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## POST EXAMINATION, Secretary of State Consultation 8

**In so far as the facts in this statement are within my knowledge, they are true. In so far as the facts in this statement are not within my direct knowledge, they are true to the best of my knowledge and belief.**

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## 1 INTRODUCTION

- 1 This submission responds to the SoS letter of 28<sup>th</sup> November 2024 (“Secretary of State Consultation 8”).

### 1.1 Background

- 2 During the latter stages of the DCO examination, the Applicant introduced a succession of three Carbon and Energy Management Plan (CEMP) updates in less than four weeks. This was extremely confusing to the ExA and all parties with a shifting baseline of information to process under tight deadlines.
- 3 Now, the Applicant has introduced a further update to the CEMP. However by its own admission, the Applicant has added nothing of material relevance to the Environmental Statement in this latest CEMP:
  - (A) Under the misleading<sup>1</sup> title “*Carbon Neutral Construction*”, the applicant says at section 2.12 of document 1.19 “Applicant’s response to the Secretary of State’s letter of 12 November 2024” that for construction emissions “*It follows that no updates are necessitated to the assessments contained in these documents.*” This refers<sup>2</sup> to the original application and documents [APP-153<sup>3</sup>] and [APP-526<sup>4</sup>].
  - (B) Under “*Carbon Emissions During Operational Phase*”, the applicant says at section 2.16 “*As a result there are no further measures that the Applicant can bring forward to address operational emissions, and therefore no update to the assessment of operational emissions is required.*”
- 4 Therefore document 1.19 and CEMP 5.0 add no new information either on construction emissions or on operation emissions for the Secretary of State to consider with respect to the Environmental Impact Assessment and Environmental Statement under the Infrastructure Planning (EIA) Regulations 2017.
- 5 In terms of decision making on the DCO application with respect to GHG emissions, the information received by the SoS from the Applicant with document 1.19 and CEMP 5.0 is null information.
- 6 Further, the information supplied at document 1.19 and CEMP 5.0 on GHG emissions associated with the scheme would be generously described as marketing information, and

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<sup>1</sup> Offsetting is a flawed methodology which often does not achieve the emissions reduction claim, and it cannot realistically be called “carbon neutral”

<sup>2</sup> The full text of section 2.12 is “*On a precautionary and reasonable worst case basis, construction emissions reported in the ES Chapter 15: Climate (Application Document 6.1) [APP-153] and Combined Modelling and Appraisal Report, Appendix D - Economic Appraisal Report (Application Document 7.7) [APP-526] continue to be based on the carbon limit of 1.44 million tCO<sub>2</sub>e and therefore they do not reflect the “stretch” target or the carbon neutral construction position. It follows that no updates are necessitated to the assessments contained in these documents.*”

<sup>3</sup> ES Chapter 15: Climate (Application Document 6.1)

<sup>4</sup> Combined Modelling and Appraisal Report, Appendix D - Economic Appraisal Report (Application Document 7.7)

realistically as greenwash, rather than solid evidence based environmental information, as required for a planning decision on a major scheme.

- 7 The CEMP is mainly concerned with construction emissions, and the rest of this consultation response related only to construction emissions.
- 8 There is no change in CEPP’s position as expressed in our submissions during the examination, also briefly summarised below.

### 1.2 Summary of CEMPs

- 9 This table is given to summarise the different CEMP versions and key information.

	Library number	Publication date	CBN04 “worst case” tCO2e	Construction emissions tCO2e for EIA
<b>2020 CEMP</b>	n/a	October 2020	-	2,031,607
<b>CEMP v1.0</b>	APP-552	31 October 2022	1,762,967	1,762,967
<b>CEMP v2.0</b>	REP7-150	17 November 2023	1,444,500	1,444,500
<b>CEMP v3.0</b>	REP8-088	5 December 2023	1,444,500	1,444,500
<b>CEMP v4.0</b>	REP9-239	11 December 2023	1,444,500	1,444,500
<b>CEMP v5.0</b>	TR010032-006497-7.19	26 November 2024	1,444,500	1,444,500

## 2 SUMMARY OF CEPP’S PREVIOUS POSITION

### 2.1 CEMP v2.0

- 10 The new figure of 1,444,500 tCO2 under the revised CBN04 at CEMP v2.0 (over the submitted application figure of 1,762,967 tCO2 in CEMP v1.0) is not a genuine “worst case” for the construction emissions, and this renders the EIA assessment unlawful [REP8-174, section 4.1]. This is because the additional reductions are “achieved” by a “black box” in which there are an array of sub-contracts and contractual arrangements, and “possible pathways” depending upon contracts being guaranteed to deliver the necessary emission reductions in a very complex environment [REP8-174, 17]. The proposed reductions rely on a theoretical tool – subject to failure and risk in the complex environment [REP8-174, 18]. The reductions implied by CBN04 at CEMP v2.0 are not secured [REP8-174, section 4.2] with the Applicant acknowledging at an ISH that failure could happen with such decarbonisation failures not being corrected in physical GHG terms, but only in contract penalties.

- 11 Key points are:

(A) The CEMP is not secure, and no risk assessment has been provided by applicant of its delivery security. [REP8-174/28(K), first bullet]

- (B) The data derived from the CEMP (ie the CBN04 of 1.44 MtCO<sub>2</sub>e figure) cannot be reliably used as a worst case (or reasonable worst case) for the EIA assessment of the construction emissions. [REP8-174/28(K), second bullet]
- (C) Despite misleading claims by the applicant, CBN04 is in fact not legally binding in terms of securing decarbonisation. [REP8-174/28(K), third bullet]
- (D) It is also doubtful whether the original CEMP v1.0 1.763 MtCO<sub>2</sub>e CBN04 figure for construction emissions can be taken as a reasonable “worst case”: again, no risk assessment of the figure has been given. [REP8-174/28(L)]

12 Many other issues, including errors on the Applicant’s part were raised by CEPP in [REP8-174, section 4.3-4.9]

## 2.2 CEMP v3.0

- 13 CEMP v2.0 had clearly been a rushed draft which was submitted before it was ready, and fully checked: ie: it was a rushed draft for deadline D7, so CEMP v3.0 followed quickly at deadline D8. CEPP analysed the changes in [REP9-301].
- 14 CEPP posed a key question the SoS and ExA at [REP9-301/25]: **“How can it be legitimate to take an enumeration of claimed decarbonisation, which is just the unsecured, theoretical output from a procurement process which has not been completed, and for which delivery details, and any risk assessment of them, are deliberately withheld, and transfer it into the Environmental Impact Assessment which is the key formal and legal planning process for climate change impacts, and controlled by regulations?”**
- 15 This same question applies to the “stretch target”, now introduced, which is just an extension of the same theoretical, and unproven, decarbonisation “methodology”.
- 16 Many anomalies and inconsistencies were identified [REP9-301/section 3.4] with key points being:
- (A) Confusing change in data presentation [REP9-301/section 3.4 and 3.5]
  - (B) A false reason was given by the Applicant for the reallocation of LUC emissions [REP9-301/section 3.6]
  - (C) Inconsistencies and anomalies for Diesel emissions [REP9-301/section 3.8]
  - (D) Flawed proposals for decarbonisation diesel by hydrogen fuel switching [REP9-301/section 3.9]
  - (E) Incorrect calculations of carbon budget impacts [REP9-301/66(A)]
  - (F) Incorrect enumeration of the reallocated LUC emissions to the operation emissions [REP9-301/66(B)]
  - (G) Misinformation about using “green” hydrogen [REP9-301/66(D)]
  - (H) Misrepresenting CEPP’s submissions [REP9-301/68-69]
  - (I) Circular arguments [REP9-301/71-72]

- (J) Many further disagreements between CEPP and the Applicant [[REP9-301/73 onwards]

### 2.3 CEMP v4.0

- 17 The only significant difference between CEMP v3.0 and v4.0 is that the definitions of “Construction” and “Operation” were altered. It is noted that the part of the removed definition of “Construction” states “*Activity on and/or offsite required to implement the Project.*”
- 18 CEPP considered that one of the reasons for this change in definition was to introduce carbon offsetting [REP9A-125/30(B)]. CEPP’s concerns have been proved correct with the advent of CEMP v5.0 which claims that offsetting of 0.84MtCO<sub>2</sub>e will be deployed.
- 19 CEPP laid out concerns about carbon offsetting [REP9A-125/32-33] including “*offsetting has many downsides including that offsetting schemes frequently are unable to prove that they deliver the carbon reductions which they claim. If offsetting is to be used, then how will the applicant prove that it has made up the carbon reduction shortfall being reported?*”

### 2.4 CEPP’s Closing Summary to the Examination

- 20 It is recommended that the Secretary of State reads this in full, as part of my response to this consultation, as none of it is changed by the CEMP v5.0 for reasons given below. It can be found at [REP9A-125/section 5].
- 21 The simple fact that CEMP v5.0 adds nothing to CEMP v4.0 in terms of the Environmental Information needed by the SoS for the EIA assessment under the 2017 Regulations. CEMP v5.0 attempts to give cover to the huge emissions from the scheme with a greenwashing narrative based on stretch targets and carbon offsetting.

## 3 COMMENTS ON APPLICANT’S RESPONSE TO SECRETARY OF STATE

### 3.1 CEMP v5.0

- 22 This introduces two new “concepts”:
- (1) a “stretch target” of 0.84 million tCO<sub>2</sub>e [CEMP v5.0, section 3.3.5]
  - (2) carbon offsetting from the remaining 0.84 million tCO<sub>2</sub>e of construction emissions [CEMP v5.0, section 3.3.6]
- 23 [CEMP v5.0, section 3.3.5] says the in seeking to achieve the new stretch target “*the Contractors will utilise in particular the financial mechanisms outlined in section 3.6 and 3.7 and the carbon management approach set out in section 3.8.*”. These sections of CEMP v5.0 are very superficial and provide no real guarantee of security of any of these claimed reductions with the stretch target. The same criticism applies as applied with the CEMP v2.0 reduction to the CBN04 value: that the additional reductions are “achieved” by a “black box” in which there

are an array of sub-contracts and contractual arrangements, and now financial mechanisms and carbon management approaches, with none of the detail being explained or evidenced.

- 24 As far [CEMP v5.0, section 3.3.6] and carbon offsetting, this does not address the real emissions from the scheme, and offsetting carries with it an extremely “bad press” due to the fact that offsetting scheme often fail to actually reduce emissions in real terms. See references<sup>5</sup>.
- 25 In any case, the applicant itself accepts that both the stretch target and the offsetting proposed add nothing of material relevance to the Environmental Statement. The key point being that document 1.19 and CEMP 5.0 add no new information either on construction emissions or on operation emissions for the Secretary of State to consider with respect to the Environmental Impact Assessment and Environmental Statement under the Infrastructure Planning (EIA) Regulations 2017.
- 26 Effectively, the Applicant submitted null information with document 1.19 and CEMP 5.0 in response to the Secretary of State’s previous consultation as it does not assist the SoS any further in assessing the environmental impacts of the scheme under the 2017 Regulations.
- 27 Further, CEPP strongly assert that this is just yet further greenwashing by the Applicant of the very high construction emissions associated with the scheme, see [REP7-234/section 8.1 and references therein]. The “stretch target” and “offsetting” narratives attempt to give cover to the huge carbon emissions from this scheme: however, that Applicant admits that its calculation of the construction emissions is no different to what it was at CEMP v2.0 ie the CBN04 value of 1.44 MtCO<sub>2</sub>e. Note, the CEPP has outlined above why CEPP consider this value is not secured and cannot be trusted, and the applicant has provided no information to change that position.
- 28 CEPP’s Closing Summary to the Examination remains unaltered. [REP9A-125/section 5].

Dr Andrew Boswell, December 11<sup>th</sup> 2024

**<END OF DOCUMENT>**

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<sup>5</sup> Carbon Brief, “In-depth Q&A: Can ‘carbon offsets’ help to tackle climate change?” [REDACTED]  
[REDACTED]  
[REDACTED]