

From: [Peter](#)
To: [YorksHumberCCSPipeline](#)
Subject: Written Representation/Attended site inspection/subsequent Hearings
Date: 15 December 2014 16:47:16
Attachments: [WRITTEN REPRESENTATION - GL Riby.docx](#)

Dear Sirs

Agent Ref 10029608 -PM Mawer, Tenant Ref 10029607-GL Riby
Land at High and Low Stonehills Farms and Low Farm Barmston – Yorkshire and Humber CCS
pipeline proposal for DCO

I attach the Written Representation for GL Riby in respect of the above scheme. I am the
appointed Land Agent for the Tenant GL Riby

I am authorised to represent the Tenant and both he and I will wish to attend the accompanied
site inspection on January 27/28 2015.

I also give Notice that I and/or any authorised representative on behalf of the Tenant will wish to
be able to speak at subsequent Hearings in respect of the project relative to land occupied by GL
Riby and in particular at the Compulsory Purchase Hearing

Yours Faithfully

Peter Mawer
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WRITTEN REPRESENTATION

Application for Development Consent Order (DCO)

**YORKSHIRE & HUMBER CCS CROSS COUNTRY PIPELINE
EN070001**

AGENT REFERENCE :- 10029608

AGENT FOR GL RIBY REFERENCE 10029607

Summary of written representation

- **This is an Agent Representation upon behalf of the agricultural tenant and applies to the proposed areas of land to be taken for the provision of a pipeline and Pumping station on my client's land**
- **It relates to arrangements to be made in respect of the compulsory purchase order (CPO) element for the construction of the on-shore element of the Carbon Capture pipeline project on my client's land**
- **Relates to the exercise of the CPO**
- **Relates to the route of the proposed pipeline**
- **Relates to the proposed construction access to the pumping station**
- **Relates to the appointment of an independent land drainage consultant and the protection and provision of suitable surface water and land drainage arrangements**
- **Relates to the provision of accommodation works to enable the tenant to farm severed land during the construction phase**
- **Relates to the return of land to the tenant in reinstated order on completion of the work**
- **Relates to the protection of the Tenant from diversification blight due to the scheme**
- **Relates to any other Tenant matters which might arise as a result of the Scheme**

Detail of representation

1. APPLICATION FOR DCO/CPO

- This application for DCO is in respect of requirements by a commercial entity to enable the construction of a Pipeline from Drax to Barmston with surface installation of a Pumping station at Barmston
- This Representation relates to the choice of pipeline route and pumping station location situated at the sea end of the scheme on land at High Stonehills Farm, Fraisthorpe, Low Stonehills Farm Carnaby and part of Low Farm Barmston (all of which are tenanted from Glendon Estate) as they relate to the CPO details for the acquisition of the Tenant's land
- The existing proposals for my client's land have been prepared based upon private negotiation between parties which will not be taken into account in CPO standard compensation terms. Planning conditions should therefore be inserted to protect the landowner in respect of such arrangements otherwise the Tenant's original concerns must be taken into account by the planning inspectorate when considering the scheme

2. EXERCISE OF THE CPO AND DURATION OF CPO

- The DCO will give the developer acquisition rights over the Land occupied by the tenant for a period to be specified in the DCO/CPO
- Such CPO rights will be registered against the land ownership for the duration of the CPO
- The Developer will request that those CPO rights be for the longest duration possible, taking into account the off-shore element of the Scheme
- Despite the grant of the DCO and CPO there is no guarantee that the Scheme will happen due to the cost uncertainties
- The grant of CPO rights will restrict the Tenant's's ability to deal with his land and will blight his freedom to diversify his business during the period of the DCO and CPO
- Works contracts usually include time penalties which encourages contractors to disregard the effects of weather on the land on which they are to work. Agricultural land can be ruined both by compaction from working in wet weather or by excavations not reinstated in time to avoid bad weather causing virtual canals to form across the landowner's fields. This can be avoided by sensible timing of operations
- **Strict time limits restricting the time before exercise of the CPO should be introduced. Once exercised there should be a time limit of 12 months in which to complete the work across the Tenant's land and a requirement not to expose or work land in Winter months should be inserted**

3. ROUTE OF PIPELINE

- The Landowner and tenant's preferred route across Old Hall Farm (belonging to the same landlord) grasses avoids crossing land with complicated and levels-sensitive land drainage schemes in place
- The proposed route crosses these areas which have in the past been drained by specialists under Government Grant schemes and vetted in planning and implementation stages to ensure best practice
- **The Planning Inspectorate should investigate the possibility of using the preferred route across Old Hall Farm Barmston (a movement South of perhaps a quarter of a mile**

4. PROPOSED CONSTRUCTION ACCESS TO PUMPING STATION

- The Developer has moved the Pumping station site at the request of the landowner to arrive at the proposal location.
- One of the reasons for this suggestion was that the site would be nearer a public road for construction access purposes (the 'back' road to Fraisthorpe village) being accessible directly from the A165
- Despite this being a single track road the distance between hedges is sufficiently wide to install temporary or permanent passing places along its length and visibility at the Highway junction is likely to be better than the proposal access.
- The proposal requires access for all heavy construction traffic along the working strip to be taken along the pipeline route between the A165 and the proposed pumping station
- This means that heavily laden vehicles and heavy machinery will access the Pumping station site across agricultural land with surfacing works to try and prevent such heavy traffic from becoming bogged down
- The weight of such traffic will have serious and long reaching implications for soil structure along this part of the pipeline route once returned to agricultural use, no matter what assurances are given by the developers regarding reinstatement.
- **All construction vehicle access and subsequent access to the Pumping Station site should be via the single track public highway from the A165 at the junction nearest Stonehills Cottages with suitable improvements to passing places added by the developer where necessary.**

5. APPOINTMENT OF INDEPENDENT DRAINAGE CONSULTANT

- This cable route crosses land with some very complicated land drainage schemes due to levels and ditches locations

- Much land has in the past been comprehensively drained under Ministry Grant schemes using agricultural land drainage systems
- The proposed route will cross and damage many land drainage systems in the acquired land area and the retained land alongside
- If the land is to be acquired by CPO as opposed to negotiated rights the land owner will need to be protected in respect of land drainage reinstatement
- Otherwise the landowner will have no controls on the quality of reinstatement, timing of works and after-care to put right issues developing after the operations have finished on the land acquired for the benefit of that land nor for the benefit of his adjoining retained land
- The developer will say that the Contractors will be responsible for reinstatement of land drains.
- My experience of Contractors is that they understand civil engineering draining projects where pipes socket into each other with water-tight seals but do not understand older land drainage schemes where clay pots are laid butting up to each other, where surface water enters through the gaps and where soil can lie in drains until flushes of water entering the system can syphon the drains free of debris
- Too many workmen view old functioning drainage pipes as redundant and ignore the need for their re-connection and reinstatement when marking drains for reinstatement when encountered
- **An assurance by the developer is not enough. The appointment of an independent land drainage consultant at the expense of the developer working between parties to design and supervise the full reinstatement of land drains during and after works should be a condition of the DCO/CPO powers**

6. ACCOMMODATION WORKS

- The Tenant has to continue to work round the implementation of the scheme. The Tenant is a mixed arable and livestock farmer who will require adequate fencing of working areas, proper disease precautions of machinery brought onto the holding from farm to farm, provision of access across working strips to access severed land at all times etc
- **The DCO should ensure that the developer is required by suitable planning conditions to provide all accommodation works to the satisfaction of the Tenant**

7. RETURN OF PIPELINE LAND AFTER THE SCHEME IS COMPLETED

- Unlike most CPOs where the land is acquired for separation from the land retained eg town centre developments, roads, railway connections etc, this CPO request for the pipeline route is for the laying of an underground pipe which will sever the Tenant's fields

- The pipeline route land will be surplus to the Developer's requirements after the work has been completed
- Such rights to lay pipes are normally acquired by Deed of Easement under Statutory powers or negotiation and when the land has been satisfactorily reinstated is returned to the land owner and occupier
- **The DCO should therefore contain a condition that the land acquired for the pipeline is to be returned to the Tenant in the same condition in which it was acquired, having been suitably reinstated, within 3 months of the work having been completed, on a field by field basis.**
- **CPOs normally make no provision for the return of the land to the previous occupier. Given the nature of this application, the DCO should require that this land is returned to the landowner/occupier and should specify that this land should not be capable of disposal to third parties**

8. FUTURE DEVELOPMENT BLIGHT

- The proposed route of the pipeline has been considered subject to matters known at the date of this Representation.
- Government subsidies have been available for land based farming diversification including Renewable energy initiatives.
- Existing and new initiatives for diversification of farming will impact on the land over which this DCO is sought for the duration of the CPO and beyond once the cable route has been installed.
- As this application is for the compulsory acquisition of land for the scheme the land owner has no financial interest nor participation in the income returns from the commercial entity which will benefit from the scheme
- Today's agreed pipeline route may tomorrow blight the potential that the land owner/Tenant has to implement a farm diversification scheme of his own involving the development of the land surface under which this pipeline has been laid and sterilising the land beside it.
- It may also impact on non-diversification development possibilities over the life of the scheme
- In such circumstances under statutory acquisition of easement rights it is usual to incorporate a "lift and shift" clause, to enable the land owner to require the developer to return and move the pipe or cable to facilitate the land owner's ability to develop the land for his own benefit should such occasion arise
- At that point pipeline developer would calculate whether it was cheaper to move the cable or compensate the land owner/Tenant for the loss of the development rights relative to the development to be undertaken.
- This ability will be lost under standard compensation for CPO procedures and will therefore potentially disadvantage the land owners/Tenants.

- **The DCO/CPO should therefore protect the Tenant’s rights in this respect by imposing a “lift and shift” condition on the developer throughout the lifetime of the development for which the DCO has been obtained.**

9. OTHER TENANT MATTERS

- The Tenant has to live near and work with the scheme when in construction and operation
- As the DCO process progresses other issues may come to light which need to be raised for the protection of the Tenant
- **Such matters may need to be deferred to the relevant hearing and the Tenant reserves the right to be heard at such Hearings in respect of such additional matters arising**

Many of these matters are usually adequately dealt with in negotiations between parties for rights to lay pipelines in the commercial world. The developer in this case is seeking the precaution of DCO protection by providing a fall-back position to CPO if any of the individual negotiations stall. This is understandable given the nature and importance of the scheme.

What the Developer should not be allowed to do is to place the land owner in a worse position by applying for the DCO to circumvent the Tenant’s rights to be dealt with fairly and to be left in the same position post-scheme as pre-Scheme.

Due to the complexities of the CPO procedure and rules on compensation for land acquisition for land separation purposes being used in this case for the purposes of pipe-laying under the ground, anomalies are created which reduce the rights of the Tenant and which can only be protected within the confines of the DCO/CPO by conditions imposed upon the Applicant developer for the protection of the Tenant.

The Tenant requests the right for him/her and/or appointed Agent to attend the site inspection and to speak at any hearing to be convened which deals with the points in bold above, especially at the CPO hearing.

PM Mawer

FRICS, FAAV

Agent Reference number 10029608

As Agent for Land owner reference number 10029607

Date 15/12/2014