

Lower Thames Crossing

9.53 Comments on WRs Appendix B – Statutory Undertakers

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Appendix B – Statutory Undertakers

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REP1-218 Anglian Water Services

Rep ID	WR Submitter	WR/Applicant's Response
REP1-218	Anglian Water Services	<p>WR: WR link: REP1-218</p> <p>Applicant's Response: The Applicant can confirm that all matters between the parties have been agreed. This position is reflected in the Anglian Water Services Statement of Common Ground submitted at Deadline 1 REP1-199. This is also communicated in the Applicant's Status of Negotiations with Statutory Undertakers document at entry number 2 in Table 2.1 REP1-179.</p>

REP1-260 National Gas Transmission Plc

Rep ID	WR Submitter	WR/Applicant's Response
REP1-260	National Gas Transmission Plc	<p>WR: WR link: REP1-260</p> <p>Applicant's Response: All the matters raised in the National Gas Transmission (NGT) WR are known to the Applicant and have been comprehensively addressed in items 2.1.1; 2.1.3; 2.1.6; 2.1.7; 2.1.8; 2.1.9; 2.1.10; 2.1.11; 2.1.12; 2.1.4; 2.1.6 and 2.1.17 of the National Gas Transmission Statement of Common Ground [REP1-202] submitted at Deadline 1. The status of negotiations between the parties is set out in the Applicant's Status of Negotiations with Statutory Undertakers at entry number 11 in Table 2.1 [REP1-179].</p>

REP1-261 National Grid Electricity Transmission Plc

Rep ID	WR Submitter	WR/Applicant's Response
REP1-261	National Grid Electricity Transmission Plc	<p>WR: WR link: REP1-261</p> <p>Applicant's Response: All the matters raised in the National Grid Electricity Transmission (NGET) WR are known to the Applicant and have been comprehensively addressed in items 2.1.2; 2.1.4; 2.1.5; 2.1.6; 2.1.8; 2.1.9; 2.1.13; 2.1.14; 2.1.15; 2.1.16; 2.1.17; 2.1.18; 2.1.19; 2.1.20; 2.1.21; 2.1.22; 2.1.23; 2.1.24; 2.1.26; 2.1.27; 2.1.28; 2.1.29; 2.1.30; 2.1.31; 2.1.32; 2.1.33 and 2.1.34 of the National Grid Electricity Transmission Statement of Common Ground REP1-201 submitted at Deadline 1. The status of negotiations between the parties is set out in the Applicant's Status of Negotiations with Statutory Undertakers at entry number 12 in Table 2.1 REP1-179.</p>

REP1-264 Network Rail Infrastructure Limited

Rep ID	WR Submitter	WR/Applicant's Response
REP1-264	Network Rail Infrastructure Limited	<p>WR: WR link: REP1-264</p> <p>Applicant's Response: All of the matters raised in the Network Rail WR are known to the Applicant and have been comprehensively addressed in items 2.1.1; 2.1.3; 2.1.7; 2.1.8; 2.1.9; 2.1.10; 2.1.11 and 2.1.12 of the Network Rail Infrastructure Limited Statement of Common Ground [REP1-074] submitted at Deadline 1. The status of negotiations between the parties is set out in the Applicant's Status of Negotiations with Statutory Undertakers at entry number 13 in Table 2.1 [REP1-179].</p> <p>The Applicant is committed to reaching agreement with Network Rail as to the terms on which it can secure the interests it requires on Network Rail land. The parties are engaged in ongoing discussions in this respect. However, in the absence of completed legal agreement(s) and in order to avoid any risk of impediment to the delivery of the Project (if authorised), the Applicant must secure the interests it requires in Network Rail land by means of the Development Consent Order (DCO) [REP1-042]. For this reason, the Applicant is seeking compulsory acquisition powers in relation to interests in Network Rail land.</p>

REP1-265 and REP1-266 Northumbrian Water Limited, Operating as Essex & Suffolk Water

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REP1-265 REP1-266	Northumbrian Water Limited, operating as Essex & Suffolk Water	<p>WR: WR summary: REP1-266 WR link: REP1-265</p> <p>Applicant's Response: In the response below, where there is reference to the Statement of Common Ground (SoCG), this refers to the Essex and Suffolk Water (ESW) SoCG [APP-107]. The SoCG was submitted as part of the Development Consent Order (DCO) Application. In paragraph 8 of their Relevant Representation submissions [RR-0797], ESW note that following a review of the DCO Application they have identified further matters to be captured within a future iteration of the SoCG. The Applicant has requested feedback from ESW as to the nature and detail of the new and existing matters, with the aim to submit an updated version at Examination Deadline 3.</p> <p>The matters below are drawn from the WR [REP1-265] and the accompanying summary document [REP1-266].</p> <p>Matter 1 – Linford Borehole site and the use of compulsory acquisition powers. At paragraph 1.9 and 1.10 of the summary document ESW state: <i>'If the intention is to ensure access to a water supply for its Tunnel Boring Machines (TBM), compulsory acquisition powers cannot be used as a means to permit the Applicant to acquire either the abstraction licence, or the water resource itself beneath the land, because neither the water nor the licence is attached to the land and so falls outside the reach of compulsory acquisition.</i></p> <p><i>ESW requires that plot 24-133 be removed from the draft DCO (dDCO) so that ESW remains in control of its vital asset. If not, and if agreement cannot be reached in relation to access, then ESW considers that a dedicated article would be required in the dDCO to provide access, notwithstanding the general power of occupation of the plot granted by the dDCO.'</i></p> <p>[For reference, the matter above is from paragraphs 1.9 and 1.10 of the Summary WR and from Sections 5 and 6 of the WR.]</p> <p>Applicant's Response to Matter 1 – The inclusion of Plot 24-133 within the DCO application is reflective of the Applicant's position at the time the DCO was submitted. The Applicant is justified in its need to secure the legal powers</p>

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		<p>to ensure the rights and restrictive covenants to construct, protect, operate, access and maintain the pipeline associated with the distribution of water from the Linford Borehole to the TBM site, promoted as Work No MUT6 within Schedule 1 of the draft DCO [REP1-042].</p> <p>The Applicant does not intend to use the compulsory acquisition powers to ensure access to a water supply. However, it does intend to utilise them in the absence of an alternative agreement between the parties, to ensure the rights and restrictive covenants to construct, protect, operate, access and maintain the pipeline associated with the distribution of water from the Linford Borehole to the TBM site, promoted as Work No MUT6 within Schedule 1 of the draft DCO [REP1-042] (pg.106), can be obtained in a lawful manner. This matter is being discussed between the parties.</p> <p>It is not the Applicant's intent to impede ESW in their undertakings within the Linford Borehole site, nor replace ESW as the controller of the site.</p> <p>To justify why the Applicant has included the Linford Borehole site within the Order Limits, and is seeking to acquire rights over the plot, the Applicant would refer to the SoCG between the parties [APP-107], item 2.1.1, where ESW state: <i>'Essex & Suffolk Water Limited wish all their works to be within the Order Limits (OL) boundary going forwards.'</i></p> <p>In the absence of knowing the undertaker of the works, and the assumption that ESW could be 'best placed' to undertake the works, the Applicant has ensured those Works (Work No MUT6), including access from the highway and through the plot to the site, are included within the Order Limits.</p> <p>Furthermore, at item 2.1.2 of the SoCG, ESW state:</p> <p><i>'The Linford Borehole site is meant to provide raw but chemically clean water (therefore not potable water under the Water Industry Act as it is untreated) for the Tunnel Boring Machine (TBM) use. As this is raw water and not potable, Essex & Suffolk Water Limited cannot lay the pipe(s) for that TBM use under the provisions of the WI Act''</i></p> <p>To negate the fact that ESW cannot lay the pipe(s), and the risk to the successful delivery of the Project associated with a non-functioning TBM, adequate rights are being sought via the powers of the DCO.</p> <p>The Applicant would however re-affirm its intent, as per item 2.1.9 of the SoCG, that it is hopeful that an agreement regarding this site can be concluded between both parties.</p> <p>Matter 2 – ESW has broader concerns about the effects of construction and operation of LTC on water quality and the possibility of pollution or contamination incidents affecting the water source. There is an intention to reinstate the Linford Well to public potable water supply it is very important that the water quality is not affected by the works authorised by the dDCO. Attention is drawn to Pond 10-001 which sits within SPZ1 and, therefore, from which there remains a risk, however small, of contamination of the source itself.</p> <p>[For reference the matter above is from paragraphs 1.11 to 1.13 of the Summary WR and from Section 7 of the WR.]</p>

Rep ID	WR Submitter	WR/Applicant's Response
		<p>Applicant's Response to Matter 2 – The Applicant welcomes the progressive discussions between the technical departments of both parties and shall continue to engage accordingly but must reaffirm its assumption that there are no envisaged negative affects relating to the water quality at Linford Well during construction or operation of the Project, as communicated within the Environmental Statement (ES) Appendix 14.3: Operational Surface Water Drainage Pollution Risk Assessment [APP-456]. Any perceived risk is to be managed by suitable and adequate measures secured via the Register of Environmental Actions and Commitments (REAC), part of the ES Appendix 2.2: Code of Construction Practice (CoCP) [REP1-157]. The Applicant is seeking to address those concerns regarding ESW's liabilities associated with their obligations as a water undertaker via modified Protective Provisions as communicated within the Applicant's Status of Negotiations with Statutory Undertakers at entry number 14 in Table 2.1 [REP1-179].</p> <p>Pond S10-001 (Work No 6E as shown on sheet 24 of the Works Plans [AS-026]) is a proposed permanent road drainage pond. The surface water retention ponds that serve the Project (including Pond S10-001) have been situated in topographical low spots to allow drainage of the carriageways by gravity. This avoids the requirement for pumped drainage systems that are less sustainable and have a higher maintenance burden. In the event of a spillage incident into the highway drainage and pond system, the pond discharge would be shut down as a precaution and testing of the pond may be undertaken to identify if there has been any contamination. Flow would be conveyed to Pond S10-001 via filter drains (which provide treatment in terms of suspended solids removal and dissolved metals) and the pond is designed with a sediment forebay, and surface flow vegetated area. The pond is lined, which would be maintained and inspected in accordance with the standard inspection procedures in Design Manual for Roads and Bridges (DMRB) GM 701 and GS 801 and has planting that will aid filtration of the water before discharge. Discharges will be attenuated to the 1 in 1-year greenfield runoff rate and treated prior to discharge to the receiving watercourse. The assessment of pollution risk to the receiving watercourse (presented in ES Appendix 14.3 [APP-456]) demonstrates that the proposed treatment is sufficient to pass both Environmental Quality Standard (EQS) and acute pollution risk tests.</p> <p>The Applicant appreciates the pond's geographical location within SPZ1 and the concerns of ESW regarding water quality. As such, the Applicant has proposed commitment RDWE032 in the REAC, within ES Appendix 2.2: CoCP [REP1-157], which states:</p> <p><i>'The proposed road drainage attenuation and treatment pond located at Chadwell St Mary, as indicated on the Environmental Masterplan (Figure 2.4, Application Document 6.2), is situated within a groundwater Source Protection Zone 1. The entire pond would include an impermeable lining in order to prevent seepage of drainage discharges into the ground to safeguard potable groundwater quality.'</i></p>

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		<p>To ensure the pond completes its function and is suitably maintained to achieve this, the Applicant wishes to refer to commitment RDWE012 and RDWE025 of ES Appendix 2.2: CoCP [REP1-157], which are secured under article 4 of the draft DCO [REP1-042]. RDWE012 states:</p> <p><i>'Drainage infrastructure and treatment systems would be maintained in accordance with the National Highways' DMRB GS 801 Asset Delivery Asset Inspection Requirements (Highways England, 2020g) and DMRB GM 701 Asset Delivery Asset Maintenance Requirements (ADAMr) (Highways England, 2020f), as applicable, to ensure they continue to operate to their design standard to safeguard surface and groundwater quality.'</i></p> <p>RDWE025 states:</p> <p><i>'Drainage design would include treatment measures for highway runoff designed in accordance with DMRB CG 501 and CD 532 to meet the requirements specified for each outfall to surface watercourses identified in ES Appendix 14.3, Operational Surface Water Drainage Pollution Risk Assessment. Further survey and sampling to define the flow regime and water quality of receiving watercourses would be carried out at proposed points of discharge to inform the detailed design of treatment measures.'</i></p> <p>Matter 3 – Monitoring of water quality. At paragraph 1.14 of the summary document ESW state:</p> <p><i>'ESW needs to ensure that the LTC works do not cause any damage or harm by regular monitoring of the water quality. If a deterioration in water quality was identified while the Linford Well was in use to supply the LTC project, immediate investigation would be required to determine the cause of the issue. Given the powers available in the dDCO over plot 24-133, as with access for compliance with licence obligations, access for this type of monitoring will need to be adequately secured through the DCO if it cannot be agreed.'</i></p> <p>[For reference the matter above is from paragraph 1.14 of the Summary WR and from paragraphs 7.10 to 7.14 of the WR.]</p> <p>Applicant's Response to Matter 3 – It is not the Applicant's intent to impede ESW in their undertakings within the Linford Borehole site, nor replace ESW as the controller of the site, in accordance with the Protective Provisions to be agreed between the parties. The Applicant would expect that ESW remain as the abstraction licence holder and undertake their associated duties, including the requirement to undertake the monitoring of the water quality within that facility. The Applicant expects this matter to be resolved by side agreement given the level of information required.</p> <p>Matter 4 – Damages to the water source. At paragraph 1.15 and 1.16 of the summary document ESW state:</p> <p><i>'Water quality is not a matter covered by "standard" Protective Provisions for water undertakers in DCOs and the current wording of Requirement 6 (contaminated land and groundwater) in Part 1 of Schedule 2 does not assist. Evidently, were</i></p>

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		<p><i>contamination to happen as a result of works by the Applicant authorised by the DCO, the cost of such remediation or alternative should rightly be borne by the Applicant.</i></p> <p><i>There is no adequate protection for ESW for this type of loss in the dDCO including the Protective Provisions. Compensation is payable for temporary possession of its land and, under the Protective Provisions, the dDCO provides ESW with specific means of recourse against the Applicant for damage to their apparatus. However, there is no protection from damage to the water resource itself. ESW's only recourse would be to bring a claim in negligence and, if the Applicant has undertaken all reasonable measures to protect the water resources, it will not have been negligent or have failed in its legal duty of care.'</i></p> <p>[For reference the matter above is from paragraphs 1.15 and 1.16 of the Summary WR and from paragraphs 7.15 to 7.18 of the WR.]</p> <p>Applicant's Response to Matter 4 – This matter continues to be discussed between the parties. The Applicant wishes to reaffirm its assumption that there are no envisaged affects relating to the water quality at Linford Well envisaged during construction or operation of the Project. Any perceived risk is to be managed by suitable and adequate measures secured via the REAC, within ES Appendix 2.2: Code of Construction Practice [REP1-157].</p> <p>Matter 5 – Indemnity. At paragraph 1.17 of the summary document ESW state: <i>'ESW is seeking a specific contractual indemnity as a means to reclaim any losses incurred as a result of impact from LTC on its water resources. This was accepted by the Secretary of State for Transport in a similar scenario in relation to Phase 1 of High Speed 2.'</i></p> <p>[For reference the matter above is from paragraph 1.17 of the Summary WR and from paragraphs 7.19 to 7.21 of the WR.]</p> <p>Applicant's Response to Matter 5 – This matter continues to be discussed between the parties and is expected to be agreed prior to the conclusion of the Examination period as communicated within the Applicant's Status of Negotiations with Statutory Undertakers at entry number 14 in Table 2.1 [REP1-179].</p>

REP1-279 Southern Gas Networks plc

Rep ID	WR Submitter	WR/Applicant's Response
REP1-279	Southern Gas Networks plc	<p>WR: WR link: REP1-279</p> <p>Applicant's Response: Since receipt of Southern Gas Networks' (SGN's) WR, the Applicant has entered into an agreement on Protective Provisions with SGN and understands that all of their outstanding concerns are resolved. SGN have communicated this to the Examining Authority.</p> <p>All the matters raised in the SGN WR are known to the Applicant and have been comprehensively addressed in items 2.1.1; 2.1.2; 2.1.3; 2.1.4; 2.1.5; 2.1.6; 2.1.7; 2.1.8; 2.1.10; 2.1.11; 2.1.12; 2.1.13; 2.1.14; 2.1.15; 2.1.16; 2.1.17; and 2.1.18 of the SGN Statement of Common Ground [REP1-081] submitted at Deadline 1.</p>

REP1-280 Southern Water Services Limited

Rep ID	WR Submitter	WR/Applicant's Response
REP1-280	Southern Water Services Limited	<p>WR: WR link: REP1-280</p> <p>Applicant's Response: All but one of the matters raised in the Southern Water Services (SWS) WR are known to the Applicant and have been comprehensively addressed in items 2.1.1; 2.1.2; 2.1.4; 2.1.6; 2.1.7; 2.1.12; 2.1.13; 2.1.4; 2.1.5; 2.1.17; 2.1.18 and 2.1.19 of the SWS Statement of Common Ground [REP1-203] submitted at Deadline 1.</p> <p>The only new matter in the SWS WR is the submission to have SWS' professional fees and any third-party compensation paid by the Applicant. This is not a consenting matter for resolution by the Examining Authority and it sits outside the Development Consent Order process, as it is a private commercial arrangement between the parties. Nevertheless, the parties are in advanced discussions to resolve this matter through commercial agreements between them.</p> <p>The status of negotiations between the parties is set out in the Applicant's Status of Negotiations with Statutory Undertakers document at entry number 19 in Table 2.1 [REP1-179].</p>

REP1-362 HS1 Limited

Rep ID	WR Submitter	WR/Applicant's Response
REP1-362	HS1 Limited	<p>WR: WR link: REP1-362</p> <p>Applicant's Response: All of the matters raised in the High Speed 1 Limited (HS1) WR are known to the Applicant and have been comprehensively addressed in items 2.1.1; 2.1.2; 2.1.4; 2.1.5; 2.1.6; 2.1.7; 2.1.8; 2.1.9; 2.1.10; 2.1.11; 2.1.13; 2.1.14; 2.1.15; 2.1.16; 2.1.17 and 2.1.18 of the HS1 Statement of Common Ground REP1-072 submitted at Deadline 1, and the status of negotiations between the parties is set out in the Applicant's Status of Negotiations with Statutory Undertakers at entry number 8 in Table 2.1 REP1-179.</p> <p>The Applicant rejects the contention that serious detriment to HS1's undertaking would result from the Project. The tests in section 127 of the Planning Act 2008 can be satisfied. The compulsory acquisition of land and the compulsory acquisition of rights would not result in serious detriment to the carrying on of the undertaking. The Applicant's works will be carried out in a safe and efficient manner to mitigate potential impacts to the operation of the railway.</p> <p>HS1 states that the HS1 land to be acquired as part of the Project also constitutes Crown Land and therefore section 135 of the Planning Act 2008 is engaged, and Crown consent is required. The Applicant is aware that HS1 hold a lease of the land from Secretary of State for Transport and that this land therefore falls within section 135 of the Planning Act 2008. The Applicant is in discussion with all parties and is working towards a tripartite agreement in respect of the land holdings that will satisfy the requirements of this section in respect of Crown Land and is confident this agreement will be completed by the end of the Examination period. In addition, article 43 of the draft Development Consent Order (DCO) REP1-042 sets out that Crown consent is required.</p> <p>In addition to the above response, reference should be made to the Applicant's response to the Department for Transport's WR REP1-224 contained within Appendix F: Landowners of this report regarding those parcels of land of interest to HS1.</p> <p>The Applicant notes HS1's request that it should be consulted where DCO requirements are relevant to its interests, specifically in relation to construction and handover environmental plans, landscaping and ecology, surface and foul water drainage, traffic management, construction travel plans and fencing. The Applicant does not accept this request on the basis that HS1 are not a local planning authority. The Applicant notes that for construction traffic, HS1 may not be consulted regarding the Traffic Management Plan, but they would be members of the Traffic Management Forum as communicated within the outline Traffic Management Plan for Construction REP1-174.</p>

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