council in August 2014 to discuss this matter and Halite do not object in principle to the realignment provided it does not impede the project. It has been suggested by Halite therefore that the realignment might be carried out by way of a legal agreement between the two parties. Such an agreement would be conditional on: i) the Council granting planning permission for the realignment in due course; ii) Halite also being granted all the necessary land rights, including rights from the Duchy of Lancaster who owns the mines and minerals beneath the beach; and iii) all other necessary consents required for the realignment being in place. If not forthcoming, Halite would construct the brine pipeline in accordance with the terms of the Order.

4.29 Although an agreement between Halite and the Council has not yet been formalised, the Secretary of State is satisfied the above principles have been agreed between parties and there is a way forward on this matter. In any case, the Secretary of State considers that Requirement 4 adequately protects the legitimate interests of the Council in respect of the sea wall.

Noise, including Cumulative Noise from the Brine Discharge Pipeline and Sea Wall Crossing Works

4.30 The Secretary of State agrees with the Examining Authority's findings and conclusions on noise [ER 6.67 -6.91] and notes that Requirement 26 of the Order allows for a noise management scheme to be agreed with Wyre Borough Council. It also includes specific noise limits during drilling under the River Wyre at three receptor locations, including a holiday park and caravan park. The Secretary of State understands the noise limits were previously agreed between Halite and the Council. However, the Council has requested in its representation dated 8 May 2014 that noise limits should now be based on the cumulative noise created by Halite's operations and the sea defence works.

4.31 Halite has indicated in its representation dated 10 September 2014 that it does not consider it appropriate for the noise limits previously agreed to be altered and based on the cumulative noise limits from the drilling and sea wall activities. They note that the proposed drilling at its nearest point is approximately 2.5 kilometres from the sea defence scheme at Rossall. Based on the respective noise assessments undertaken for the storage project and sea wall schemes, Halite considers that unmitigated noise from Halite's drilling operations and the sea defence scheme would be confined to 300 metres from source. With mitigation, together with screening from intervening land uses and topographical features, they consider these distances would be reduced. However, they consider the distances between both activities alone would ensure that there would be no possibility of cumulative effects at any given receptor location.

4.32 Halite has also pointed out that the extent that any other works in respect of other stages of the project that might be carried out at the same time as construction of the sea defence scheme at Rossall, but where the Examining

Authority has not recommended that specific noise limits are required and need to be agreed, so far as is appropriate, the Council would be able to take into account cumulative effects in the noise management scheme to be approved under Requirement 26. The Secretary of State notes that Wyre Borough Council has offered no further representation on this matter.

4.33 Whilst the Secretary of State sees no reason to dispute Halite's view that the distances between both activities alone would ensure that there would be no possibility of cumulative effects at any given receptor location, the Secretary of State also considers that the Council's concerns would in any event be addressed by the existing terms of Requirement 26(6) and 26(7), which do not reference a specific source for the noise limits set at the three noise receptor locations in question. In the circumstances, the Secretary of State considers no revision is necessary to Requirement 26.

Compulsory Acquisition of Land and Rights

4.34 The Secretary of State has carefully considered section 8 of the Examining Authority's report on CA and notes that CA powers are sought in respect of the whole of the land included in the Order [ER 8.1] and comprises land required for:

- 19 underground natural gas storage caverns;
- wellhead compounds to accommodate the drill rig;
- wellhead gas manifold and distribution infrastructure to connect the completed caverns to the GCC;
- an interconnector pipeline from the GCC to the National Transmission System near Nateby;
- water washing infrastructure to dissolve the salt and create caverns together with pumps and pipelines and drilling compounds;
- seawater pump station and booster pump station;
- new access road from the A588 to the main project site at Preesall;
- brine discharge pipeline from the main project site to a point 2.3km offshore from Rossall to a two port diffuser;
- two power communication control pipelines from Fleetwood Fish Dock to the main project site;
- underground electricity cables from United Utilities switchgear at Stanah Switchyard to the GCC; and
- modification to the sea wall at Rossall to accommodate the brine outfall and an observation platform.

4.35 The Secretary of State notes the powers sought [ER 8.3] include acquisition of:

- the whole freehold interest;
- freehold interest more than 175m below the surface;

- rights in land extending from and including the surface to 1000m below the surface;
- rights for future maintenance; and
- rights to carry out works relating to landscaping and ecological works.

4.36 In addition, save where the surface freehold is to be acquired, the Secretary of State notes Halite is also seeking powers of temporary possession and use of land in order that the land can revert to the owners and occupiers following construction of the Development [ER 8.4].

4.37 Some of the pipelines and cables run under 'open space land' and under sections 131(10) and 132(2) of the 2008 Act, an Order is subject to special parliamentary procedure to the extent that it authorises the acquisition of land unless the Secretary of State is satisfied that certain statutory criteria set out in the 2008 Act have been met and a certificate issued. Although not forthcoming at the close of the examination [ER 8.38-8.41], the Secretary of State for Communities and Local Government subsequently issued a certificate under sections 131(3) and 132(2) of the 2008 Act on 4 February 2013. The Secretary of State is satisfied therefore that in granting the Order, it will not be subject to special parliamentary procedure.

4.38 It is noted that the Crown has a number of interests in the CA land though these are excepted from the CA powers within the Order [ER 8.42]. Separately, prior to the previous decision, the Secretary of State sought consent from the appropriate Crown authorities, The Duchy of Lancaster, The Queen's Most Excellent Majesty in Right of Her Crown (The Crown Estate) and the Department of Transport under section 135(2) of the 2008 Act regarding the inclusion in the Order for the general application of the Order to the various plots of Crown land (i.e. should consent be granted). Only consent from The Crown Estate and the Department of Transport was forthcoming at that time, but the Duchy of Lancaster has also since given its consent. However, as a condition of obtaining consent from such authorities, the Secretary of State agreed to include a general provision in the form of a new article 44 of the Order, which confirms that nothing in the Order prejudicially affects any rights of the Crown and, confirms that no interest in Crown land may be acquired compulsorily without the appropriate Crown authority's consent. Although it is noted a number of statutory undertakers also have an interest in the land to be acquired, objections have either been withdrawn or protective provisions included in the draft Order [ER 8.44 -8.49].

4.39 In conclusion, the Secretary of State agrees with the Examining Authority that:

- the legal interests in all plots are required in order to implement the development [ER 8.111];
- development consent for the Development should be granted;
- the NPSs are to be considered the pre-eminent policy;

- the NPSs require that the need case is to be considered as already proven;
- there are no alternative sites;
- the funding is adequate and secure as may be achieved under the 2008 Act; and
- the interference with human rights is considered lawful, in the public interest and proportionate [ER 8.112].

4.40 Whilst noting the concerns raised both during the Examining Authority's examination and in subsequent representations under the 2010 Rules, the Secretary of State agrees with the Examining Authority that the private losses suffered by affected parties are such as to outweigh the public benefits that would accrue from the grant of the CA powers which are sought [ER 8.113] and that there is a compelling case in the public interest for the grant of such powers sought in respect of the CA land [ER 8.114].

Effects on a European Site & European and Nationally Protected Species

European Sites

4.41 Pursuant to regulation 61 of the Conservation of Habitats and Species Regulations 2010 ("the 2010 Regulations") the Secretary of State is required to consider whether the Development would be likely to have a significant effect on a European site as defined therein. If such an effect is likely, then the Secretary of State must undertake an Appropriate Assessment ("AA") addressing the implications for the European site in view of its conservation objectives. The AA takes into account the impacts of the proposed project alone and also in combination with other plans and projects.

4.42 The Secretary of State notes Halite used a 10km radius to identify the European sites to be screened into the Habitats Regulations Assessment [ER 6.88], which are:

- Liverpool Bay Special Protection Area (SPA) (1.1km from the nearest feature of the project, the diffuser outlet of the brine pipeline);
- Morecambe Bay Special Area of Conservations (SAC) (2.7km from the diffuser outlet of the brine pipeline);
- Shell Flatt and Lune Deep candidate SAC (2.5km from the diffuser outlet of the brine pipeline) (and since formally classified as a designated SAC);
- Morecambe Bay SPA (the pipes and cables would run under the Wyre Estuary, part of the SPA); and
- Morecambe Bay Ramsar (the pipes and cables would run under the Wyre Estuary, part of the SPA).

4.43 The Secretary of State notes Halite produced detailed analysis of the above in two reports that concluded the project, either alone or in combination with other plans or projects, would not result in likely significant effects on any of the European sites and therefore that an AA is not required [ER 6.90]. Subject to the finalisation of the Landscape and Ecological Management Plan (LEMSP) and the proposed Order requirements to ensure delivery of agreed avoidance and mitigation measures (including mitigation land for Pink Footed Geese), Natural England has confirmed in a Statement of Common Ground that it agrees with Halite's conclusion [ER 6.91]. Natural England has since reaffirmed its position and also confirmed in its representation dated 9 May 2014 that it considers Halite's supporting environmental statement is up-to-date. The Secretary of State notes this is a view also shared by Lancashire County Council in its representation dated 9 May 2014. The Secretary of State sees no reason to disagree that the environmental information provided by Halite is up-to-date and sufficient for the purposes of determining the Application.

4.44 The Examining Authority has carefully considered the information relating to Halite's assessment and from interested parties, including nature conservation bodies, and also concludes that no likely significant effects will result from the project on the above European sites. Subject to the Secretary of State (i.e. as the 'Competent Authority') agreeing with their conclusion, they considered there is therefore no need for an AA. The Secretary of State sees no reason to disagree with the Examining Authority's conclusions [ER 6.113 -6.114] and so concludes that the requirements of the 2010 Regulations are satisfied.

Sites of Special Scientific Interest ("SSSIs")

4.45 The Secretary of State also agrees that the Examining Authority's conclusions that the mitigation measures, agreed in the context of considering the Morecambe Bay SPA and Ramsar sites would avoid the risk of disturbance to the designated features of the Wyre Estuary SSSI [ER 6.117 – 6.119]. Similarly, the Secretary of State agrees with the Examining Authority's conclusion that there would not be damage to the protected features of the Lune Estuary and Winmarleigh Moss SSSIs and notifications under the Wildlife and Countryside Act 1981 are not required for the designated sites [ER 6.120-6.122].

European Protected Species and Nationally Protected Species

4.46 Halite and interested parties, including nature conservation bodies, have not identified a need for European Protected Species (EPS) licences with respect to marine mammals. However, draft licences in respect of bats and great crested newts were submitted to Natural England. Although not granted at the close of the examination, it is noted that Natural England issued letters of comfort that they saw no reason why licences would not be forthcoming in due course. Given the available evidence, the Secretary of State agrees with the Examining Authority that there is no reason why the Order should not be made by reason of EPS [ER 6.123-

6.125]. Similarly, no specific concerns have been expressed by relevant consultees, in particular Natural England, in respect of nationally protected species. The Secretary of State concludes that there is no reason why the Order should not be made in relation to them [consistent with the Examining Authority's recommendation: ER 6.126-6.129].

Deemed Hazardous Substances Consent Direction Application

4.47 In considering Halite's application for a direction that Hazardous Substances Consent ("HSC") be deemed to be granted under section 12 of the Planning (Hazardous Substances) Act 1990 (as amended), the Secretary of State notes from the Examining Authority's report that the HSE was consulted and advised that *"unless there are any changes to the application since it was first consulted, it is unlikely that HSE would advise against the proposal"* [ER 9.42].

4.48 During the examination period, the Examining Authority requested that Halite provide a draft HSC direction, which was subsequently submitted to the Examining Authority for consideration in a letter dated 12 October 2012 with an annexed HSE Consultation Zone plan. In reconsidering the HSC Application, the Secretary of State wrote to the HSE by letter dated 24 October 2014¹⁸ to check that HSE was content with the terms proposed by Halite for inclusion in the draft HSC direction during the examination. HSE's response letter, dated 24 October 2014¹⁹ set out some minor suggested amendments.

4.49 Accordingly, for the reasons given above, the Secretary of State agrees with the Examining Authority's recommendation [ER 9.44] and directs that HSC be deemed to be granted for the HSC Application, subject to the following conditions:

- i) The hazardous substance consent applies to land at Preesall Saltfield, Stalmine, Wyre Estuary, Lancashire (Grid Reference 335500 446000), as shown on Drawing No.A.00100.P00 (dated August 2011);
- ii) The hazardous substance to which the consent relates is Natural Gas;
- iii) The maximum quantity of hazardous substance allowed by the consent to be present at any one time is 630,000 tonnes; and

¹⁸ <http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/4.%20Redetermination/DECC%20consultation/Further%20in%20formation%20requested%20by%20the%20Secretary%20of%20State/Letter%20from%20Secretary%20of%20State%20seeking%20clarification%20on%20Hazardous%20substances%20consent.pdf>

¹⁹ <http://infrastructure.planningportal.gov.uk/document/2797160>

- iv) The hazardous substance shall not be kept or used other than in accordance with the particulars provided in the application form (Form 1) at Appendix C of document “*Application for Deemed Hazardous Substances Consent Doc Ref 4.1 Revision Number 1 November 2011*”, nor outside the area(s) marked for the storage of the substance on the plan which formed part of the application. [Examination Document Ref APP15²⁰]

Other Matters considered by the Examining Authority

4.50 Whilst concerns have been raised in relation to the impact of traffic on local roads, the Secretary of State notes the Examining Authority’s consideration of access during the construction and operation of the Development [ER 6.136 – 6.144]. The Secretary of State sees no reason to disagree with the Examining Authority’s conclusion that there are no access and traffic grounds for the Order not to be confirmed [ER 6.144].

4.51 The Secretary of State also agrees with Examining Authority’s findings and conclusions on other matters in section 6 of the ER covered under the following headings: Pipelines; Disposal of Insoluble Wastes in Brine Well 123; Rights of Way; and Built Heritage and Archaeology.

4.52 In respect of the Examining Authority’s consideration of Flooding and Surface Water Drainage, the Secretary of State notes that the Sequential and Exception Tests required by EN-1 have been applied for the critical infrastructure located in Flood Zone 3. The critical assets which could not tolerate flooding would be located in Flood Zone 1, with a low probability of flooding [ER 6.36 – 6.45]. The Secretary of State is satisfied, based on the Examining Authority’s conclusions, that the Tests have been passed and there will be no increase of flooding elsewhere.

4.53 In respect of the brine discharge into the Irish Sea, the Secretary of State notes the Examining Authority’s findings in section 6 of the ER and other representations received under the 2010 Rules on this matter. The Secretary of State agrees that the requirements in the deemed marine licence within the Order will ensure monitoring of the receiving waters around the discharge and confirm conditions and any environmental impacts. The Secretary of State agrees with the Examining Authority’s findings and is satisfied that this impact will be regulated by the Marine Management Organisation and the EA.

²⁰ <http://infrastructure.planningportal.gov.uk/wp-content/ipc/uploads/projects/EN030001/2.%20Post-Submission/Application%20Documents/Other%20Documents/4.1%20%20Application%20for%20Deemed%20Hazardous%20Substances%20Consent.pdf>

IV. Secretary of State's conclusions and decision

5.1 Section 104(3) of the 2008 Act provides that, where a national policy statement is in effect:

“(3) The Secretary of State must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies.”

5.2 Given the relevance of EN-1 and EN-4 to the Application, section 104(3) means that the Application must be decided in accordance with these energy National Policy Statements, unless one or more of the exceptions in s104 (4) to (8) applies.

5.3 For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the Application, given the added contribution to the UK's gas storage capacity that the Development would provide, including in ensuring security of supply. As is noted above, the Secretary of State considers that granting consent would be consistent with EN-1 and EN-4, which set out a pressing national need for development of new nationally significant gas storage infrastructure of the type proposed. In reaching these conclusions, the Secretary of State accepts that the above-ground infrastructure (and particularly the Gas Compressor Compound), will have an adverse visual impact on the local landscape. Although also noting that Natural England agrees there would be no effects upon designated landscapes [ER 6.4], the Secretary of State is mindful of the fact that both Wyre Borough Council and Lancashire County Council maintain objections on the grounds of the impact of the Development on visual amenity. As noted above, the Secretary of State considers it is appropriate that the Development should only be allowed to proceed if a minimum working gas storage capacity of 130Mcm can be achieved [revised Requirement 6 in the Order] in order to ensure that in all cases the benefits of the Development in terms of gas storage justify the adverse impacts on visual amenity. Whilst also recognising that the impacts of even large energy infrastructure can be mitigated to some extent, the Secretary of State considers it important that Halite does everything reasonably possible to do so. To this end, the Secretary of State affirms the requirement that a landscaping scheme be approved by Wyre Borough Council in consultation with Natural England [Requirements 9 of Schedule 9 to the Order] before the Development can commence, and which must be implemented in accordance with those requirements [under Requirement 10].

5.4 The Secretary of State has therefore considered Section 104 subsections (4) to (8). The Secretary of State finds no reason to suppose (under subsections (4), (5) and (6) respectively), that deciding the application in accordance with the above NPSs would lead to the United Kingdom being in breach of its international

obligations, or any duty imposed on the Secretary of State by or under any enactment, or would be otherwise unlawful by virtue of any enactment.

5.5 In considering the Application against the test set by section 104(7) of the 2008 Act, the Secretary of State concludes (as set out above), that the benefits of the Development – the amount of its contribution to national gas storage needs anticipated on a conservative basis – are not outweighed by the anticipated adverse local impacts of the Development, as mitigated by the proposed terms of the Order.

5.6 The Secretary of State is not satisfied under subsection (8) that any condition prescribed for deciding an application otherwise than in accordance with a national policy statement is met.

5.7 The Secretary of State has also considered the requests for powers to compulsorily acquire land and rights, which formed part of the Application, and is satisfied that it is appropriate to grant the powers of compulsory acquisition as described in the book of reference and shown on the land plans.

5.8 The Secretary of State is satisfied that there will be no adverse effects on the integrity of the Liverpool Bay Special Protection Area (SPA) (Morecambe Bay Special Area of Conservations (SAC), Shell Flatt and Lune Deep SAC, Morecambe Bay SPA and Morecambe Bay site or on the integrity of any other sites either alone or in combination with other plans and projects.

5.9 The Secretary of State therefore agrees with the Examining Authority's recommendation in chapter 10 of its report to make the Order granting development consent and imposing the Requirements as proposed by them, subject to the following modifications to Requirement 6 to: i) exclude the Examining Authority's two additional sub paragraphs requiring a further geological survey; ii) include a minimum storage capacity of 130 Mcm; and iii) a requirement for Halite to provide to Lancashire County Council the safety reports to be provided to the Competent Authority pursuant to the COMAH Regulations. The Secretary of State is satisfied that a deemed marine licence should also be granted in the terms set out in Schedule 7 to the Order.

5.10 The Secretary of State confirms that, in reaching this decision, regard has been had to the Examining Authority's Report, the local impact reports submitted by the relevant local authorities, Senergy's independent geological assessment, the representations received under the 2010 Rules and otherwise and to all other matters important and relevant to the decision as required by section 105 of the 2008 Act.

5.11 The Secretary of State also confirms for the purposes of regulation 3(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 that the environmental information as defined in regulation 2(1) of those Regulations has been taken into consideration. In accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, the Secretary of State has also had regard to the purpose of conserving biodiversity, and in particular to the

United Nations Environmental Programme Convention on Biological Diversity of 1992 when considering this application.

5.12 In coming to a decision on the Application, the Secretary of State has had regard to the three elements regard to the three elements of the public sector duty described in section 149 of the Equalities Act 2010 which came into force on 6 April 2011. In respect of certain “protected characteristics” (age; disability; gender reassignment; marriage and civil partnerships²¹; pregnancy and maternity; race; religion and belief; sex; and sexual orientation), public authorities must have due regard in the exercise of their functions to the need to:

i) eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act;

ii) advance equality of opportunity between people who share a protected characteristic and those who do not; and

iii) foster good relations between people who share a protected characteristic and those who do not.

5.13 The Secretary of State’s assessment of the Preesall Underground Gas Storage Facility project in this respect is that it is not likely that there would be a disproportionate impact in relation to any of the protected characteristics. The Secretary of State does not therefore consider that the development and operation of the project is likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

5.14 The Secretary of State also agrees with the Examining Authority’s recommendation and directs that Hazardous Substances Consent be deemed to be granted, subject to the conditions set out above.

V. Challenge to decision

6.1 The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

VI. Publicity for decision

7.1 The Secretary of State’s decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

²¹ <http://www.legislation.gov.uk/ukpga/2010/15/contents>

Yours faithfully

Giles Scott
Head of National Infrastructure Consents and Coal Liabilities

**ANNEX
LEGAL CHALLENGES RELATING TO APPLICATIONS FOR
DEVELOPMENT CONSENT ORDERS**

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<http://infrastructure.planningportal.gov.uk/projects/North%20West/Preesall-Saltfield-Underground-Gas-Storage/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655)