Ms Penny Taylor  
Health and Safety Executive  
Hazardous Installations Directorate  
NSIP Applications  
5S.2, Redgrave Court  
Merton Road  
Bootle  
Merseyside L20 7HS

Your ref:  
Our ref: 12.04.09.04/279C

16 October 2014

Dear Ms Taylor

PROPOSED UNDERGROUND GAS STORAGE FACILITY AT PREESALL, LANCASHIRE

As you will be aware, the Health and Safety Executive was previously consulted in respect of Halite Energy Group’s (“Halite”) application under the Planning Act 2008 for a Development Consent Order to construct and operate an Underground Gas Storage Facility at Preesall, Lancashire. Halite’s application also sought a direction that Hazardous Substances Consent (“HSC”) be deemed to be granted (attached for ease of reference).

Although the application was refused by the Secretary of State on 9 April 2013, the decision was challenged by Halite and subsequently quashed in the High Court. The decision will therefore be retaken by the Secretary of State in due course. Following the Secretary of State’s initial consultation with interested parties in April 2014\(^1\), the Department invited further comments in July 2014 on Senergy (GB) Limited’s (“Senergy”) “Independent Geological Report” (A14DEC085A, July 2014), which indicates that a smaller gas storage capacity than that applied for is likely to be achieved. Comments were also invited on the other representations received for the purposes of his re-determination of the application.

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\(^1\) Pursuant to rule 20(2) of the Infrastructure Planning (Examination Procedure) Rules 2010
The Department is currently giving consideration to all these representations. It is also considering all other relevant information, including the Examining Panel’s Report of Findings and Conclusions and Recommendation to the Secretary of State\(^2\) and the documents submitted as part of its examination of the application.

In respect of Halite’s HSC application, it is noted from paragraph 9.42 of the Examining Panel’s Report that “the HSE 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”.

It is also noted that during the examination period the Planning Inspectorate Panel requested that Halite provide a draft HSC direction. You will see from the letter of Berwin Leighton Paisner (on behalf of Halite) dated 12 October 2012 (enclosed for ease of reference) that a draft HSC direction was provided. This covered descriptions of both the land and hazardous substance to which the proposed consent relates and also a general condition relating to the particulars provided on the application form and the plan which formed part of the application. However, the Department is unclear if the HSE was also consulted on the draft HSC direction. The purpose of the Department writing to you now therefore is to seek confirmation by **Tuesday 28 October 2014 at the latest** that the HSE is content with the draft HSC direction set out in the 12 October 2012 letter.

This letter is copied to the Planning Inspectorate for publication on its Infrastructure Planning Portal\(^3\) (Please note that all other documents referred to in this letter can also be viewed there). It is without prejudice to the Secretary of State’s decision whether or not to grant development consent for the Preesall underground gas storage facility, and nothing in this letter may be taken to imply what that decision might be.

Yours sincerely,

*Giles Scott*

Giles Scott
Head of National Infrastructure Consents

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Dear Sirs

Planning Act 2008
The Infrastructure Planning (Examination Procedure) Rules 2010
Proposed Underground Gas Storage Facility at Preesall, Lancashire
Halite Energy Group Limited
Halite Examination Document-H22
Draft Deemed Hazardous Substances Consent Direction

Further to the Panel’s request for a draft deemed hazardous substances consent direction, we set out our response and draft direction below:

1. The Planning (Hazardous Substances) Act 1990 provides, at section 9:

“(4) It shall be the duty of a hazardous substances authority, when granting hazardous substances consent, to include in that consent—

(a) a description of the land to which the consent relates;

(b) a description of the hazardous substance or substances to which it relates; and

(c) in respect of each hazardous substance to which it relates, a statement of the maximum quantity allowed by the consent to be present at any one time.”

2. Section 12 of the Planning (Hazardous Substances) Act 1990 provides:

“(2B) On making an order granting development consent in respect of development that would involve the presence of a hazardous substance in circumstances requiring hazardous substances consent, the person making the order may direct that hazardous substances consent shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

(3) Before giving a direction under any of subsections (1) to (2B), the person having power to give the direction must consult the Health and Safety [Executive].”

3. Halite’s application for a Development Consent Order included an application for Deemed Hazardous Substances Consent (doc. 4.1, November 2011). That application was notified to the Health and Safety Executive.
The Health and Safety Executive provided its consultation response to the Examining Authority on 5 October 2012 (the letter is dated 9 October, but this appears to be an error, because the response was sent by email on 5 October). The appendix to that letter states

"4. ...HSE has concluded that the risks to the surrounding population arising from the proposed operation(s) are so small that there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent.

5. Following Government advice that particulars in the application form do not automatically become conditions of consent, it would be beneficial to include a condition such as:

"The hazardous substance(s) shall not be kept or used other than in accordance with the particulars provided on the application form, nor outside the area(s) marked for storage of the substance(s) on the plan which formed part of the application."

6. A consultation zone, the outer of the zones marked on the attached map, has been determined. Unless we hear from you in the near future that the application has been refused, this map will be placed on the HSE's PADHI+ land use planning advice system within the Consultation Zone Library. This is available to authorised administrators and users via the extranet. When consent is granted, please send a copy of all the consent documents to this office so that our records can be updated."

We therefore suggest that, if the DCO is confirmed, it should be accompanied by a Direction that Hazardous Substances Consent is granted. In those circumstances the Direction should contain the following information:

"(a) a description of the land to which the consent relates

Pressall Saltfield

Stalmine

Wyre Estuary

Lancashire

Grid Reference 335500 446000

See accompanying Drawing No. A.00100.P00

(b) a description of the hazardous substance or substances to which it relates; and

Gas or any mixture of gases which is flammable in air, when held as a gas

(c) in respect of each hazardous substance to which it relates, a statement of the maximum quantity allowed by the consent to be present at any one time

630,000 Tonnes"
To: National Infrastructure Directorate  
Date: 12 October 2012  
Page: 3  

6 The Direction should also include the following condition:

"The hazardous substance(s) shall not be kept or used other than in accordance with the particulars provided on the application form, nor outside the area(s) marked for storage of the substance(s) on the plan which formed part of the application."

7 Please note that upon further consideration, Halite considered that the deemed hazardous substances consent does not need to cover the storage of glycol or methanol (as proposed in Document 4.1) as those substances will be stored in quantities that do not require hazardous substances consent.

8 Finally, if made, a copy of the Direction, and the consultation zone map, should be provided to the Health and Safety Executive, and to Wyre Borough Council as Hazardous Substances Authority.

Yours sincerely

[Redacted]

Paul Grace

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