

Christopher Butler
Planning Inspectorate
Temple Quay House
Temple Quay
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Our ref: SO/2023/123043/07-L01
Your ref: EN070007

Date: 08 August 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 ADDITIONAL SUBMISSION (DEADLINE 6A – 8TH AUGUST 2023)

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECT – HYNET CARBON DIOXIDE PIPELINE

The Environment Agency (EA) are currently engaging with the Hynet Carbon Dioxide Pipeline project team with regards to outstanding matters raised and items to be addressed within our Statement of Common Ground (SoCG) [REP1-024] with the applicant.

We acknowledge Deadline 6a focuses on written submissions on the proposed provisions as a result of the applicant's Change Requests. The EA has no comments to make on these matters in addition to the comments provided under our previous deadline submissions.

The EA are unable to attend the allocated time for Issue Specific Hearing 3 (9th August 2023) and we are aware the Examining Authority's (ExA's) Third Written Questions will be issued on 15th August 2023. Noting the draft DCO has been through several iterations, with the latest version under the Change Request 3 submission [CR3-008], wider to the outstanding matters raised by the EA to date, we wish to provide representation on the EA's specific concerns related to contaminated land matters only. Therefore, we would welcome the Examining Authority's acceptance of the EA's 'additional submission'.

Contaminated Land Matters

The EA has raised under previous deadline submissions [REP1-026] [REP3-045] [REP4-279] [REP6-041] the need for additional site investigation and assessment work to provide a comprehensive understanding of the contamination risks / ground conditions within the DCO Order Limits where this has been found to be insufficient to date. Such work will in turn determine requirements for remediation where found to be necessary, ensuring the risks of contamination to 'controlled waters' is managed effectively. Whilst it was raised in our Deadline 1 submission [REP1-026] that the additional site investigation / assessment work should be provided to inform the DCO Examination process, it is noted the applicant has not submitted additional technical information on this matter to date.

The EA welcomes the applicant's intention to manage 'unexpected contamination'

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under a DCO Requirement (9) [CR3-008]. There is recognition under DCO Requirement 9 [CR3-008] that in the event 'unexpected contamination' is encountered, approval should be sought by the relevant authority for any site investigation / risk assessment work and remediation strategy that would be required. However, additional ground investigation works / assessment required where contamination is known and / or potentially present (and remedial works where necessary although not established at this time), is to be incorporated within the Construction Environmental Management Plan (CEMP) to be submitted under DCO Requirement 5.

The EA has significant concerns with the approach to address such matters under DCO Requirement 5 (CEMP) and advise whilst the ground investigation / assessment work (and remedial works where necessary) will inform the CEMP and associated management plans for the construction phase, this information is essential to ensuring the land is in a suitable condition for its end use sought through the DCO.

It is the EA's view that there needs to be a suitable mechanism to secure such additional work, in consultation with the EA from a 'controlled waters' perspective (Local Authority for human health matters), to ensure the risks of contamination posed by the development are managed effectively. We advise formal approval must be sought prior to the commencement of development for any additional site investigation / assessment work; and, where necessary, any remediation strategy(s); validation plan(s); and subsequent verification demonstrating the success of remedial works.

In the absence of sufficient information to address the contaminated land matters raised to date, it is the EA's position that without an appropriate DCO Requirement governing the submission of additional information, as above, we are unable to confirm to the Examining Authority that the risks of contamination to 'controlled waters' will be sufficiently managed through the DCO.

It is noted under DCO Requirement 3 [CR3-008] that there is an intention for the pipeline to be delivered in 'stages' given the scale of the scheme. Therefore, it is essential prior to the commencement of development that an improved understanding of the site conceptualisation / characterisation, through additional ground investigation / assessment work, is established. This will in turn inform the proposed stages for the development to ensure any stages that may come forward in advance of others will not jeopardise remedial works where required. Once sufficient ground investigation and assessment work has been undertaken to provide adequate site characterisation within the Order Limits, we would be in a position to agree to submissions by 'stage' where it is found remedial works are required.

Given the above, we would request DCO Requirement 9 is amended to the effect of the following draft wording to address the EA's concerns:

DCO Requirement 9: Contaminated Land and Groundwater (Draft)

9 (1) – The authorised development may not commence in the Order limits until a site investigation and risk assessment of the risk to all receptors that may be affected, including those off-site, has been submitted and approved in writing by the relevant authority, in consultation with the Environment Agency.

(2) Where remediation is found to be necessary based on (1), no stage of the authorised development is to commence for that stage, until an options appraisal and remediation strategy is submitted to and approved in writing by the relevant authority, in consultation with the Environment Agency, giving full details of:

- (a) remediation measures required to render the land fit for its intended purpose and how they are to be undertaken; and
- (b) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy under subparagraph (a) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved. Any changes to these components require the written consent of the relevant authority.

(3) Prior to each stage of the authorised development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing by the relevant authority, in consultation with the Environment Agency. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

(4) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the relevant authority), for that stage, shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by the relevant authority, in consultation with the Environment Agency.

The remediation strategy shall be implemented as approved.

The EA advise that DCO Requirement 3 will also need to be revisited to ensure the development of 'stages' for the scheme take into account the results of the site investigation and detailed risk assessment work. Whilst we understand the applicant seeks to only provide a written submission of this information, given this intrinsically links with the management of contaminated land matters, we would advise that approval is sought by the relevant authority, in consultation with the EA, to ensure the proposed extent of stages will not impact any remedial works required based on the site investigation / assessment work required to be undertaken prior to the commencement of any development.

If there are any queries / further details required on the above, which relate to the EA's concerns on contaminated land matters only at this time, we would welcome an opportunity to provide further clarity in answer to any queries raised through the Examining Authority's Third Written Questions.

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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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