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Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our ref: SO/2023/123043/05-L01
Your ref: EN070007
Date: 04 July 2023

Dear Mr Butler,

APPLICATION BY LIVERPOOL BAY CCS LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE HYNET CARBON DIOXIDE PIPELINE SCHEME

ENVIRONMENT AGENCY DEADLINE 5 (4TH JULY 2023) SUBMISSION:

- **ENVIRONMENT AGENCY RESPONSES TO EXAMINING AUTHORITY'S SECOND WRITTEN QUESTIONS (ExQ2)**
- **ENVIRONMENT AGENCY FOLLOW ON RESPONSE FROM DEADLINE 3 SUBMISSION [REP3-045] (WATER FRAMEWORK DIRECTIVE ASSESSMENT AND IMPACTS ON FISH SPECIES)**

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECT – HYNET CARBON DIOXIDE PIPELINE

Thank you for notifying the Environment Agency (EA) of the request to provide representation on the Examining Authority's (ExA) second round of written questions (ExQ2) [PD-022] and further opportunity to provide comments under Deadline 5 of the Hynet Carbon Dioxide Pipeline Scheme Development Consent Order (DCO) Examination.

Please see below our responses to ExQ2 [PD-022] on questions directed to the EA in Section 1 of this letter. We have also provided additional comments for the ExA's consideration in Section 2, following the EA's Deadline 3 submission [REP3-045] on matters related to the Water Framework Directive (WFD) Assessment and impacts of the proposed scheme on the aquatic environment with specific regards to fish species.

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Section 1: Environment Agency Responses to ExQ2 (EA Related Questions)

Hynet Carbon Dioxide Pipeline – Examining Authority’s Second Written Questions (EA Related Questions)

Issue Topic 10.	Flood Risk, Hydrology, Water Resources and Contamination		
Ref.	Question to	Examining Authority Question	EA Response to Question
<p>Q2.10.3</p>	<p><i>Drainage and Water</i></p> <p>Environment Agency (EA) / NRW / United Utilities Water (UJW) / FCC / CECC / Ips</p>	<p>The Applicant acknowledges that details of indicative surface water drainage design for the Above Ground Installations (AGI) and Block Valve Stations (BVS) are included in the Outline Surface Water Drainage Strategy [CR1-111]. The strategy and the indicative drainage design would be developed at the detailed design stage and secured through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005]. The surface water drainage plan for AGIs and BVSs would be submitted to and approved by the relevant planning authority, and, where applicable, the EA and/ or NRW and/ or the Lead Local Flood Authority.</p> <ul style="list-style-type: none"> • Do Ips have any comments on that approach bearing in mind policy/ legislative changes which could be implemented? • Would the Sustainable Drainage Systems (SuDS) treatment methods implied satisfy the pollution control, amenity, and biodiversity requirements? If not, please state why not? 	<p>The EA welcome the intention to secure the detailed drainage design strategy for the AGIs and BVSs through Requirement 8 (Surface Water Drainage) in the draft DCO [REP3-005], where this relates to the EA’s focus and remit in terms of pollution prevention and Flood Risk Activity Permits (FRAPs) where necessitated.</p> <p>The EA raised in their Deadline 1 submission [REP1-062], under ‘Outline Surface Water Drainage Strategy [APP-241]’, where surface water drainage proposals include infiltration, this should be informed by a suitable ground investigation / assessment to establish ground conditions and, where remediation is required, it is demonstrated that infiltration to ground does not pose an unacceptable risk to ‘controlled waters’. We are aware the applicant has included infiltration trenches as part of the drainage strategy for the proposed Above Ground Infrastructure (AGIs) / Block Valve Stations (BVSs) to facilitate the pipeline scheme, where it has also been recognised this component provides a level of treatment prior to discharge.</p> <p>As additional information on ground conditions (and remedial requirements where necessary) is anticipated at the detailed design stage (including additional ground investigation; assessment; and remediation where required), the EA are unable to confirm whether the proposed SuDS treatment methods implied within the Outline Surface Water Drainage Strategy [CR1-111] satisfy pollution control requirements at this time. In the instance there is uncertainty on whether ground conditions are suitable for infiltration and / or</p>

			<p>effectual remediation has occurred to ensure there is no remaining potential risk of contaminants being mobilized, alternative SuDS / methods (i.e. lining of components) may be required. Therefore, we would request draft DCO requirement 8 removes specific reference to the outline surface water drainage strategy.</p> <p>The applicant should be aware that where SuDS elements such as filter drains or attenuation basins proposed to drain catchments that may be subject to contamination, such as roadways or hardstanding, that these structures should be lined in order to prevent the discharge of potentially contaminated surface water to ground / groundwater. This is particularly relevant for the proposals at the Stanlow AGI.</p>
Q2.10.4	<p><i>Drainage / Water Environment</i></p> <p>EA / NRW / UUW / FCC / CWCC / IPs</p>	<ul style="list-style-type: none"> The Applicant indicates the current drainage proposal follows the Simple Index Approach suggested by The SuDS Manual CIRIA C753 in order to evaluate the water quality. The scheme is referred to as being designed so the total pollution mitigation index has exceeded the pollution hazard index. The Applicant has also provided details in the submitted Outline Surface Water Drainage Strategy [CR1-111]. Is the approach indicated adequate given any existing uncertainties in gauging surface and ground water conditions? 	<p>The EA has no concerns with the proposed approach to assess water quality requirements for the surface water drainage scheme in accordance with the guidance provided in The SuDS Manual (CIRIA C753).</p> <p>We would refer to our response in Q2.10.3 with regards to understanding the relevant SuDS components that will be appropriate as part of the surface water drainage strategy at the detailed design stage.</p> <p>The EA would advise where contaminated runoff is to discharge to surface water or to ground, an Environmental Permit, under the Environmental Permitting (England and Wales) Regulations 2016, will be required.</p>
Issue Topic 15.	Planning Policy		
Ref.	Question to	Examining Authority Question	EA Response to Question
Q2.15.1	<p><i>National Strategy</i></p> <p>Applicant /</p>	The ExA acknowledges that on 10 January 2023 the UK Government published the 'Sustainable Drainage Systems Review' and have accepted the recommendation to make SuDS mandatory for new developments in England and will	From the EA's perspective, at this time the implementation of Schedule 3 to the Flood and Water Management Act 2010 will still require the applicant to:

	FCC / NRW / EA / IPs	<p>progress with the implementation phase. The Government has indicated it will devise regulations and processes for the creation of SuDS systems through the implementation of Schedule 3 to the Flood and Water Management Act 2010. Implementation of the new approach is expected during 2024 and therefore any outcomes/ implications to the DCO development should be addressed at this point.</p> <ul style="list-style-type: none"> The overarching aim is to reduce the risk of surface water flooding, pollution and help alleviate the pressures on traditional drainage and sewerage systems, reducing the overall amount of water that ends up in the sewers and storm overflow discharges. The ExA asks would new drainage mitigation, relevant to the DCO scheme and its future management, be in line or made in line with the policy / legislative changes to be implemented? Explain your reasoning why either way 	<ul style="list-style-type: none"> Apply for a Flood Risk Activity Permit (FRAP) from the EA, where required, for new outfalls facilitating the discharge of SuDS systems to 'main river' watercourses. Apply for an Environmental Permit from the EA if the discharge from the SuDS system to ground or surface water is contaminated. <p>The 'Sustainable Drainage Systems Review' recognises that compliance with the Environmental Permitting (England and Wales) Regulations 2016, as a separate regulatory regime, is still applicable. Therefore, we are satisfied that any new drainage mitigation within the EA's focus and remit can be managed in line with the implementation of the new approach.</p>
Issue Topic 18. Waste Management			
Ref.	Question to	Examining Authority Question	EA Response to Question
Q2.18.1	Applicant / EA / NRW / NE / Canal and River Trust / IPs	<p>Invasive plant species may/ may not be present in the area or on the land affected by the DCO development. The ExA notes that there does not appear any mechanism specifically dealing with invasive plant species during construction which constitute a 'Controlled Waste' should they be found and need to be removed / disposed. (i.e., 'Japanese Knotweed' affected soil would amount to a Controlled Waste).</p> <p>What formal mechanisms within the DCO would be in place to deal with invasive plants such as Japanese Knotweed should that be identified at any stage.</p> <p>Is survey work to investigate the presence of invasive plant</p>	<p>The EA has the following guidance and recommendations on invasive non-native species (INNS) as requested by the ExA. We note the applicant is intending to produce a Bio-Security Management Plan, prior to construction, to manage invasive non-native species (INNS) where identified.</p> <p>We would expect the applicant to adhere to the following management and biosecurity guidance to significantly reduce the risk of spreading invasive INNS, including Japanese Knotweed:</p> <ol style="list-style-type: none"> https://www.gov.uk/guidance/prevent-the-spread-of-harmful-invasive-and-non-native-plants https://www.gov.uk/guidance/prevent-japanese-knotweed-

		<p>species needed at this stage? If not, state why not.</p> <p>Do additional specific requirements / commitments specifically for invasive plant survey work or removal and disposal need to be included into the DCO for invasive plant species? If not, state why not.</p>	<p>from-spreading</p> <ol style="list-style-type: none"> 3. Management » NNSS (nonnativespecies.org) 4. Biosecurity and pathways » NNSS (nonnativespecies.org) <p>The gov.uk website (2.) above includes information on methods of disposal for Japanese Knotweed. In addition to recognising the different methods of disposal, we advise the applicant acknowledges that there may be requirements under the Environmental Permitting (England and Wales) Regulations 2016 when considering the disposal of INNS.</p> <p>Ecological surveys must identify any INNS species on land and in water within the DCO development boundary. The EA are satisfied that it is not necessary to require such survey work / detailed information as part of the Examination process and can therefore, be provided as part of the Bio-Security Management Plan as recognised in the applicant's OCEMP [REP4-238] and Register of Environmental Actions and Commitments (REAC) [REP4-235] (ES ref. D-BD-041 and D-BD-042).</p> <p>We would recommend the applicant utilises the information provided in the websites above to inform the Biosecurity Management Plan for the proposed scheme and establishing any additional requirements / commitments for INNS management at this stage.</p>
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Section 2: Additional Commentary Following the EA's Deadline 3 Submission [REP3-045]

Under the EA's Deadline 3 submission [REP3-045], 'Applicant's responses [REP2-038] [REP2-041] to EA's Comments on Water Framework Directive and Biodiversity Related Matters', we highlighted to the ExA that we wish to provide representation on certain matters at part of a later Deadline submission. Please see below additional comments from the EA relating to the WFD Assessment [APP-165], subsequently superseded as part of the applicant's Deadline 4 submission, and impacts of the proposed scheme on fish species.

Water Framework Directive (WFD) Assessment

The EA has recently engaged with the applicant's project team on the matters raised in the EA's Deadline 1 submission [REP1-062] from a WFD perspective and the applicant's subsequent responses under Deadline 2 [REP2-038] [REP2-041]. Discussions are currently ongoing where we are aware an updated Statement of Common Ground (SoCG) with the EA on this matter and revised WFD Assessment will be submitted to the ExA from the applicant as part of a future deadline submission.

Fish

We welcome the applicant's Deadline 2 [REP2-042] responses to the matters raised on the consideration of fish species within the EA's Deadline 1 submission [REP1-062]. We are satisfied with the assessment that has been undertaken with regards to the impacts of noise and vibration from the proposed scheme on fish species. However, under REAC ES ref. D-BD-058 we note that seasonal timings of works will avoid sensitive life cycle stages (migration and spawning), where possible, and 'exemptions' will be sought from the EA and Natural Resources Wales where necessary.

We would advise impacts to salmonid migration cannot be legally obliged by the EA and therefore, would request clarification on where ES ref. D-BD-058 states '*...exemptions will be sought from the Environment Agency...*'. Construction works must be carefully planned to avoid such sensitive life cycle stages for fish species and therefore, advise this action / commitment is reworded as such.

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Should you have any queries, or wish to discuss the matters raised in this letter, then please do not hesitate to contact me.

Yours sincerely

Ms Anne-Marie McLaughlin
Planning Advisor

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