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The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
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Our ref: SO/2023/123043/08-L01
Your ref: EN070007

Date: 5th September 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 7 (5TH SEPTEMBER 2023) SUBMISSION:

- **ENVIRONMENT AGENCY RESPONSES TO THE EXAMINING AUTHORITY'S THIRD WRITTEN QUESTIONS (ExQ3)**

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) third round of written questions (ExQ3) [PD-027] and further opportunity to provide comments under Deadline 7 of the Hynet Carbon Dioxide Pipeline Scheme Development Consent Order (DCO) Examination.

Please see below our responses to ExQ3 [PD-027] on questions directed to the EA in Section 1 of this letter. We have also provided additional commentary for the ExA's consideration under Section 2.

Section 1: Environment Agency Responses to ExQ3 (EA Related Questions)

Hynet Carbon Dioxide Pipeline – Examining Authority’s Third 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
Q3.10.1	NRW EA FCC CWCC	<p>The Applicant’s WFD Assessment (Appendix 18.3, Volume III) (updated at DL4) has screened for both the potential construction and operational impacts of the DCO Proposed Development upon WFD water bodies for main rivers, canals, ordinary watercourses, transitional waterbodies, and objectives from the North-West and Dee River Basin Management Plans (RBMP) and groundwater resources.</p> <p>This includes identifying likely risks to biodiversity, the biological, physio-chemical and hydro-morphological quality of WFD water bodies (including River Dee, River Gowy, Stanney Mill Brook, Shropshire Union Canal, Finchetts Gutter, Sandycroft Drain, Wepre Brook), nearby ordinary watercourses and groundwater quality, and the likely ability of good-practice methods to manage risks associated with pollutants typically experienced during the construction and operational phase.</p> <p>Are there any shortcomings in the Applicant’s WFD Assessment remaining? If so, explain/ clarify what those specific shortcomings are.</p> <p>Outline any remaining areas of disagreement with the conclusions of the Applicant’s WFD Assessment giving your full/ specific reasons as to why disagreement remains.</p>	<p>The EA understand it is the Applicant’s intention to submit a revised WFD Assessment for Deadline 7. Once the EA have had an opportunity to review the revised WFD Assessment, we would request an opportunity at Deadline 8 to address this question fully. However, based on the WFD Assessment submitted at Deadline 4 (REP4-174), we advise the following:</p> <p>The WFD Assessment needs to make reference to the HWMB WFD mitigation measures and an associated assessment to demonstrate that the scheme will not prevent the delivery of these measures.</p> <p>For the proposed River Gowy trenchless crossing, further assessment will be required at the detailed design stage to inform an appropriate pipeline crossing depth and thereby ensure the delivery of mitigation measure ‘MMA We1075: remove obsolete structure’ is not precluded.</p> <p>Additionally, it is noted in the Outline Landscape Ecological Management Plan [APP-229] that additional areas of mitigation for mass planting have been identified for safeguarding. We note in the Landscape and Ecological Management Plan [REP4-190], Work Plan 57F includes a section of the River Gowy corridor; embankment and channel. The WFD Assessment does not currently make reference to this plan with regards to consideration of its potential effect on the delivery of the re-naturalisation of the River Gowy as a WFD mitigation measure.</p>

			<p>Wider to WFD matters, we would advise that the EA would not support proposals that would impact the integrity of the existing embankments on the River Gowy or access in this area. Engagement with the EA on the intentions of Work Plan 57F will be necessary, where it is likely a sufficient buffer zone from the watercourse and its embankments will be required. We would welcome clarity from the Applicant on this matter.</p> <p>Further to the above, whilst the package of riparian enhancements proposed is welcomed, this should not form part of the mitigation package intended to offset impacts of the development.</p> <p>We advise habitat compensation for watercourses and the surrounding riparian corridor is sought in the event reinstatement may not be achievable within the same WFD waterbody. Given the significance of the scheme; multiple watercourse crossings by trenched techniques and in the absence of design details providing a firm understanding of the extent of impact to pre-existing habitats at this stage in proceedings, we are unable to ascertain whether a simple reinstatement of any vegetation / habitat lost is reasonably 'practicable' at this time. Our approach on this matter is to ensure there is consideration for habitat compensation for watercourses / riparian corridor within the same WFD water body is acknowledged in the event that a straightforward re-instatement of any habitat / vegetation cannot be achieved, therefore, ensuring no detriment to the status and potential of the watercourse.</p> <p>Although it is acknowledged singular instances of limited vegetation / habitat loss are unlikely to affect WFD status, our consideration is that a cumulative effect could be observed. All actions undertaken on a watercourse should be seeking to achieve alignment to the Water Environment (Water Framework</p>
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			<p>Directive) (England and Wales) Regulations 2017.</p> <p>Therefore, recognition that a cumulative assessment of impacts at the water body scale should be included within the WFD assessment at the detailed design stage, to determine such impacts and establish if any compensation actions are necessitated.</p> <p>Further to the above, it is strongly recommended that opportunities to address the measures in place for physical modification (detailed in Table 5.12 of the WFD Assessment [REP4-174]) are sought as part of any habitat reinstatement, which would contribute to achieving the objectives of the RBMP.</p> <p>We advise acknowledgement that an updated WFD Assessment will be required at the detailed design stage of the pipeline scheme. Further to this, a WFD Assessment will be required, where necessary, for decommissioning activities and in support of the Decommissioning Environmental Management Plan.</p>
Q3.10.2	NRW EA FCC CWCC Welsh Government IPs	<p>In your overall view would the Applicant's development proposal meet the requirements of the WFD with its preferred crossing method? If not, is the alternative crossing proposed by the Applicant considered to be feasible in terms of meeting the requirements of the WFD? If not, please state why not.</p> <p>If one or both crossing methods be considered not to be compliant, please comment as to how the Applicant would be able to make the scheme WFD compliant.</p>	<p>The EA would favour trenchless techniques for all watercourse crossings. However, the principle of the proposed crossing methods will be considered compliant under the WFD subject to the Applicant addressing the points raised by the EA under Q3.10.1. Therefore, we would request an opportunity at Deadline 8 to address this question fully.</p>
Issue Topic 19.	Draft Development Consent Order		
Q3.19.2	Applicant EA NRW	<p>Clarify the protective provisions available (for construction and operation) for the EA and NRW which will ensure the development will not jeopardise the attainment of 'good</p>	<p>The applicant has sought the disapplication of the provisions of any byelaws made under paragraphs 5, 6 or 6a of Schedule 25 to the Water Resources Act 1991. The effect of the disapplication</p>

		<p>status' in future under the WFD.</p> <p>EA and NRW please state specifically any additional DCO inclusion(s) needed to achieve the above aim.</p>	<p>provision would disapply the North West Region Land Drainage Byelaws, made 17th November 1977 relating to the construction of any work or the carrying out of any operation for the purposes of or in connection with, the construction of the authorised development or maintenance of any part of the authorised development, is concerned. The EA and the Applicant have recently agreed a set of Protective Provisions with regards to the above matter which is anticipated to be included within a draft Development Consent Order (DCO) under the Applicant's Deadline 7 submission.</p> <p>We would advise, in line with the comments provided by the EA under Q3.10.1 above and previous deadline submissions [REP1-062] [REP4-279] [REP6-041] to ensure the development will not jeopardise the attainment of 'good status' in future under the WFD, the inclusion of the following DCO Requirements (or wording to a similar effect):</p> <p><i>(1) No stage of the authorised development is to commence until an updated Water Framework Directive Assessment for that stage is submitted to the relevant authority, in consultation with the Environment Agency. This shall include:</i></p> <ul style="list-style-type: none"> <i>(a) An assessment of the construction; operational and cumulative impacts of the detailed design proposals.</i> <i>(b) Details of mitigation or compensation measures; enhancements; and contributions to the River Basin Management Plan objectives for each waterbody.</i> <i>(c) An assessment of the Heavily Modified Waterbody mitigation measures identified for the Gowy (Milton Brook to Mersey) and Stanney Mill Brook water bodies and the ability to reach overall good 'ecological potential'.</i> <i>(d) Based on (b), restoration details of the riparian corridor and channel for all trenched watercourse crossings.</i>
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			<p><i>The scheme shall be implemented as approved. Any changes to these components require the written consent of the relevant authority, in consultation with the Environment Agency.</i></p> <p>(2) <i>No stage of the authorised development is to commence until a scheme for the protection of water resources for that stage is submitted to the relevant Authority, in consultation with the Environment Agency for approval of the following details:</i></p> <p style="padding-left: 40px;"><i>(a) Depth of installation of the pipeline below all watercourse crossings and the riparian corridor, including the minimum depth from the crown of the pipeline to the bottom of the watercourse;</i></p> <p style="padding-left: 40px;"><i>(b) Measures to prevent the pipeline creating a pathway which will impact on groundwater baseflow and interaction with surface water bodies;</i></p> <p><i>The scheme shall be implemented as approved. Any changes to these components require the written consent of the relevant authority, in consultation with the Environment Agency.</i></p> <p>Please note, proposed Requirement (2) above will also be dependent on the additional site investigation and assessment work to establish ground conditions at watercourse crossings.</p>
<p>Q3.19.3</p>	<p>NRW EA IPs Applicant</p>	<p>The ExA notes the Applicant's preference for a trenched crossing of Alltami Brook alongside flexibility to implement an embedded pipe bridge crossing should the ExA, or the Secretary of State (SoS), disagree with the applicant's preferred crossing option.</p> <p>Are IPs satisfied with the current wording of Requirement 4 detailed in the Applicant's draft DCO [REP4-008] to facilitate different Alltami Brook crossings?</p>	<p>The EA has no comments to make on the proposals for the Alltami Brook and would defer to Natural Resources Wales on this matter.</p>

		<p>If you are not satisfied with the wording of Requirement 4, please set out the wording you wish to be included.</p> <p>Can the Applicant further justify the wording of Requirement 4 in the event the ExA or the SoS were to find either of the options tabled for the Alltami Brook crossing to be unsuitable. In such circumstances how does the present draft DCO allow an unsuitable crossing option to be negated/ discounted by the recommendation/ decision maker without a further recommended DCO being consulted upon?</p> <p>In the event that the Applicant's current preferred options for the Alltami Brook crossing be found unsuitable, the ExA requests the Applicant provide an alternate draft DCO that only includes the alternative option (ie the embedded pipe bridge crossing).</p>	
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Section 2: Environment Agency Additional Commentary

The EA are currently engaging with the Hynet Carbon Dioxide Pipeline project team with regards to outstanding matters raised by the EA on the proposed scheme, where we are aware the Applicant intends to submit additional information under Deadline 7.

Since the Environment Agency's Deadline 6 submission [REP6-041] we have provided commentary direct to the project team on the Outline Dewatering Management Plan [REP5-022] and Outline Groundwater Management and Monitoring Plan [REP5-019], where revisions from the Applicant are anticipated. The EA are currently progressing with their review on the Outline Surface Water Management and Monitoring Plan [REP5-021]; Outline Waste Management Plan [REP5-018] and Outline Materials Management Plan [REP4-266].

We would advise the ExA, further to the EA's comments provided under Q3.19.2 of the ExQ3 [PD-027], that the EA intend to seek a Requirement to address contaminated land and pollution prevention matters and welcome an opportunity to provide a final position on this particular matter under Deadline 8.

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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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