

The Examining Authority
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Our ref: AN/2023/135033/03-L01
Your ref: EN070008
Date: 17 May 2024

Dear Members of the Examining Authority

Application by Chrysaor Production (UK) Limited for an Order Granting Development Consent for the Viking Carbon Capture and Storage (CCS) Pipeline

In accordance with the Examination Timetable, please find below the Environment Agency's submission in respect of:

- Comments on responses to Relevant Representations
- Comments on any other information and submissions received at Deadline 1

We have reviewed the Applicant's response to our Relevant Representations (document reference EN070008/EXAM/9.8) [REP1-044] and we are pleased that the majority of these have been noted with a commitment to action/resolve in future submission documents. In some instances, it is stated that these have already been actioned and are included in submissions made at Deadline 1. Unfortunately, we have found some anomalies in respect of these as follows:

Draft Development Consent Order, Revision C [clean REP1-002, tracked REP1-003]

The Applicant states that corrections/amendments to Article 2 (Interpretation) and Article 36 (Disapplication of Legislation) have been made but this does not appear to be the case.

In respect of Part 2 Procedure for discharge of Requirements, some amendments appear to have been made, which are stated to take account of representations made by the Local Authorities and the Environment Agency. Unfortunately, we remain of the view that the practical application of these procedures (as now drafted) will still not provide sufficient time for adequate consultation to take place.

Requirement 22 now requires the discharging authority to consult a requirement consultee “*within 10 days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the requirement consultee within 10 days of receipt of such a request and in any event within 21 days of receipt of the application*”. At best, the discharging authority may issue the consultation on the day following receipt of the application, which would then only allow 20 days for the consultee to respond. Practically, it is unlikely that the discharging authority would be satisfied with receiving comments back from the consultee on the deadline for requesting further information from the applicant if this is required. At worst, if the discharging authority does not issue the consultation until day 10 following receipt of the application, that would only allow the consultee 10-11 days to provide comments. Both of these timescales fall short of that in the Development Management Procedure Order 2015 (DMPO) for normal consultation under the Town and Country Planning regime. We would suggest that given the complexity of Nationally Significant Infrastructure Projects and the quantity of information usually involved in the discharge of requirement consultations, the timescale should at least reflect the minimum requirements of the DMPO.

Accordingly, we ask that Requirement 22 be amended to facilitate a 21 day consultation period for a specified consultee to respond to the discharging authority in addition to any allowance at either side of this for appropriate notifications to take place. As stated in paragraph 3.14 of our Relevant Representation, we believe this period should be 20 business days but the Applicant seems to have chosen to delete reference to this term even though it is defined in Article 2 (Interpretation).

Draft Construction Environmental Management Plan, Revision A [clean REP1-013, tracked REP1-014]

The Applicant states in responses to Relevant Representations [REP1-044 – entry 2.34.14], that the typo in Table 2 where the Drainage Strategy is given as Appendix 14-3 when it should be 11-3 has been corrected in Revision A of the draft CEMP. The Applicant also states in relation to F9, the relevant British Standard for topsoil, that this has also been corrected. However, neither of these corrections appear to have been made.

Applicant’s Responses to Relevant Representations [REP1-044]

As mentioned above, we are pleased and thank the Applicant for taking on board the majority of the issues raised in our Relevant Representations. In respect of their response (reference 2.34.19 on page 56), to our request that groundwater safeguard zones should have been designated in Figures 1.2 and 1.3 of Appendix 9-3 (Hydrogeological Risk Assessment [APP-094]), we would like these to be added to the assessment. We note that the applicant does not believe this addition changes the overall conclusions of the assessment but for clarity and future references, these should be updated. They may not change the conclusions of the assessment, but an accurate representation of the risk factors should be demonstrated, otherwise there is no evidence on record that they have been understood.

We welcome the Applicant’s commitment to update Chapter 11 in respect of the Water Environment along with the Flood Risk Assessment and the Water Framework Directive assessment for submission at Deadline 2 and we look forward to reviewing these in due course.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me at the number below.

Yours faithfully

Annette Hewitson
Principal Planning Adviser

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