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Your Ref:

Our Ref: 140128\_EN070001\_2217228

Date: 05 February 2014

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Dear Ms Clinton

Thank you for giving the Planning Inspectorate the opportunity to comment on the draft Habitats Regulations Assessment (HRA): No Significant Effect Report (NSER) for the Yorkshire and Humber CCS Cross Country Pipeline. We have now reviewed the documents and have set out some comments below which we hope will be helpful. Please note that the comments provided below are based on a high level review at this stage and are given on a without prejudice basis. Comments are limited to the HRA process and do not address the conclusions reached within the document. As these comments constitute section 51 advice under the Planning Act 2008 (as amended), they will be placed on the Planning Inspectorate's register of advice on the website.

## **Planning Inspectorate comments on the Habitat Regulations Assessment: No Significant Effect Report.**

- 1.1 The Planning Inspectorate acknowledges that measures aimed at avoiding impacts have been proposed (eg seasonal constraints) in accordance with the applicant's stage 1c chapter 6 of the report. However, it should be noted that in respect of activities at the pumping station the avoidance measures proposed do not apply. Therefore, the impacts associated with construction/operation of the pumping station may not be fully avoided.
- 1.2 In addition to the point addressed at paragraph 1.1 above the assessment has not considered any potential in-combination effects that may occur. Please see comments in the in-combination impacts section below.
- 1.3 Paragraph 3.2.7 of the NSER suggests that the extended phase 1 habitat survey may have been restricted by a lack of available access. The applicant is reminded that they may apply for authorisation for a right of entry to gain access onto land in order to carry out surveys and take levels and/or in order to facilitate compliance with statutory provisions implementing the Environmental Impact Assessment Directive or Habitats Directive under s.53 of the 2008 Act (s.53 authorisation).

1.4 NSER Table 5.1 refers to a number of measures built into the project which will avoid a potential effect. Examples of these are reproduced below (this list is not exhaustive):

- permanent noise sources will be attenuated and will not be above background levels at the nearest sensitive receptors
- there will be no permanent lighting at the AGIs other than Barmston pumping station
- pollution prevention measures, a silt management plan and spillage emergency response plan will be implemented
- chemicals, diesel and other substances will be stored on site at the pumping station only
- the drainage strategy will include appropriate treatment and containment measures, and
- water quality will be tested and treated prior to discharge.

The Inspectorate recommends that the NSER provides further details, or references to other application documents containing further details, of such measures to provide the assurance that they will be implemented and/or met as part of the project. A reference to relevant draft Development Consent Order (DCO) requirements would also be required in the final report. The same applies to the avoidance and design measures detailed in NSER Table 6.1 (which includes, for example, the timing of the pipeline construction; the use of lighting and fencing; and the use of trenchless techniques).

1.5 The NSER also includes limited detail for several discreet activities that requires further explanation and consideration. For example, Table 5.1 of the NSER mentions a 'venting operation' taking place infrequently (less than every 12 months). The Planning Inspectorate would require more information as to the precise nature of these operations before being able to agree that no significant effects are likely to occur. This would equally apply to the construction and implementation of the cofferdam or storage lagoons proposed.

1.6 It appears that NSER Table 5.1 has drawn upon information from assessments undertaken to inform the Environmental Impact Assessment (EIA) (e.g. that effects from dust and track out during construction phase will be temporary and considered to be negligible; and that predicted increases in traffic flows during construction will not exceed EPUK criteria for any construction routes). The Inspectorate recommends that Table 5.1 (and, where applicable, the remainder of the NSER) contains references to relevant paragraphs of the Environmental Statement which support such statements.

### **Screening Stage 1bb**

1.7 Screening Stage 1bb has identified European sites within 15km of the project. The Inspectorate recommends that the NSER explains what guidance this distance has been based on, and whether the distance and the identified sites have been agreed with Natural England (NE).

1.8 NSER paragraph 5.3.18 refers to Appendix B for the qualifying features and conservation objectives of the Flamborough Head Special Area of Conservation

(SAC) and Thorne Moor SAC which are screened out at Stage 1bb. The Inspectorate recommends this Appendix also details Skipwith Common SAC which is also screened out at Stage 1bb (NSER Table 5.2). As NSER Table 5.2 states that these sites are screened out on the basis of no transient interest features and no pathway for effect, it would be useful if a reference to the appendix is provided within the table to allow the reader to easily cross refer to the relevant information.

### **Screening Stage 1bc**

- 1.9 NSER Table 5.4 includes several statements to qualify the finding of no likely significant effect eg the finding of no species adjacent to the application boundary. The meaning of 'adjacent' in measurable terms (distance) has not been defined. This is relevant since disturbance impacts are unlikely to be limited to the construction corridor but may extend considerably dependant upon species considered, activities undertaken and the geographic location.
- 1.10 NSER Table 5.4 makes several statements regarding the availability of other suitable habitat for affected avian species. The report does not at any point quantify the percentage loss of habitat (temporary or otherwise) alone or in-combination with other proposed developments. In absence of this information there is currently only limited evidence to support the conclusions reached.
- 1.11 NSER Table 5.4 makes only limited use of data obtained via survey techniques eg peak numbers for gadwall. The Planning Inspectorate considers that it would be useful to include more references to relevant information either in the report itself or other application documents (including the ES) as required to support the conclusions.
- 1.12 NSER Table 5.4 also makes a number of statements to support the conclusions drawn, for example as 'waders are unlikely to forage away from the coastal, pools and estuaries', and that Bewick's swan 'range from night roosts is likely to be less than 5km'. The Inspectorate recommends that references to documents/research supporting such statements are provided within the NSER.

### **Screening Stage 1c**

- 1.13 NSER Table 6.1 includes details of the avoidance methods to be employed ensuring that a significant effect will not occur for any given feature. The Planning Inspectorate notes that measures such as seasonal constraints on construction activities and limitations of lighting appear to be applicable across the entire pipeline. The applicant should consider if this is entirely necessary and whether there are areas less sensitive and therefore not requiring such restrictions.

### **In-combination impacts**

- 1.14 Appendix I describes the combined effects of the project with the offshore scheme. The Inspectorate welcomes that the offshore scheme has been considered, however notes that consideration has not been given to any other plans or projects in the vicinity. Please refer to Planning Inspectorate Advice Note 10 which recommends that the following plans or projects should be

considered for in-combination impacts:

- projects that are under construction
- permitted application(s) not yet implemented
- submitted application(s) not yet determined
- all refusals subject to appeal procedures not yet determined
- projects on the National Infrastructure's programme of projects
- projects identified in the relevant development plan (and emerging development plans - with appropriate weight being given as they move closer to adoption) recognising that much information on any relevant proposals will be limited.

1.15 In particular, the Inspectorate is aware of a number of projects in the region which individually have the potential to result in disturbance and habitat loss/fragmentation for species, and therefore recommends that the NSER addresses the potential in-combination impacts of such impacts (see paragraph 1.10 above).

### **Screening Matrices**

1.16 The Inspectorate welcomes the inclusion of the screening matrices in Appendix J, however recommends that they follow the format of the appendices to Advice Note 10. The matrices should depict the overall outcome of the screening process, and not each individual stage. The Inspectorate recommends a matrix is produced for all sites where a potential pathway for effect has been identified (e.g. those sites identified as a 'Y' in NSER Table 5.1).

1.17 Letters in the matrices cells should correspond to footnotes with relevant text providing justification for the conclusion drawn. In the matrices provided in Appendix J, the letter '(b)' has been used for all sites and features, but does not relate directly to supporting text in the footnotes. The footnote text should provide references to paragraphs in the NSER or the ES (if applicable) where supporting information can be found.

1.18 The Inspectorate recommends that the potential effects considered in the screening matrices (as detailed in NSER Table J.2) are not entitled 'temporary' or 'permanent' and that the duration of impact is explained in the footnote text within the relevant construction, operation or decommissioning column. This will have the effect of reducing the number of potential effects to be listed in the matrices.

1.19 Relevant examples of matrices are contained within Reports on the Implications for European Sites (RIES) which are available via the PINS website. Recent examples include Rampion Offshore Wind Farm, Clocaenog Onshore Wind Farm or East Anglia Offshore Wind Farm.

### **Consultation**

1.20 The Inspectorate understands that NE is also being consulted on the draft NSER. We recommend that, where possible, the NSER documents any evidence of agreement over the assessment methodology, the sites considered and the conclusions reached.

## General comments

- 1.21 The applicant is advised to ensure all references within the NSER are checked prior to submission. For example, paragraph 5.3.6 refers to Table 3.1, however the Inspectorate presumes this reference should be to Table 5.1.
- 1.22 In addition, the applicant is advised to check for consistency throughout the NSER, for example bullhead of the River Derwent SAC is screened out of Table 5.4 but subsequently screened into Table 5.5. Likewise NSER Table 5.4 states that there is no mechanism for effect on European golden plover and lapwing; however the features have been highlighted blue and taken through to screening stage 1c. The Inspectorate recommends such discrepancies are clarified.

I hope you find these comments useful. Please do not hesitate to contact me should you have any queries.

Yours sincerely

David Price  
EIA and Land Rights Manager

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

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