

From: [Paul Zyda](#)
To: [Keuper Gas Storage Project](#); [Tracey Williams](#)
Cc: [HOLMES, Steven](#); [FOLAN, Nicky](#); richard.stevenson@inovyn.com; [Felicity Wimbush](#); ["JONES, Victoria"](#)
Subject: Re: KGSP Development of 19 underground gas storage cavities at Holford Brinefield Cheshire
Date: 16 September 2016 17:15:54
Attachments: [FOF89A1F-39A5-4D08-8AA7-A1D596F5905C\[10\].png](#)

<!--[if !supportAnnotations]--> <!--[endif]-->

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Dear Tracey

We write further to our email of yesterday, which lodged a Unilateral Undertaking, dated 13 September (a hard copy of which will arrive by courier today), and Victoria Jones' emails of same date and of today.

The promoter shares the desire of Cheshire West and Chester Council and Cheshire East Council, to enter into a section 106 agreement however, and as explained by telephone conversation on 8th September with the Councils' solicitor (Jones/Zyda) the late notice of the request to join the Bank of New York (BoNY) to the agreement would not be practicably achievable within the very short timeframe remaining before close of the examination. The Councils' solicitor accepted the practical difficulties and kindly offered to lodge with PINS an unexecuted s.106 agreement, under a commitment to execute the said agreed draft agreement before the Examining Authority (EA) Reports to the Secretary of State. The promoter, reasonably in the circumstances, took a view that it would be preferable to lodge a Unilateral Undertaking before close of the examination to enable the EA to attach full weight to the development consent obligations made by three significant parties in the proposed development.

It remains the promoters position that the Undertaking creates valid development consent obligations which are capable of having full weight attached. The question of enforceability is a matter of private contract between those that give the undertaking and have an interest in the land, and the relevant Councils. The promoter is however, aware of the Councils' position, and will use its best endeavours to work with the Councils', after close of the examination, to review the execution of the draft s.106 agreement and have the same lodged, and to withdraw the Undertaking, as soon as practicable and before the EA reports.

Please do not hesitate to contact me if you wish to discuss, or require clarification.

Yours sincerely,

Paul Zyda
Principal Solicitor

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