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By e-mail: M42J6@planninginspectorate.gov.uk

20 May 2019

Dear Sirs

Esso Petroleum Company, Limited
Issue Specific Hearing 1 - Response to Letter and Schedule

We act for Esso Petroleum Company, Limited in respect of the M42 J6 project. We write in response to your note issued on 16 May to attend the Issue Specific Hearing on Wednesday 22 May and the accompanying schedule.

- 1 We do not propose to attend the meeting. No disrespect to PINS is meant by this decision. The costs of committing legal representation for an entire day, especially as your note indicates that there is no guarantee that we'd even be able to take part, are considerable. It has also become apparent from recent correspondence from Highways England Company Limited's lawyers that HECL now say that they will not pay for any of Esso's costs incurred in interacting with PINS, even if it is required in order to agree Protective Provisions.
- 2 Therefore, in this letter we set out a brief written response to the questions raised by the PINS in the schedule sent on 16 May, for your consideration at the preliminary hearing.

Question 5 - Secretary of State's consent for transfer of rights

- 3 We have no comment either way to this question. Esso's pipeline is unlikely to require diversion on the current information, so it is unlikely that additional rights will need to be compulsorily acquired and therefore transferred. Even if that were to change, we don't consider the requirement to obtain SoS's consent to be necessarily an impediment.

Question 36 - protective provisions and PPA

- 4 Once we received a costs undertaking, we prepared a draft Protective Provisions Agreement (PPA) and sent this to HECL 's solicitors on 18 April 2019. Despite sending ongoing correspondence emphasising the need to agree the Protective Provisions or any PPA as soon as possible, we only received HECL 's comments on Esso's form of PPA on 17 May 2019.
- 5 We therefore have not yet agreed the PPA with HECL, nor any protective provisions for the draft DCO.

Lawyers & Parliamentary Agents

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- 6 The current drafting of the DCO is inadequate to protect Esso's interests as a private oil pipeline operator. Esso is not a statutory undertaker in the sense of the gas, water and sewerage undertakers (s262 TCPA 1990) and does not have the backing of statutory rights. Esso will require Protective Provisions that respond to its particular rights and obligations.
- 7 Subject to a review of HECL's comments and future timely responses from HECL and reasonable engagement with Esso's requirements, we believe it is possible to agree Protective Provisions and PPA shortly and avoid attendance at the full inquiry.

Further comments

- 8 We reserve Esso's position in respect of it being an Interested Party including the right to submit written representations and attend the forthcoming inquiry.
- 9 We look forward to updating the Planning Inspectorate on the state of negotiations.

Yours faithfully



Veale Wasbrough Vizards LLP