THE YORK POTASH HARBOUR FACILITIES ORDER 201X

Section 79(1) of Environmental Protection Act 1990 Statement (Re Statutory Nuisance)

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YORKPOTASH
A Sirius Minerals Project

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

The York Potash Harbour Facilities Order 201X

STATEMENT RELATING TO THE ENVIRONMENTAL PROTECTION ACT 1990

Pursuant to Regulation 5(2)(f)

Document 6.2

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1.0 INTRODUCTION

1.1 This statement is submitted in support of an application by York Potash Limited (Company No. 07251600) (referred to as "YPL") under the Planning Act 2008 for The York Potash Harbour Facilities Order 201X (the "Order").

1.2 The application site comprises approximately 92 hectares and the Order, if granted, will provide development consent for the following elements:

1.2.1 The construction and operation of a quay structure on the River Tees at Bran Sands to facilitate the mooring of vessels in the estuary directly adjacent to the onshore harbour facility and allow shiploader access;
1.2.2 Dredging of the approach channel and berth area;
1.2.3 The construction of shiploaders on the quay structure to load the polyhalite product onto ships for onward transmission;
1.2.4 The erection of surge bins for the ship loading flow management of the polyhalite;
1.2.5 A conveyor system to transport the polyhalite connecting the harbour with the MHF within the Wilson International complex;
1.2.6 Ancillary infrastructure.

1.3 This statement is prepared pursuant to the requirements of Regulation 5(2)(f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("APFP Regulations") and is required to state "*whether the proposal engages one or more of the matters set out in section 79(1) (statutory nuisances and inspections therefor) of the Environmental Protection Act 1990, and if so how the applicant proposes to mitigate or limit them"*.

1.4 This statement should be read alongside the other application documents, in particular the Environmental Statement (ES) (Documents 6.4 and 6.5). This statement relating to the Environmental Protection Act 1990 makes reference to sections of the ES which contain detailed information on the assessment and mitigation of impacts.

1.5 The matters under section 79(1) which are potentially engaged by the proposed development are, broadly, nuisance caused by noise (including vibration), air pollution and light pollution.

2.0 ASSESSMENT OF ENGAGEMENT WITH MATTERS UNDER SECTION 79(1) OF THE EPA 1990

2.1 This section is arranged by types of impacts which could engage matters under section 79(1). The first impact to be considered is noise and vibration which could fall under subsection (g) if emitted from premises (which includes land) or subsection (ga) if emitted by a vehicle, machinery or equipment in a street. The second impact is air quality which could engage subsection (d) dust, steam, smell or other effluvia. The final category is lighting which could engage subsection (fb) light from premises and (fba) artificial light emitted from premises and or any stationary object.

2.2 <u>Noise and vibration</u>

a) Construction

2.2.1 Noise and vibration may be generated from a range of activities that will be carried out during the construction of the proposed development. Section 14 of the ES deals with noise and vibration. A range of plant and equipment will be used across the site during each phase of construction for the quay and conveyors respectively. A list of assumed plant for each task can be seen in Table 14.2 and 14.3 of Section 14 of the ES. The intensity and duration of use of such plant and equipment will vary during the construction stages across the site. Construction noise in relation to the construction of the quay has been assessed in Table 14.19 (day time) and Table 14.20 (night time) of Section 14 of the ES. Construction noise in relation to the south

conveyor option has been assessed in Table 14.21 (day time) and Table 14.22 (night time) of Section 14 of the ES and in relation to the north conveyor option in Table 14.23 (day time) and Table 14.24 (night time) of Section 14 of the ES. The assessment identifies predicted impacts from noise during the construction on relevant residential and ecological receptors as set out in Table 14.4 and shown on Figure 14.1 of Section 14 of the ES. A negligible impact was identified at all receptors except one, being 'P3 – residences at the junction of Broadway West and Wilton Avenue, Dormanstown', where a moderate impact was predicted during evening construction piling activities. Accordingly, mitigation measures for the noise as a result of construction activity have been identified within paragraphs 14.5.11 to 14.5.20 of Section 14 of the ES.

2.2.2 As noted in paragraph 14.5.22 of Section 14 of the ES, with the implementation of appropriate noise mitigation and monitoring, the residual impact has been determined to be negligible.

2.2.3 Paragraphs 14.3.38 to 14.3.44 of Section 14 of the ES set out the methodology used for assessing vibration. The vibration impact resulting from the construction of the project is assessed in paragraphs 14.5.23 to 14.5.28 of Section 14 of the ES. The resulting impact is predicted to be of negligible significance (see paragraph 14.5.29 of Section 14 of the ES).

2.2.4 Paragraphs 14.3.30 to 14.3.37 of Section 14 of the ES set out the methodology used for assessing off site construction traffic noise. Using the methodology set out, paragraphs 14.5.32 and 14.5.33 of Section 14 of the ES assess the impact of off-site construction traffic noise. The conclusion reached at paragraph 14.5.33 is that the impact of construction traffic noise would be of negligible significance.

2.2.5 No noise or vibration nuisance is therefore anticipated from the construction of the proposed development.

b) Operation

2.2.6 Noise following the completion of the proposed works would predominantly arise from the operational activities of the harbour including the conveyors. A list of assumed plant for the operational assessment is set out in Table 14-13 of Section 14 of the ES. The results of on-site operational changes in noise levels for both day and night for the port and each conveyor option are set out in Tables 14-33 to 14-36 inclusive of Section 14 of the Environmental Statement. The results indicate that operational noise over a day and night time period from the proposed scheme has a predicted magnitude of effect that ranges from no impact to very low and low; hence an impact of negligible significance is predicted for all residential and ecological receptors, (see paragraph 14.6.2 of Section 14 of the ES).

2.2.7 Road traffic movements associated with the operational aspects of the proposed scheme have been deemed to be negligible, (see paragraph 14.6.4 of Section 14 of the ES).

2.2.8 No noise nuisance is therefore anticipated from the operation of the proposed development.

2.3 Air Quality

a) Construction

2.3.1 The principal pollutants that may be generated by the proposed development during the construction phase are fugitive dust and

particulate matter and road traffic emissions from construction vehicles. Section 13 of the ES considers the effects arising from construction activities on identified nearby receptors for dust soiling and human health and suggests a mitigation strategy. With the implementation of mitigation suggested, an overall negligible to slight adverse effect has been identified, (see paragraph 13.3.63 and Table 13.-12 of Section 13 of the ES). A range of embedded mitigation measures would be employed in the construction which is conventional good practice in large construction sites and mineral facilities across the UK. The mitigation measures would be incorporated into the contractual specifications and be mandatory working practice at the site during the construction phase. The proposed mitigation measures, along with a detailed overview of the dust management at the site are set out within the framework Construction Management Plan. In addition, specific measures are proposed for the demolition, earthworks, construction and trackout phases. As noted at paragraph 13.3.67 of Section 13 of the ES, with the implementation of the mitigation measures, the residual impact of construction phase dust and particulate matter on local air quality at identified receptor locations, is predicted to be “not significant”.

2.3.2 With respect to construction on site non-road mobile machinery (NRMM) and plant emissions, a qualitative assessment was undertaken and mitigation measures have been proposed. Paragraph 13.3.77 of Section 13 of the ES concludes that with the implementation of the mitigation measures proposed, the residual impacts from NRMM are considered to be not significant.

2.3.3 Construction road traffic emissions have also been assessed. As a result of the assessment, the overall impact of road traffic emissions resulting from the construction phase on local air quality at identified human receptor locations is considered to be not significant (see

paragraph 13.3.85 of Section 13 of the ES). With the proposed mitigation measures, paragraph 13.3.88 of Section 13 of the ES concludes there would be a negligible impact on local air quality.

2.3.4 No nuisance related to dust or other particles is therefore anticipated from the construction of the proposed development.

b) Operation

2.3.5 Marine vessel emissions from vessels using the port have been assessed for both human receptor locations and ecological receptors. Full details of these assessments are contained in Appendix 13 to Section 13 of the ES. As noted in paragraph 13.4.15 of Section 13 of the ES, the assessment indicated that concentrations of NO_2 and SO_2 were "well below" the relevant objectives at the nearest human receptor locations and therefore impacts on human receptors are considered to be not significant. With respect to designated ecological sites, the assessment, as noted in paragraph 13.4.16 of Section 13 of the ES, indicated that the maximum increases in nutrient nitrogen and acid deposition within the designated sites were below 1% of all critical loads, and total NOx and SO_2 concentrations were predicted to be below the critical levels for the protection of vegetation and ecosystems for both pollutants. Therefore impacts on designated ecological sites are considered to be not significant (see paragraphs 13.4.16 of Section 13 of the ES). In addition, as noted in paragraph 13.4.19 of Section 13 of the ES it is considered unlikely that vessel movements associated with the operational facility would have an impact on air quality (no impact).

2.3.6 The potential for dust emissions to be generated during the operational phase has also been considered. Paragraphs 13.4.20 and 13.4.21 of Section 13 of the ES describe the method for transporting the product

around the mineral handling facility to the vessel for onward export so as to ensure that any breakdown of the product and associated dust generation would be minimal. The processes occurring within the harbour facilities site would be mechanised and enclosed and on site operational phase plan movements would be minimal. Based on this, impacts on local air quality from operational phase activities are predicted to be not significant (see paragraph 13.4.22 of Section 13 of the ES). Moreover, as noted by paragraph 13.4.24, residual impacts on local air quality from operational phase activities would be not significant.

2.3.7 Road traffic emissions resulting from the operational phase on local air quality at identified human receptor locations have been assessed in paragraphs 13.4.1 to 13.4.6 of Section 13 of the ES and are considered to be not significant. No road traffic mitigation measures are considered necessary for the operational phase and residual impacts on local air quality are predicted to be not significant (see paragraph 13.4.7 and 13.4.8 of Section 13 of the ES).

2.3.8 No nuisance related to dust or other particles or effect on air quality is therefore anticipated from the operation of the proposed development.

2.4 Lighting

2.4.1 Section 20 of the ES describes the existing environment in relation to landscape and visual resources and assesses the potential effects of the construction and operational phases of the proposed scheme on these resources. As noted in paragraph 20.11.7 of Section 20 of the ES, A Lighting Impact Assessment is provided in Appendix 20.4 to Section 20 of the ES.

2.4.2 Paragraphs 3.1 and 3.2 of Appendix 20.4 to Section 20 of the ES describe the baseline lighting environment. Those paragraphs note that the proposed scheme is located within a highly developed urban and industrial area where night time extensive bright lighting is present both immediately adjoining the proposed scheme and within the wider environs. Floodlighting masts, flare stacks, illuminated petrochemical structures, building lighting and aviation warning lights form tall light sources across the area, above widespread lighting closer to ground level. Multiple direct bright light sources and strong skyglow are characteristics of the wider Tees estuary industrial complex.

a) Construction

2.4.3 Paragraph 4.2 of Appendix 20.4 to Section 20 of the ES sets out the lighting design proposals and strategy for the construction phase. An assessment of the construction phase lighting effects for the identified viewpoints is set out in section 5 of Appendix 20.4. As noted in the summary of that assessment, the proposed lighting for the site is identified as having predominantly negligible effects given that the construction phase would be short term only (see paragraph 6.3 of Appendix 20.4). Mitigation principles have been suggested to assist with reducing the overall effects of sky glow and luminaire intensity. These measures are summaries in paragraph 6.6 of Appendix 20.4 to Section 20 of the ES.

b) Operation

2.4.4 Due to the nature of the proposed development the use of appropriate external lighting will be essential for ship loading/unloading, roadway, car parking, amenity safety and security lighting. However harbour premises are expressly excluded from the statutory nuisances to be considered at section 79(1)(fb). For the remaining elements of the

proposed development and for the purposes of section 79(1)(fba) the level of lighting, quantity, quality and duration of use of the fittings will be controlled within the design and operation to produce an acceptable impact.

2.4.5 Paragraph 4.3 of Appendix 20.4 to Section 20 of the ES considers a high level operational lighting strategy for the respective identified viewpoints and receptors. An assessment of the operational phase lighting effects for the identified viewpoints is set out in section 5 of Appendix 20.4. Paragraph 6.8 of Appendix 20.4 concludes that the impacts of the proposed operational phase lighting, which would characterise the long term (ie present for the life of the proposed scheme) would be of negligible significance or have no effect in terms of sky glow, light intrusion and luminaire intensity.

2.4.6 It is not anticipated that the lighting of the development during either construction or operation will give rise to nuisance.

3.0 Conclusion

3.1 This statement reports the findings of the ES in respect of potential statutory nuisance arising from the construction and operation of the proposed development. Taking into account the mitigation measures contained in the Sections of the ES referred to above it is not anticipated that a statutory nuisance in respect of noise (including vibration), air quality, lighting or any other matter will result from the construction and operation of the proposed development.