

HyNet Carbon Dioxide Project Team
National Infrastructure Planning
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Date: 17 April 2023

Your ref: 20033479

Our ref: CRAVENJK\343477.000190

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SENT BY EMAIL TO –hynetco2pipeline@planninginspectorate.gov.uk

Dear Mr Bulter

**The Planning Act 2008 and the Infrastructure Planning (Examination Procedure)
Rules 2010 - Rules 8, 9 and 10**

**Application by Liverpool Bay CCS Limited for an Order Granting Development Consent
for the HyNet Carbon Dioxide Pipeline**

Network Rail's Written Representation

Network Rail detailed in its section 56 Representation on 3rd January 2023 the protections Network Rail require in order to be in a position to withdraw its objection to this application. These protections are the inclusion of full and proper protective provisions for Network Rail in the draft Order together with the settlement of a Framework Agreement, the required asset protection agreement and any necessary property agreement so to properly and fully protect Network Rail's statutory undertaking.

Network Rail has also made comments to this effect in the draft of the Statement of Common Ground. At the time of drafting this representation Network Rail are unaware if these have been included ahead of the deadline today on 17 April 2023.

The Protective Provisions

Network Rail's standard, and well precedented in DCO Protective Provisions have been reviewed and commented upon by the Applicant in January 2023. Currently Network Rail's comments in return (sent on 16th February) are being reviewed and considered by the Applicant.

Compulsory Acquisition

As stated in the s56 Representation, Network Rail as statutory undertaker, has statutory obligations to ensure the safe operation of the railway, Network Rail cannot agree to the Applicant being granted the unfettered ability to exercise compulsory acquisition powers over the operational railway. This is not acceptable to Network Rail as it would create a serious detriment to the continued safe, economic and efficient operation of the operational railway. As such the protection from compulsory acquisition of Network Rail's land and interests must be included in the Protective Provisions.

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The terms of Network Rail's standard Protective Provisions including protections against the compulsory acquisition of Network Rail's operational railway land, have been widely accepted and incorporated in multiple DCOs.

As stated in Network Rail's section 56 Representation, any temporary possession of, or acquisition of permanent rights over, Network Rail operational land can only be granted with Network Rail's consent. Any such use of the operational railway must only be permitted in accordance with the statutory requirements imposed on Network Rail as the operator of the railway network and subject to all necessary requirements to ensure the safe, economic and efficient operation of the railway. In addition, any acquisition of rights over the operational railway must be subject to Network Rail's land clearance process, which is imposed on Network Rail by its Network Licence. This process includes internal consultation with railway stakeholders and the ORR (Network Rail's regulator).

Framework Agreement

Network Rail require a Framework Agreement to be entered into to manage the direct interface that the DCO has with the operational railway.

The first draft of the Framework Agreement was sent to the Applicant on 16th February 2023. Network Rail is currently awaiting the Applicant's first response to the Framework Agreement.

Asset Protection Agreement

Asset protection agreements are always required by Network Rail where works are significantly close in location and disruptive nature to the operational railway network. Such agreements are well precedented to ensure the appropriate and necessary technical, engineering and safety requirements for working on, over or near Network Rail's operational railway. Due to the location of the Applicant's proposed works, Network Rail requires an asset protection agreement in order to carry out its statutory duty.

Network Rail is currently awaiting confirmation that the Applicant accepts this requirement.

Network Rail's Requirements

Network Rail requires the draft Order to include Network Rail's standard form of its Protective Provisions for the protection of Network Rail and its operational railway and associated railway infrastructure and to manage the interface between the proposed development and Network Rail's operational land.

For the reasons set out above, Network Rail considers a Framework Agreement to be the most effective way of; agreeing the inclusion of Protective Provisions required by Network Rail, asset protection agreement, providing for the grant of rights through a wayleave agreement, providing Network Rail with the comfort of retaining its existing rights, providing for the recovery of Network Rail costs and governing the relationship between the parties.

As previously stated in the section 56 representation, Network Rail does not object to the project in principle. However Network Rail is under a statutory duty to protect the operational railway and associated railway infrastructure. Discussions to date with the Applicant are progressing, however as Network Rail is currently awaiting further comments on the Protective Provisions and first substantive comments on the Framework Agreement, Network Rail must maintain its objection to the project.

Yours sincerely

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