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Secretary of State for Energy and Climate Change
c/o Natasha Kopala
Department for Energy and Climate Change
3 Whitehall Place
London
SW1A 2AW

Delivered by hand and sent via email:Natasha.Kopala@decc.gsi.gov.uk

Dear Ms Kopala

THE ELECTRICITY ACT 1989

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) ("THE 1990 ACT")

THE ELECTRICITY GENERATING STATIONS (VARIATION OF CONSENTS) (ENGLAND AND WALES) REGULATIONS 2013 ("THE 2013 REGULATIONS")

SPALDING ENERGY EXPANSION, WEST MARSH ROAD, SPALDING, LINCOLNSHIRE

By this letter and accompanying documents Spalding Energy Expansion Ltd (SEEL), being the person for the time being entitled to the benefit of a section 36 consent (DECC ref: 01.08.10.04/391C, granted on 11 November 2010 under Section 36 of the Electricity Act 1989 to construct and operate a 900 megawatt (MW) combined cycle gas turbine (CCGT) generating station, known as Spalding Energy Expansion (SEE) at West Marsh Road, Spalding, Lincolnshire (the Original Consent)) applies to the Secretary of State for Energy and Climate Change (the Secretary of State) pursuant to section 36C of the Electricity Act 1989 for the consent to be varied, and also requests that pursuant to his powers under section 90(2) and (2ZA) of the 1990 Act the Secretary of State either gives a direction for planning permission to be deemed to be granted, or gives a direction for the existing planning permission deemed to be granted by virtue of the direction under section 90(2) made on 11th November 2010 be varied. The Original Consent describes the Development as *"about 900MW capacity"* "for which *"A tolerance of up to 5% is permitted"*, giving a total of 945MW.

This application requests that the Secretary of State consents to a variation under Section 36C of the Electricity Act 1989 (a Variation Application) for a generating capacity of the Development permitted of *"up to 945MW"*. The Variation Application requests approval for a total generating capacity of up to 945 MW containing two alternative scenarios for which the Secretary of State is requested to issue a direction under section 90(2ZA) of the 1990 Act that the conditions in the deemed planning permission be varied or to issue a direction under section 90(2) of the 1990 Act that planning permission be deemed to be granted.

- Scenario 1 - up to two CCGT unit(s) including for each CCGT unit a gas turbine, a heat recovery steam generator (HRSG), a steam turbine and associated equipment with a total rated electrical output of up to 945MW; or

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- Scenario 2 - up to one CCGT unit including a gas turbine, a heat recovery steam generator (HRSG), a steam turbine with a rated electrical output of up to 645MW with open cycle gas turbine (OCGT) unit(s) and associated equipment with a rated electrical output of less than 300 MW.

The variation application also requests that the time limit for the commencement of the Proposed Development shall be five years from the Secretary of State granting a variation of the section 36 consent pursuant to section 36C of the Electricity Act 1989. Similarly, it is requested that the time limit for the commencement of the Proposed Development shall be five years from the date of the Secretary of State granting a direction to deem planning permission to be granted under section 90 of the Town and Country Planning Act 1990 (whether by varying the existing deemed planning permission or directing that a new planning permission be deemed to be granted).

The rationale for the requested time limit extension is to replace the present time limit in the section 36 consent at paragraph 4 (2) and in the deemed planning permission at paragraph 5 (3) which impose a time limit of 5 years from the date of the consent/permission given by the Secretary of State on 11 October 2010. If the time limit is not extended the section 36 consent will lapse. The proposed development relies on securing a capacity market award from the UK Government to proceed to construction. The capacity market award is secured at auction and therefore lacks certainty; a five year extension affords the opportunity to re-bid.

The application is accompanied by the Spalding Energy Expansion Environmental Statement Further Information Document (the Variation Application ES FID) along with other documents.

The documents accompanying this letter along with the Variation Application ES FID include all the information required to be provided in a variation application by regulation 3 of the 2013 Regulations (see Appendix A). The Variation Application ES FID at section 2 describes the rationale for proposing that the Original Consent should be varied and at section 5 provides a summary of the pre-application consultation undertaken by SEEL and its proposals for post application consultation. The rationale for the two scenarios is explained in the ES FID section 2 (Rationale for the Development) and it should be noted that this affords no overall increase in the generating capacity beyond what was permitted in the Original Application. The proposed two scenarios are considered to provide greater flexibility.

Appendix A attached to this letter identifies how each requirement contained in regulation 3 of the 2013 Regulations is complied with.

The following documents are submitted in support of the application:

1. Application Letter (this letter); Figure 1.1 illustrates the location of the Proposed SEE Site.
2. Figure 61033586-01 Red Line Application Site Boundary – Drawing 482302-15-01 (20 April 2015) replaces Document 3 below in that it removes the illustrative plant layout and illustrates more clearly the overall red line application site boundary. The configuration of the CCS area provides 4.3 hectares which is more than sufficient for scenario 1 or scenario 2 and in the case of the latter leaves additional land if SEEL wishes to install CO_2 capture plant technology on the OCGT unit(s) and so provides more flexibility for the two scenarios (see Revised Carbon Capture Readiness Feasibility Study).
3. Section 36 consent and deemed planning permission reference 01.08.10.04/391C) and site drawing 63114-PBP-120-1-3 (11 November 2010)
4. Section 36 Consent and Deemed Planning Permission Variation – Track Change Document April 2015 (a draft of the variations which the application proposes be made to the 11 November 2010 section 36 consent and to the 11 November 2010 direction that planning permission be deemed to be granted)
5. Spalding Energy Expansion Environmental Statement Further Information Document (April 2015)
6. Spalding Energy Expansion Non-Technical Summary of the Environmental Statement Further Information Document (April 2015)

7. Spalding Energy Expansion Revised Carbon Capture Readiness Feasibility Study (April 2015)
8. Spalding Energy Expansion Revised Combined Heat and Power Assessment (April 2015)
9. Spalding Energy Expansion Supplementary Flood Risk Assessment (April 2015)
10. Schedule of Proposed Consultees

In addition, two CDs containing electronic versions of the 2009 application documents are enclosed (see Appendix A regulation 3(4) below).

In accordance with the July 2013 "Guidance Note on varying consents granted under section 36 for generating stations in England and Wales", no fee is payable for an application to vary a section 36 consent.

Should the Secretary of State consider the variation application is suitable for publication, in accordance with the requirements of regulation 5 of the 2013 Regulations SEEL will comply with the publicity and advertising requirements. We will write on behalf of SEEL to the consultees listed in the attached Schedule of Proposed Consultees and place one notice of the application in The London Gazette and notices for two consecutive weeks in a local newspaper (The Voice). The application documents will also be published and available in electronic form at Intergen's website: www.intergeneurope.com/development-projects/spalding-energy-expansion-downloads

Please will you kindly confirm receipt of this application. If you have any queries regarding the enclosed please contact Nick Bowen (nb@dwdllp.com) Tel: 020 7489 4896 or Keith Dalton (kd@dwdllp.com) or Switchboard 020 7489 0213.

Yours sincerely

Dalton Warner Davis LLP

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APPENDIX A

Compliance with Regulation 3

The Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013

Reg.	Regulation Requirement	Applicant's Compliance with Regulation
(1)	A variation application must -	
(a)	Be made in writing;	The variation application on behalf of Spalding Energy Expansion (SEEL) is made in writing in a letter (Document 1), a site plan (Document 2), Appendix A and accompanying documents. This application under section 36C of the Electricity Act 1989 is to vary the section 36 consent and deemed planning permission reference 01.08.10.04/391C granted on 11 November 2010 - the Original Consent (Document 3), which has been submitted on behalf of Spalding Energy Expansion Limited (SEEL) to the Secretary of State on 24 April 2015.
(b)	describe the location of the proposed development by reference to a map;	The Original Consent refers to the proposed development of the Spalding Energy Expansion (SEE) at West Marsh Road, Spalding, Lincolnshire referred to as cross hatched red on drawing number 63114-PBP 120-1-3.(Document 3). The site of the Proposed Development is shown edged red on Figure 61033586-01 Drawing 482302-15-01 (Document 2), which replaces drawing 63114-PBP 120-1-3.Figure 1.1 illustrates the location of the Proposed SEE.
(c)	state – (i) why it is proposed that the relevant section 36 consent should be varied; (ii) what account has been taken of views expressed by persons who have been consulted by the applicant about the proposed variation;	(i) The Variation Application Environmental Statement Further Information Document (Variation Application ES FID), section 2 (Rationale for Development) explains the rationale for the development of SEE and why it is proposed that the Original Consent should be varied (Document 5). (ii) The Variation Application ES FID section 5 (Stakeholder Consultations) refers to consultations with the Department of Energy and Climate Change (DECC), South Holland District Council, statutory and other consultees during the period of the Original Consent application and subsequently the identification of key issues in the 2014 Environmental Scoping Report, the scoping opinion along with responses from stakeholders on the proposed variation application and proposals by SEEL to undertake future consultation during this variation application (Document 5).
(d)	include – (i) a draft of the variations which the applicant proposes should be made to the relevant section 36 consent; and	(i) The draft of the proposed variation/s to the section 36 consent is contained in the SEEL letter accompanying this application (Document 1) and in Document 4 which

		comprises the Original Consent with tracked variations proposed to the description of the Proposed Development and conditions.
	(ii) copies of any maps or plans not referred to in the relevant section 36 consent but which the applicant proposes that the relevant section 36 consent should refer to after it is varied; and	(ii) It is requested that the section 36 consent when varied should refer to Figure 61033586-01 Drawing no. 482302-15-01.
(e)	If the application relates to an offshore generating station, identify which of the bodies referred to in paragraph (b) of the definition of "relevant planning authority" in regulation 2(1) are, in the applicant's opinion, likely to have an interest in the variation application.	(iii) Not relevant to this application.
(2)	A variation application must include particulars of -	
(a)	the relevant section 36 consent, and, if that consent was not granted to the applicant, how the applicant has the benefit of that consent;	SEEL is applying to the Secretary of State to vary the Original Consent (Ref: 01.08.10.04/391C) granted on 11 November 2010 under Section 36 of the Electricity Act 1989. A copy of the relevant section 36 consent (Ref: 01.08.10.04/391C) accompanies this Application (Document 3) The relevant section 36 consent was granted to the applicant, SEEL and the applicant retains the benefit of that consent.
(b)	where the appropriate authority is the Secretary of State, any section 90 direction given on granting the relevant section 36 consent;	A copy of the relevant section 90 direction (Ref: 01.08.10.04/391C) accompanies this Application (Document 3).
(c)	any permit, licence, consent or other authorisation (other than the relevant section 36 consent) given in connection with the construction or operation of the proposed development (a "relevant authorisation"), including any variation or replacement of a relevant authorisation; and	(i) The 2009 application for section 36 consent referred to the likely requirement for associated infrastructure including a second 400kV overhead transmission line. It was subsequently established that the existing overhead transmission line which serves the existing Spalding CCGT generating station will instead be used to serve the proposed SEE. In 2010 SEEL submitted an application for planning permission to South Holland District Council (reference H16-0135-10) for a natural gas pipeline and to extend the existing Wragg Marsh above ground installation to support a new minimum off-take connection and a new minimum off-take facility between the proposed SEE and Wragg Marsh AGI to the north east of Spalding which was approved on 8 June 2010. The application was accompanied by an environmental statement. (ii) An Environmental Permit was issued to SEEL for SEE (EPR/AP3732 KC) in December 2010 under the Environmental Permitting (England and Wales)

		Regulations 2010. An application to vary the environmental permit will be made in due course.
(d)	any application that has been made for a relevant authorisation or variation of a relevant authorisation.	An application (March 2015) was submitted for a new planning permission to replace the extant gas pipeline permission H16-0293-15, and is yet to be determined by South Holland District Council.
(3)	Where the appropriate authority is the Secretary of State and the applicant requests the Secretary of State to make a section 90 direction on varying the relevant section 36 consent, the application must-	
(a)	identify the section 90 development in respect of which that request is made and describe its location by reference to a map;	SEEL is applying to the Secretary of State to vary both the consent (Ref: 01.08.10.04/391C) granted on 11 November 2010 under Section 36 of the Electricity Act 1989 (the Original Consent) and a direction under section 90(2) of the Town and Country Planning Act 1990 (Section 90 Direction) to construct and operate the combined cycle gas turbine generating station, known as the Spalding Energy Expansion (SEE) at West Marsh Road Spalding Lincolnshire (Document 3). Figure 61033586-01-Drawing no 482302-15-01 shows the location of the application site boundary of the Proposed Development and related development (Document 2). This is a new drawing but the site location and extent is the same as that which was subject to the original application.
(b)	state – (i) why it is proposed that the direction should be made; and (ii) what account has been taken of views expressed by persons who have been consulted by the applicant about the proposed direction; and	(i) The Variation Application ES FID, section 2 (Rationale for Development) explains the rationale for the development of SEE and states why it is proposed that the Original Consent should be varied and a section 90 direction made (Document 5). (ii) The Variation Application ES FID section 5 (Stakeholder Consultations) refers to consultations with the Department of Energy and Climate Change (DECC), South Holland District Council, statutory and other consultees during the period of the Original Consent application and subsequently the identification of key issues in the 2014 Environmental Scoping Report, the scoping opinion along with responses from stakeholders on the proposed variation application and proposals by SEEL to undertake future consultation during this variation application (Document 5).
(c)	Include – (i) a draft of the proposed direction; and	(i) The draft of the proposed variation to the Section 90 Direction is contained within the SEE section 36 Consent and section 90 Direction - Variation Track Change Document which is contained within this application (Document 4).

	(ii) copies of any maps or plans to which it is proposed that the section 90 direction should refer which are not – (aa) referred to in the relevant section 36 consent or any section 90 direction given on granting the relevant section 36 consent; or (bb) included in the application in accordance with paragraph (1)(d)(ii).	(ii) Figure 61033586-01 Drawing no. 482302-15-01 shows the location of the application site boundary of the Proposed Development and related development. This is a new drawing but the site location and extent is the same as that which was subject to the original application.
(4)	If, under the EIA Regulations as modified by regulation 7, an environmental statement has been prepared, or is required to be prepared, in relation to the proposed development, the environmental statement must accompany the application.	An environmental statement along with other documents accompanies this Variation Application (see below) **Spalding Energy Expansion April 2015** <u>Environmental Statement 2015</u> – Environmental Statement Further Information Document (Document 5) – Non-Technical Summary of the Environmental Statement Further Information Document (Document 6) <u>Environmental Statement March 2009</u> – Non-Technical Summary Volume 1 – Main Report Volume 2 – Technical Appendices Volume 3 <u>Other Documents</u> *April 2015* – Revised Carbon Capture Readiness Feasibility Study (Document 7) – Revised Combined Heat and Power Assessment (Document 8) – Supplementary Flood Risk Assessment (Document 9) – Schedule of Proposed Consultees (Document 10) *January 2010* – Consolidated CCR Feasibility Study *19 August 2009* – Additional Flood Risk Information *March 2009* – Application Site Plan 2544/C/1 – Schedule and Drawings – CHP Assessment – CCR Feasibility Study – Statement of Community Involvement – Design and Access Statement