Submission ID: S6E3E96E0

Please find below the Environment Agency's Deadline 2 submission in relation to the following matters:
1. Update on the Environment Agency's position on issues raised in our Relevant Representation [RR-089] following the submission of updated/additional documents by the Applicant at Deadline 1.
2. Comments Change Request 1
3. Responses to the Examining Authority's Final First Written Questions (Final ExQ1)

Planning Inspectorate

[via PINS portal]

Our ref: XA/2026/100516/01-L01
Your ref: EN010154
Date: 06 February 2026

Dear Sir/Madam

Fosse Green Energy – Development Consent Order Application

Land approximately 9km south and south west of Lincoln

Deadline 2 (06 February 2026)

Please find below the Environment Agency's Deadline 2 submission in relation to the following matters:

1. Update on the Environment Agency's position on issues raised in our Relevant Representation [RR-089] following the submission of updated/additional documents by the Applicant at Deadline 1.
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1. Environment Agency position – updated/additional application documents submitted at Deadline 1

Following the Applicant's submission of updated/additional application documents, and the Applicant's Response to Relevant Representations (Revision 1) [REP1-047], 18 of the issues we raised in our Relevant Representations [RR-089] are now resolved, leaving 6 remaining. We are in discussion with the Applicant regarding the remaining issues and working towards a timely resolution.

Please see Appendix 1 for a visual summary table showing the RAG resolution status of these issues.

1.1. Agreed/resolved issues

The following issues which were 'Agreed in principle', subject the submission of satisfactory revised/additional application documents at Deadline 1 are now

resolved/Agreed:

EA01 - Requirement 10 (Surface and foul water drainage)

We are satisfied that the Environment Agency has been included as a named consultee in this requirement in the revised Draft Development Consent Order (Revision 2) [REP1-007 & REP1-008]. As such, this issue is now resolved.

EA02 - Permitted Preliminary Works

We are satisfied with the Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and the amendment made to Requirement 12 in the revised Draft Development Consent Order (Revision 2) [REP1-007 & REP1-008]. As such, this issue is now resolved.

EA03 - Discharge of Requirements procedure

We are satisfied with the Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and the amendment made to paragraph 5(5) of Schedule 15 in the revised Draft Development Consent Order (Revision 2) [REP1-007 & REP1-008]. As such, this issue is now resolved.

EA04 - Disapplication of flood risk activity permits (FRAPs)

The Applicant no longer seeks to disapply the requirement for FRAPs.

We are satisfied that the appropriate amendments have been made to the revised Draft Development Consent Order (Revision 2) [REP1-007 & REP1-008]: Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity (Article 6(1)(e)) has been removed.

There are no unnecessary protective provisions in the dDCO included (in Schedule 14) for the Environment Agency’s benefit in this regard, as they are not now required.

The Consents and Agreements Position Statement (Revision 2) [REP1-011 & REP1-012] has also been updated accordingly.

As such, this issue is now resolved.

EA07 - Witham Washlands (Lincoln) Flood Storage Area – HDD construction compound

We are satisfied with the Applicant's Response to Relevant Representations (Revision 1) [REP1-047]. As such, this issue is now resolved.

EA08 - Flow direction of main rivers

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that Table 8-10 of the revised ES Chapter 8: Ecology and Nature Conservation (Revision 2) [REP1-019 & REP1-020] has been updated with the correct flow direction for both rivers. As such, this issue is now resolved.

EA09 - Protection of fish during spawning

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the revised Framework Construction Environmental Management Plan (Revision 2) [REP1-031 & REP1-032] has been updated to include avoidance of the coarse fish spawning season. As such, this issue is now resolved.

EA10 - Invasive species – Signal Crayfish

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the revised Framework Construction Environmental Management Plan (Revision 2) [REP1-031 & REP1-032] has been updated to include pre-construction INNS to inform the Biosecurity Management Plan and now includes INNS animals as well as plants. As such, this issue is now resolved.

EA13 - Horizontal directional drilling (HDD) – drilling fluid breakout (groundwater)

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the revised Framework Construction Environmental Management Plan (Revision 2) [REP1-031 & REP1-032] and ES Chapter 9: Water Environment (Revision 2) [REP1-021 & REP1-022] have been updated accordingly. As such, this issue is now resolved.

Please also refer to our comments in response to ExQ1 question WE.1.02 in Appendix 2.

EA14 - Horizontal directional drilling (HDD) – drilling fluid breakout (surface water)

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the revised Framework Construction Environmental Management Plan (Revision 2) [REP1-031 & REP1-032] and ES Chapter 9: Water Environment (Revision 2) [REP1-021 & REP1-022] have been updated accordingly. As such, this issue is now resolved.

Please also refer to our comments in response to ExQ1 question WE.1.02 in Appendix 2.

EA18 - BESS – firewater containment and disposal

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the Framework Battery Safety Management Plan (Revision 2) [REP1-041 & REP1-042] has been updated accordingly. Our concerns over testing and removing firewater have been satisfactorily addressed. As such, this issue is now resolved.

Please note however that the linked issue regarding penstock valves (EA16) remains under discussion. Please section 1.2 below.

EA19 - Foul water strategy

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the revised Flood Risk Assessment (Revision 2) [REP1-023 &

REP1-024] and revised Framework Surface Water Drainage Strategy (Revision 2) [REP1-025 & REP1-026] have been updated accordingly.

Our concerns if the Applicant had been using a septic tank which may discharge effluent to the environment have been addressed. The ES Chapter 9 (Revision 2) [REP1-021 & REP1-022], Flood Risk Assessment (Revision 2) [REP1-023 & REP1-024] and Framework Surface Water Drainage Strategy (Revision 2) [REP1-025 & REP1-026] are now consistent and refer to a sealed cesspit with no overflow to ground pipe system. We are therefore satisfied that this has been resolved.

Within our discussions on the Statement of Common Ground (SOCG) in relation to this issue, we have requested additional confirmation that cesspits will be collected/emptied by specialist licensed contractors but understand that we are a named consultee in Requirement 10, so this can be addressed post-consent, if required.

EA20 - Wheel wash water

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the revised Framework Construction Environmental Management Plan (Revision 2) [REP1-031 & REP1-032] has been updated accordingly. As such, this issue is now resolved.

EA21 - PFAS in PV cells

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the revised Proposed Development Parameters (Revision 2) [REP1-029 & REP1-030] has been updated accordingly. As such, this issue is now resolved.

EA23 - Water supply assessment and strategy

Following the submission of the Water Resource Assessment (Revision 1) [REP1-049] into the examination, we are satisfied that this issue is resolved.

EA24 - Waste classification and soil reuse

We are satisfied with Applicant's Response to Relevant Representations (Revision 1) [REP1-047] and that the revised Framework Construction Environmental Management Plan (Revision 2) [REP1-031 & REP1-032] has been updated accordingly. As such, this issue is now resolved.

1.2. Under Discussion/unresolve issues

EA05 - Disapplication of Water Resources Act 1991

We have no further comments to make following the Deadline 1 submissions. The Applicant has not provided a response to us on this issue yet, but they have indicated that they want to discuss it. We are working to arrange this discussion and will provide a further update to the ExA at the next examination deadline.

EA11 - Stopping works where potentially contaminated land is encountered

We have reviewed the following submissions in relation to this issue:

- Applicant's Response to Relevant Representations (Revision 1) [REP1-047]
- Framework Construction Environmental Management Plan (FCEMP) (Revision 2) [REP1-031 & REP1-032]
- Framework Operational Environmental Management Plan (FOEMP) (Revision 2) [REP1-033 & REP1-034]
- Framework Decommissioning Environmental Management Plan (FDEMP) (Revision 2) [REP1-035 & REP1-036]

We agree with the Applicant's response to this issue in REP1-047 and respective amendments to the revised Framework CEMP (Revision 2), Framework OEMP (Revision 2) and Framework DEMP (Revision 2) documents, in relation to stopping works. However, in the first draft SOCG it is stated that the paragraphs below the lettered lists, which duplicates some instructions, would be deleted. The paragraph outlined to be deleted mentions “(including groundwater)” which we asked to be retained elsewhere in the instruction to ensure that groundwater is considered. We ask that these requests are completed as previously proposed.

To clarify, in the FCEMP, ID GC-01, we ask that the Applicant:

- Delete this paragraph (below the list), as was previously proposed: "If potentially contaminated land is encountered during construction works(including groundwater), works will be stopped in the affected area while further investigation is carried out in order to reduce the potential for contamination to be spread further before its extent and severity is identified, and appropriate remediation is agreed."
- Then update (g) to read: "In the event that contamination is identified (including groundwater), works will be stopped in the affected area and appropriate remediation measures would be agreed with the appropriate authorities and undertaken to protect construction workers, future site users, water resources, structures, and services."

In addition, we would like equivalent additions to the FOEMP and FDEMP. Specifically:

- OEMP ID GC-01 Mitigation (h) updated to state: "In the event that contamination is identified (including groundwater), works will be stopped in the affected area and appropriate remediation measures would be taken to protect maintenance workers, future site users, water resources, structures and services;"
- DEMP ID GC-01 Mitigation (l) updated to state: "In the event that contamination is identified (including groundwater), works will be stopped in the affected area and appropriate remediation measures will be taken to protect decommissioning workers, future site users, water resources, structures and services;"

The reason for this is to ensure that site workers are reminded that groundwater is a sensitive receptor and is susceptible to contamination, so must be protected.

We consider this is straightforward to resolve and we are hopeful that we the issue can be resolved by the next deadline.

EA12 - Assessment of impacts on groundwater quality

The Applicant has updated paragraph 9.7.48 of the ES Chapter 9: Water Environment [REP1-021 & REP1-022] to reflect the most recent guidance. However, the issue is not yet fully resolved as we have queried the Applicant’s use of the

wording “if and where necessary” in relation to the guidance. There is no “if” in the necessity of following relevant guidance. As such, we asked for “if” to be removed.

We will discuss this with the Applicant over the coming weeks.

EA16 - BESS – penstock valves and swales

We have reviewed the following submissions in relation to this issue:

- Applicant's Response to Relevant Representations (Revision 1) [REP1-047]
- Framework Battery Safety Management Plan (FBSMP) (Revision 2) [REP1-041 & REP1-042]
- Framework Operational Environmental Management Plan (FOEMP) (Revision 2) [REP1-033 & REP1-034]

This issue remains unresolved for the following reasons:

- The FBSMP has been updated in paragraphs 3.2.12 and 4.3.7, however we still request to confirm in FBSMP that the penstock will have a manual option of closing should the automatic system fail, and to clarify what the trigger for automatically closing is.
- There is no reference to penstock maintenance in the FOEMP. Paragraph 3.2.12 of the FBSMP states, "All maintenance will be undertaken in a carefully controlled manner following the Site safety rules and in accordance with the Framework Operational Environmental Management Plan (OEMP) [EN010154/APP/7.8] submitted as part of the DCO application". There should be specific reference to penstock maintenance in Table 6, WAT-03, as there currently isn't. Paragraph 2.2.1 of the FOEMP states general "equipment maintenance and servicing" and Table 6, WAT-05 states "regular inspection and maintenance of the drainage systems".

We will discuss this with the Applicant over the coming weeks.

EA17 - Use of gravel in drainage systems around BESS and substation

We have reviewed the following submissions in relation to this issue:

- Applicant's Response to Relevant Representations (Revision 1) [REP1-047]
- Framework Battery Safety Management Plan (FBSMP) (Revision 2) [REP1-041 & REP1-042]
- Framework Surface Water Drainage Strategy (Revision 2) [REP1-025 & REP1-026]

The issue remains unresolved. The Applicant is aware of the comments we have made in response to the draft SOCG we are working on. We also wish to point out that we have concerns regarding the integrity of the impermeable lining. Measures should be confirmed to ensure the integrity of the impermeable lining is preserved and checked during the removal process.

We will discuss this with the Applicant over the coming weeks.

The Applicant should also be aware and factor in that it could take some time to obtain the necessary permit to discharge firewater to ground or surface water. If there is prolonged rainfall, and/or another fire event in this time, they need to ensure the drainage system has sufficient capacity to cope while the testing and permit issuing is done. We advise that the Applicant refers to Discharges to surface water and groundwater: environmental permits - GOV.UK - on this website it advises it can

take 4 months for a new permit decision.

EA22 - Storage of waste batteries

We have reviewed the following submissions in relation to this issue:

- Applicant's Response to Relevant Representations (Revision 1) [REP1-047]
- Framework Battery Safety Management Plan (FBSMP) (Revision 2) [REP1-041 & REP1-042]
- Framework Operational Environmental Management Plan (FOEMP) (Revision 2) [REP1-033 & REP1-034]

We have no further comments to make to those made in our Deadline 1 response. We are in discussion with the Applicant through the draft SOCG and we will discuss it with the Applicant over the coming weeks.

We have flagged to the Applicant that we request that “impermeable” is added before “bunded” in the FBSMP (paragraph 3.2.16) and FOEMP (measure MW-O1).

Please refer to Appendix 1 for a summary of our updated position on the issues we raised in our Relevant Representation [RR-089]. Appendix 3 includes a summary of our overall position on topic areas.

1.3. Other matters

Regarding item 33 ‘9.0 Water Management Plan – water quality monitoring’ in the Applicant's Response to Relevant Representations (Revision 1) [REP1-047]:

We provided comments on the Applicant's response in the first draft SOCG on this topic. To clarify, Table 4 of the FCEMP [REP1-031 & REP1-032] states that "The Water Management Plan (WMP) (which will be produced post consent as part of the detailed CEMP(s)) will include details of pre, during and post-construction water quality monitoring." Whilst Table 6 of the FOEMP states "Monitoring requirement will be included in the detailed OEMP(s)." It is positive that both include 'monitoring' but for consistency we would like it if the FOEMP [REP1-033 & REP1-034] to also reference the WMP.

The details of the frequency and method of monitoring can be agreed post consent, as we are a named consultee on the final CEMP and OEMP. If the FOEMP [REP1-033 & REP1-034] is updated to include WMP then we will be able to consider this 'Agreed' following the submission of the updated FOEMP into the examination.

2. Change Request 1

We have reviewed the documentation as submitted in relation to Change Request 1. We note the reduction in the draft Order Limits, which removes part of the development from within Flood Zones 2 and 3. We have no further comments to make.

3. Responses to the Examining Authority's Final First Written Questions (Final ExQ1)

Please refer to Appendix 2 for our responses to ExQ1.

We trust this advice is useful.

Yours faithfully

[redacted]
Planning Specialist - National Infrastructure Team

E-mail: NITeam@environment-agency.gov.uk

Appendix 1 – Summary table of Environment Agency (EA) position on issues raised in Relevant Representation [RR-089]

Appendix 2 - Environment Agency responses to ExQ1

Appendix 3 – Summary of overall Environment Agency position

Appendix 1 – Summary table of Environment Agency (EA) position on issues raised in Relevant Representation [RR-089]

EA RR ID	Title	Resolution Status
EA01	Requirement 10 (Surface and foul water drainage)	Agreed
EA02	Permitted Preliminary Works	Agreed
EA03	Discharge of Requirements procedure	Agreed
EA04	Disapplication of flood risk activity permits (FRAPs)	Agreed
EA05	Disapplication of Water Resources Act 1991	Under Discussion
EA06	Environment Agency land interests	Agreed
EA07	Witham Washlands (Lincoln) Flood Storage Area – HDD construction compound	Agreed
EA08	Flow direction of main rivers	Agreed
EA09	Protection of fish during spawning	Agreed
EA10	Invasive species – Signal Crayfish	Agreed
EA11	Stopping works where potentially contaminated land is encountered	Under Discussion
EA12	Assessment of impacts on groundwater quality	Under Discussion
EA13	HDD – drilling fluid breakout (groundwater)	Agreed
EA14	HDD – drilling fluid breakout (surface water)	Agreed
EA15	Swales around BESS – treatment of surface water	Agreed
EA16	BESS – penstock valves and swales	Under Discussion
EA17	Use of gravel in drainage systems around BESS and substation	Under Discussion
EA18	BESS – firewater containment and disposal	Agreed
EA19	Foul water strategy	Agreed
EA20	Wheel wash water	Agreed
EA21	PFAS in PV cells	Agreed
EA22	Storage of waste batteries	Under Discussion
EA23	Water supply assessment and strategy	Agreed
EA24	Waste classification and soil reuse	Agreed

Appendix 2 – Environment Agency responses to ExQ1

Question Number	Question to:	Question	Environment Agency comments
GC.1.16	Applicant Lincolnshire County Council (LCC) Environment Agency	**Waste Management** Section 5.15 of NPS EN-1 (2023) addresses resource and waste management including identifying requirements for the applicant assessment. That includes, at paragraph 5.15.9, that applicants should include an assessment of the impact of the waste arising from development on the capacity of waste management facilities to deal with other waste arising in the area for at least five years of operation. Views are sought on whether this has been adequately addressed in the ES, for example, in Appendix 14-E: Materials and Waste Impact Assessment Methodology and Baseline [APP-174].	The Environment Agency defer to Lincolnshire County Council.
GC.1.21	Applicant and all other interested parties and affected persons	**Revised Energy National Policy Statements (NPS)** On 6 January 2026 revised versions of the following NPS published in December 2025 took effect: • Overarching National Policy Statement for Energy (EN-1)	The revised Energy National Policy Statements to not affect the Environment Agency's position on this proposal. We have no further comments.

		• National Policy Statement for Renewable Energy Infrastructure (EN-3) • National Policy Statement for Electricity Networks Infrastructure (EN-5) Under the transitional provisions included in section 1.6 of the revised version of NPS EN-1, for the purposes of the determination of the application for the proposed development, the versions of NPS EN-1, EN-3 and EN-5 that were published in November 2023 and which took effect in January 2024 continue to be in effect under s104(2)(a) of PA2008, with the newly revised versions of those NPS being cable of being considered as important and relevant matters under s104(2)(d). If you consider the revisions made to the national policy included in the 2025 versions of the NPSs listed above have any implications for the case you have made, written submissions should be made explaining how you consider your case has been affected by the revised policy.	

DCO.1.03	Applicant NKDC LCC Environment Agency Natural England Historic England	**Article 2 - interpretation** Article 2 of the dDCO [APP-016] includes provisions for *"permitted preliminary works"*. Section 5.7.21 of Advice Note 15 "Drafting Development Consent Orders" advises that such provisions have been removed by the Secretary of State (SoS) in some decisions, particularly where such advance works were themselves likely to have significant environmental effects, for example, in terms archaeological remains. a) **For the applicant** - comment on the nature and scope of the identified permitted preliminary works in the context of section 5.7.21 of Advice Note 15. b) Given that the permitted preliminary works could take place with just the framework plans in place, views are sought on whether the level of detail in these documents would secure adequate control and manage the likely effects arising from the preliminary works?	**DCO.1.03 (b)** The Environment Agency's interest is with the following *"permitted preliminary works": (d) remedial work in respect of any contamination or other adverse ground conditions.* Any intrusive ground investigation works must be carried out in line with all available current Environment Agency and industry best practice and be done under appropriate risk assessment method statement (RAMS). This includes installation and decommissioning of any ground gas and groundwater monitoring boreholes. If land remediation is required prior to commencement this will need to be discussed and agreed with the LPA, and Environment Agency if necessary, before said works commence. If the LPA has concerns about archaeology in the investigation area, they may request any intrusive ground investigation have an archaeological watching brief. The Environment Agency would not require this. Any fuel and chemical storage associated with these works must also be done in line with best practice. In light of this question, we request that measure GC-01, Table 10: Ground Conditions, of the Framework Construction

			Environmental Management Plan (FCEMP) [REP1-031 & REP1-032] is further updated by the Applicant. After the first two sentences (*"Ground investigation works will be undertaken prior to commencing construction. The scope of the ground investigation will be discussed and approved with the LPA and the Environment Agency prior to commencement.*") Add: "This will be in accordance with BS10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites: Code of Practice, BS 5930:2015+A1:2020 Code of Practice for Ground Investigations, the Environment Agency's Land contamination risk management (LCRM) guidance, and any other relevant industry guidance for site investigation works." Reason: so that the FCEMP can serve as a standalone document prior to detailed plans being produced. We have defined the standard guidance we expect to the used for site investigation works. Our list is not exhaustive, and other guidance may be necessary, as we have caveated at the end. As the FCEMP already states that the scope will be agreed with the LPA and Environment Agency prior to commencement, we are satisfied this gives

			enough surety of appropriate methods and designs being used. Additionally, we would point out that in response to the issue EA02 in our Relevant Representation [RR-089], the Applicant has included a sub-paragraph in Requirement 12 of the dDCO [REP1-007 & REP1-008] which means for the purposes of "commence" remedial work in respect of any contamination is now included. Such works would therefore require the detailed CEMP secured under Requirement 12 to be in placed prior to being undertaken, should this amendment be taken forward.
DCO.1.16	Applicant	**Requirements - management plans** Clarify why Requirements 7, 8, 10, 12, 13, 14, 15, 17, 18, 19, 20 of the dDCO are qualified by the word "substantially" in accordance with the various framework management plans and justify its use given its imprecision.	The Environment Agency requests the removal of the term "substantially" from the requirements, particularly those where we are a named consultee: requirements 7, 8, 10, 12, 13 and 20. Using the term "substantially" results in the requirement being unenforceable and is not precise. This is against government policy (National Planning Policy Framework) and the 6 tests sited in Paragraph 57 of the National Planning Policy Framework.
ENC.1.06	Applicant	**Baseline - habitat types** The Environment Agency in relevant representation [RR-089] has questioned	Table 8-10 of the revised ES Chapter 8: Ecology and Nature Conservation (Revision 2) [REP1-019 & REP1-020], as

		the direction of flow for the River Whitham and River Brant stated in Table 8-10 of ES Chapter 8: Ecology and Nature Conservation [APP-033]. Confirm the direction of flow and any implications for the assessment that has been undertaken.	submitted at Deadline 1, has been updated with the correct flow direction for both rivers. As such, the Environment Agency is satisfied that this issue (EA08) raised in our relevant representation [RR-089] has been resolved.
ENC.1.08	NKDC LCC Forestry Commission Natural England Lincolnshire Wildlife Trust Environment Agency	**Mitigation commitments** Table 8-13 in ES Chapter 8: Ecology and Nature Conservation [APP-033] sets out the proposed development's mitigation commitments. Comment on the extent of mitigation measures proposed and whether they would be sufficient to achieve their objectives?	The Environment Agency is satisfied with the mitigation measures proposed, insofar as it relates to our remit.
ENC.1.15	Applicant	**Mitigation – fish spawning** The summary of engagement presented in Table 8-3 (page 43) of ES Chapter 8: Ecology and Nature Conservation [APP-033] states that the embedded mitigation in Table 8-13 includes mitigation to avoid horizontal directional drilling activities within key spawning/migration windows of September to February (salmonids) and March to May (coarse fish) wherever practicable. It is noted that paragraph 4.2.3 of Appendix 8-C Aquatic Ecology [AS-081] identifies that no suitable fish spawning	We are satisfied that the revised Framework Construction Environmental Management Plan [REP1-031 & REP1-032], as submitted at Deadline 1, has been updated to include avoidance of the coarse fish spawning season. As such, we are satisfied that this issue (EA09) raised in our relevant representation [RR-089] has been resolved.

		habitat for notable species were present in any of the surveyed watercourses. However, to address the point made by the Environment Agency in its relevant representation [RR-089], confirm whether or not the submitted assessment includes course fish species and if not advise on how this issue will be addressed during the examination.	
ENC.1.23	Applicant	**Invasive non-native species** The Environment Agency in its relevant representation [RR-89] has raised the potential for the introduction/ spread of Signal Crayfish during construction and the need for specific mitigation measures. Comment on what consideration, if any, that has been given to the introduction/spread of Signal Crayfish during the proposed construction phase.	We are satisfied that the issue (EA10) we raised in our relevant representation [RR-089] has been resolved by the Applicant's response in REP1-047 and by the submission of the revised FCEMP [REP1-031 & REP1-032]. The FCEMP has been updated to include pre-construction INNS to inform the Biosecurity Management Plan and now includes INNS animals as well as plants.

PE.1.08	Applicant Environment Agency	**Contaminated land** Table 3.11 in the FCEMP [APP-189] identifies the proposed mitigation/enhancement measures for ground conditions, including the stopping of works if potentially contaminated land was to be encountered during the construction works. a) **Environment Agency** - clarify what other commitments it would expect to see to ensure that works would stop in an area where unexpected contaminated land was encountered. b) **Applicant** - explain why a similar provision is not included in the FOEMP [APP-190] and the Framework Decommissioning Environmental Management Plan [APP-191]?	We assume the ExA is referring to Table 10: Ground Conditions in section 3.11 Ground Conditions in the FCEMP. We have addressed these questions insofar as it relates to impacts on controlled waters. Human health issues are a matter for the local authority. **PE.1.08 (a)** We have discussed this with the Applicant in the relation to the draft Statemen of Common Ground and elsewhere. It is covered within the bullet points of mitigation measure ID GC-C1 in the FCEMP. In some cases we request a DCO Requirement in relation to unsuspected contamination: *(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development, which was not previously identified in the environmental statement, then no further development (unless otherwise approved in writing by the relevant authorities) shall be carried out within the identifiable perimeters of the area in which the suspected contamination is located. It must be reported as soon as*

			reasonably practicable to the local planning authority, and where necessary, the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the local planning authority, and where necessary, the Environment Agency. *(2) Where the undertaker determines that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the local planning authority, following consultation with the Environment Agency.* *(3) Remediation must be carried out in accordance with the approved scheme under sub paragraph (2).* *(4) Following the implementation of the remediation strategy approved under sub-paragraph (2), a verification report, based on the data collected as part of the remediation strategy and demonstrating the completion of the remediation measures must be produced and supplied to the relevant planning authority and the Environment Agency.*

			In this case, we are satisfied that the commitments covered in the requirement are included in the FCEMP [REP1-031 & REP1-032]. We have an outstanding matter with wording in GC-01, which the Applicant is aware of, and we are working to resolve this (relevant representation [RR-089] issue EA11), but we satisfied with the commitments. **PE.1.08 (b)** While this question is to the Applicant, we wish to point out that this is included within the bullet points of mitigation measures GC-O1 and GC-D1 in the respective documents. Our comments above apply.
WE.1.01	Applicant Environment Agency LCC	**Compliance with the Water Framework Directive (WFD)** NPS EN-1 (2023) states at paragraph 5.16.14 *"The Secretary of State should be satisfied that a proposal has regard to current River Basin Management Plans and meets the requirements of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (including regulation 19). The specific objectives for particular river basins are set out in River Basin Management Plans. The Secretary of State* ***must refuse development consent*** *[ExA emphasis]*	**WE.1.01 (a)** We defer to the Applicant in relation to this question. **WE.1.01 (b)** We did not raise any issues in our relevant representation [RR-089] in relation to the Water Framework Directive (WFD) Assessment [APP-0145]. Appropriate mitigation measures are proposed. Some mitigation measures to protect surface water and groundwater from the BESS, substation and battery waste storage (relevant representation [RR-089] issues EA16, EA17 and EA22) are still under

		where a project is likely to cause deterioration of a water body or its failure to achieve good status or good potential, unless the requirements set out in Regulation 19 are met. A project may be approved in the absence of a qualifying Overriding Public Interest test only if there is sufficient certainty that it will not cause deterioration or compromise the achievement of good status or good potential." a) Comment on the relationship of the proposed development to any relevant River Basin Management Plan and the requirements of the WFD. b) Comment on whether there would likely be any deterioration of a water body or that any water body would not achieve a *"good status"* or *"good potential"* as a consequence of the proposed development, and whether Regulation 19 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 would be met?	discussion, but we are confident they will be resolved before the end of Examination. As such, we are satisfied that the development would not result in deterioration of any water bodies, and that the proposal complies with the WFD.

WE.1.02	Applicant Environment Agency Natural England NKDC LCC	**Drilling fluids** The FCEMP [APP-189] under WAT-C6 identifies mitigation measures for managing drilling muds and wastewater. a) Has sufficient detail been provided in the FCEMP [APP-189] to understand what action would be taken in the event of there being a drilling fluid leak? If not, what additional details should be submitted by the applicant? b) Notwithstanding the identified mitigation measures, would it be possible that in the event of a substantial breakout, for some drilling fluid not be contained? In such a scenario, what would be the residual impact for the environment?	**WE.1.02 (a)** Following the submission of the revised ES Chapter 9 (Revision 2) [REP1-021 & REP1-022] and revised FCEMP (Revision 2) [REP1-031 & REP1-032], we are satisfied that our relevant representation [RR-089] issues EA13 and EA14 in relation to drilling fluids are now resolved. We consider that in mitigation measure WAT-C6 in Table 4: Water Environment of the FCEMP [REP1-031 & REP1-032], the commitment to drilling fluid management is now sufficient. As it stands, there is not sufficient detail, but the Applicant commits to this in WAT-C6 (d): *A site-specific hydraulic fracture risk assessment including details of drilling fluid management would be developed prior to construction*. The details will be agreed with us as part of discharging Requirement 12, on which we are a named consultee. **WE.1.02 (b)** This is to be confirmed following the ground investigation the Applicant commits to, and the drilling fluid management plan

			produced as part of the hydraulic fracture risk assessment. We have not been able to review a drilling fluid management plan yet, so we cannot comment at this stage on final mitigation measures, however we believe measures currently in WAT-C6 are adequate. We will be consulted on the detailed CEMP (through the discharge of Requirement 12), so further details can be managed at the post-consent stage.
WE.1.03		**Swales** a) Paragraphs 9.4.63 and 9.6.68 in ES Chapter 9: Water Environment [APP-034] appear to suggest that the swales around the BESS (or groups of BESS) and substation areas would just collect water, which would then be tested to determine the next course of action. However, elsewhere in [APP-034] such as paragraphs 9.6.56 and 9.7.76 and paragraph 4.1.7 of the Framework Surface Water Drainage Strategy [APP-147], it appears that the swales would collect and treat surface water before discharge. Clarify what the intended role for the proposed swales	Regarding a) it is our understanding that swales around the BESS and Substation will be subject to the commitment in the Framework Battery Safety Management Plan (BSMP) [REP1-041 & REP1-042] paragraph 4.5.5, which has been updated to state "Further details of the contaminant testing will be outlined in the final BSMP including details of the analytical suite and sampling frequency. Any release to the environment would also be subject to the requirements of an Environmental Permit." The Framework Surface Water Drainage Strategy (SWDS) [REP1-025 & REP1-026] states in paragraph 4.11.3 that any

		would be. If treatment is intended, explain what that would involve. b) Confirm whether the penstock valves would be automatically activated in the event of a BESS fire. If not, provide an explanation of the procedure for manually closing the valves and how risks of accidental release would be managed, as requested by the Environment Agency in its relevant representation [RR-089]. c) Paragraph 9.6.58 in ES Chapter 9: Water Environment [APP-034] states that swales around the proposed BESS areas and onsite substation area would be lined with an impermeable membrane or similar impermeable barrier to prevent any pollution from entering the ground. However, paragraph 4.5.5 in the Framework Battery Safety Management Plan [APP-198] proposes that runoff from the battery storage area would be contained by local bunding and attenuated within gravel subgrade of the lined permeable sustainable drainage system and attenuation swale features. Clarify which approach would be used. If gravel would be used, provide details on how the	contaminated contained water will be tankered away offsite. Regarding b) the activation of the penstocks and a manual back up is still under discussion, as per our relevant representation [RR-089] issue EA16. Regarding c) we consider Framework SWDS has clarified this detail. Regarding d) penstock maintenance could not be seen in the Framework OEMP [REP1-033 & REP1-034]. It has been updated in paragraph 3.2.12 of Framework BSMP [REP1-041 & REP1-042], but we agree it should be in the FOEMP too.

		accumulation of silt and pollutants at the base of the gravel would be managed following a BESS fire event. d) The FOEMP [APP-190] should be updated to include measures for the ongoing maintenance and testing of the penstock valves.	
WE.1.04	Applicant	**Assessment of effects – groundwater quality** Paragraph 9.7.48 in ES Chapter 9: Water Environment [APP-034] should be updated to reflect the most recent guidance on good practice for assessing impacts on ground water quality, as identified in the Environment Agency's relevant representation [RR-089].	The Applicant has updated paragraph 9.7.48 of the ES Chapter 9: Water Environment [REP1-021 & REP1-022] to reflect the most recent guidance. However, the issue we raised in our relevant representation [RR-089], EA12, is not yet fully resolved as we have queried the Applicant's use of the wording "if and where necessary" in relation to the guidance. There is no "if" in the necessity of following relevant guidance. As such, we asked for "if" to be removed.
WE.1.05	Applicant Environment Agency LCC	**Assessment of effects - water run-off, operational phase** Paragraph 9.7.74 in ES Chapter 9: Water Environment [APP-34] states that in order to limit the potential for channelisation from rainfall dripping off the end of the solar panels, the areas between, under and surrounding the solar panels would be	Regarding a) we defer to the Lead Local Flood Authority at LCC in relation to the management of surface water run-off. Regarding b), water quality monitoring is committed to in the Framework OEMP [REP1-033 & REP1-034], and we are named consultees on the OEMP and BSMP (dDCO requirements 13 and 7,

		planted with native grassland and wildflower mix. That planting would intercept and absorb rainfall running off the solar panels, preventing it from concentrating and potentially forming channels in the ground. a) What evidence is there demonstrating that this approach would adequately manage run-off from the proposed solar panels? b) Should monitoring of water run-off from the solar panels take place during the operational phase, with the potential for mitigation to be provided in the event that it was required? If so, how could any such mitigation be secured through any made DCO for the proposed development?	respectively). As such, we consider the mitigation measures are sufficient from a water quality perspective.
WE.1.06	Applicant	**Assessment of effects – water demand** Paragraphs 9.7.53 and 9.7.104 in ES Chapter 9: Water Environment [APP-034] conclude that as it has been confirmed through the Water Resources Assessment submitted to Anglian Water that the proposed development's supply requirements during construction and operation (and maintenance) can be delivered without compromising water	The Environment Agency agrees that submitting the Water Resources Assessment to the examination will provide confidence that all water demands which may be met by Anglian water supply have been considered such that further

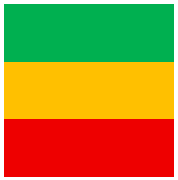
		resources in the Anglian Water area and that there would be a negligible impact on water resources, giving a slight adverse effect. a) Provide a copy of the Water Resources Assessment. b) Identify the sources of water demand during the construction, operational (and maintenance) and decommissioning phases and explain where the water supply would be sourced, if that information is not included in the Water Resources Assessment. c) The Potential Main Issues for Examination document [APP-193] identifies that Anglian Water confirms that the rate of water can be supported within a Water Resource Zone (WE4). However, it goes onto identify that no local network capacity assessment has been carried out and the applicant has been advised to submit a pre-planning enquiry prior to any DCO approval, a point reiterated by Anglian Water in its relevant representation [RR-024]. Clarify whether that alters the conclusion of a slight adverse effect	investigation of alternative sources of supply is not required. Following the submission of the Water Resource Assessment (Revision 1) [REP1-049] into the examination, we are satisfied that our relevant representation [RR-089] issue EA23 on this issue is now resolved.

		with respect to water demand as set out in paragraph 9.7.53 in [APP-034].	
WE.1.07	Applicant	**Water storage capacity - BESS** Paragraph 4.3.3 of the Framework BESS Safety Management Plan [APP-198] identifies that each indicative BESS area design would contain a minimum of two firefighting water storage units of no less than 230,000 litres in capacity, capable of delivering 1900 litres per minute for **4 hours** (ExA emphasis) (exceeding National Fire Chiefs Council's (NFCC) guidance). Paragraph 9.6.70 in ES Chapter: Water Environment [APP-034] states that NFCC guidance ("Grid Scale Battery Energy Storage System planning – Guidance for Fire and Rescue Services", 2022, has been used to determine the volume storage of fire water runoff. The NFCC guidance states firefighting supplies "*should be capable of delivering no less than 1,900 litres per minute for at least **2 hours**"* (ExA emphasis). On top of this supply requirement, a 30% additional	We wish to provide the following clarification following our comment in Issue Specific Hearing 2 (ISH2): In ISH2, we referred to 4 hours of water supply. This was in the context of Environment Agency online guidance for fire prevention plans at permitted waste sites. The guidance states that at such sites, fires should be extinguished within 4 hours; it does not mention water supply capacity. We acknowledge this project would not be a regulated waste site, as it would fall under a 'temporary storage where waste is produced (NWFD 2 exemption)', the information was provided as advice only. For firefighting water capacity, we defer to NFCC.

		capacity has been applied for storage in the swale. Clarify whether the different figures referred to in the two documents would have any implications for the volume of storage needed for fire water runoff.	
WE.1.08	Environment Agency	**Foul water** In your relevant [RR-089] you have requested that more detail is provided on the foul water disposal strategy. Paragraph 7.1.4 of the Flood Risk Assessment [APP-146] states that drainage would be dealt with via a septic tank arrangement or similar sealed system. Paragraph 4.12.2 of the Framework Surface Water Drainage Strategy [APP-147] states that during the operational phase, foul water flows would be dealt with via a sealed cesspit. Clarify what further information you expect you require to consider this matter further.	The issue (EA19) we raised in our relevant representation [RR-089] has been resolved following the submission of revised documents at Deadline 1. Our concern was if the Applicant had been using a septic tank which may discharge effluent to the environment. However, all documents, ES Chapter 9 [REP1-021 & REP1-022], FRA [REP1-023 & REP1-024] and Framework SWDS [REP1-025 & REP1-026], are now consistent and refer to a sealed cesspit with no overflow to ground pipe system. Within our discussions on the SOCG in relation to this issue (EA19) we have requested additional confirmation that cesspits will be collected/emptied by specialist licensed contractors but understand that we are a named consultee in Requirement 10, so this can be addressed post-consent, if required.

WE.1.09	Applicant	**Per-and poly fluoroalkyl substances** Comment on the query (ID: EA21) raised by the Environment Agency in its relevant representation [RR-089] regarding per-and poly fluoroalkyl substances.	We note that Table 4 of the Framework CEMP [REP1-031 & REP1-032] is updated to ensure that bentonite pellets used in HDD activities will be PFAS free and the Proposed Development Parameters document [REP1-029 & REP1-030] is updated to commit that solar PV cells will also be PFAS free. As such, our relevant representation [RR-089] issues EA14 and EA21 are resolved.

Appendix 3 – Summary of overall Environment Agency position



Agreed / resolved

Working on a solution / under discussion

Not agreed

Environmental topics

Subject	Work package / topic / document	Scope	Method and Assumptions	Results of Assessment (i.e. Impact)	Mitigation / Enhancements	Requirement	Related RR ID
Ecology	Biodiversity Net Gain Strategy						
	Ecological Assessment & Landscape Ecological Management Plan (LEMP)					8	EA08, EA09, EA10
	Framework Construction Environmental Management Plan					12	EA09, EA10
	Framework Operational Environmental Management Plan					13	
	Framework Decommissioning Environmental Management Plan					20	
	Water Environment Report/ WFD						
Water Resources	Water Supply Assessment & Strategy						EA23
Flood Risk	Flood Risk Assessment						EA07
	Flood Modelling						

	Framework Construction Environmental Management Plan						EA07
Water Quality	**Framework Construction Environmental Management Plan**					12	EA14, EA20, EA21
	Framework Operational Environmental Management Plan					13	EA16, Water Management Plan
	Framework Decommissioning Environmental Management Plan					20	
	Framework Battery Safety Management Plan					7	EA16, EA17, EA18, EA22
	Surface and foul water drainage					10	EA01, EA15, EA16, EA17, EA18, EA19
	Water Environment Regulations Compliance/WFD						
Groundwater Protection	**Framework Construction Environmental Management Plan**					12	EA02, EA11, EA13
	Framework Operational Environmental Management Plan					13	EA11, EA16
	Framework Decommissioning Environmental Management Plan					20	EA11
	Groundwater Protection						EA02, EA12, EA13, EA16, EA17
	Framework Battery Safety Management Plan					7	EA16, EA17, EA22
	Contaminated Land Assessment						EA02, EA11
	Water Environment Regulations Compliance/WFD						

Waste	**Waste Management Strategy**						EA22, EA24
	Framework Battery Safety Management Plan					7	EA22
Geomorphology	**Water Environment Regulations Compliance/WFD**						

Development Consent Order

DCO topic	Topic	Agreed Status	Related RR ID	Notes
Articles	Preliminary permitted works – Article 2 'Interpretation' – (d) remedial work in respect of any contamination or other adverse ground conditions		EA02	Includes additional sub-paragraph (4) in Requirement 12 of dDCO Revision 2 [REP1-007 & REP1-008], as submitted at D1.
Disapplication of legislation	Disapplication of requirement for flood risk activity permits (FRAPs) - Article 6(1)(e)		EA04	Article 6(1)(e) removed from the dDCO Revision 2 [REP1-007 & REP1-008], as submitted at D1.
	Disapplication of Water Resources Act 1991 byelaws - Article 6(1)(d)		EA05	Article 6(1)(d) needs to be removed from the dDCO. Awaiting submission of updated dDCO. Applicant to discuss with us.
Protective provisions	Disapplication of FRAPs and Water Resources Act 1991 byelaws		EA04 & EA05	Not required as disapplication of the requirement for FRAPs is no longer sought. The EA would not agree to disapplication of the Water Resources Act 1991 byelaws without protective provisions for the disapplication of the requirement for FRAPs.
Requirements	Requirement 10 (Surface and foul water drainage)		EA01	EA included as named consultee in dDCO Revision 2 [REP1-007 & REP1-008], as submitted at D1.
	Requirement 12 (Construction Environmental Management Plan)		EA02	Includes additional sub-paragraph (4) in Requirement 12 of dDCO Revision 2 [REP1-007 & REP1-008], as submitted at D1.
	Discharge of requirements procedure – timescales for consultee responses to discharge authority – Schedule 15		EA03	Agreed wording in dDCO Revision 2 [REP1-007 & REP1-008], as submitted at D1.

END