

Katherine Goulding

Senior Executive, Access and Licensing
Tel: 020 7282 2198
Email: katherine.goulding@orr.gov.uk

9 April 2018

Stewart Smith
Industry Contracts Manager
DB Cargo (UK) Limited
Steering & Processes
Down Yard Offices
Station Approach
WESTBURY
BA13 4HP

Paul Notley
Terminal Manager
BP Oil UK Limited
Isle of Grain Depot
Isle of Grain
Rochester
Kent
ME3 0HA

Dear Stewart and Paul,

Proposed connection agreement between DB Cargo (UK) Limited (DBC) and BP Oil UK Limited (BP) at Isle of Grain

1. On 9 April 2018 the Office of Rail and Road (**ORR**) approved the terms of the connection agreement submitted on 21 March 2018 by DBC and BP (**the parties**) under section 18 of the Railways Act 1993 (**the Act**), relating to the connection at Isle of Grain. Please find enclosed a copy of our direction notice, directing the parties to enter into the contract. This letter sets out the reasons for our decision.

Background

2. British Airways and BP have entered into a Depot Access Agreement, which includes a connection agreement as part of the condition precedent¹. Therefore the parties have submitted this agreement to us for our approval.

Consultation

3. BP consulted the other potentially affected parties, and it did not declare any objections to the proposed contract.

ORR Review

4. We reviewed the submitted connection contract and associated documents. There were changes made to the contract to reflect that Network Rail is not a party to the contract. We are content with these changes. The definition of Commencement Date was originally submitted as 1 March 2018, this has been changed to the date of the contract. We are content with this change.
5. We have not identified any other issues with the connection contract. We are therefore content to approve this application.

¹ The agreement is available on our public register: <https://sites.google.com/a/orr.gov.uk/orr-public-register/>.

ORR Decision

6. This application is under section 18 of the Act and therefore is agreed between the parties, who are prepared to enter into the agreement.
7. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
 - (i) to protect the interests of users of railway assets;
 - (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
 - (iii) to promote efficiency and economy on the part of the persons providing railway services; and
 - (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.
8. Under clause 18.2.3 of the connection contract, DBC is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and BP. We look forward to receiving the conformed copy.
9. In entering any provision on the register, we are required to have regard to the need to exclude, as far as is practicable, the matters specified in section 71(2)(a) and (b) of the Act. These sections refer to:
 - a. any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of that individual; and
 - b. any matter which relates to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of that body.
10. You requested in your application that we redact the charge in clause 15.1.1 and the liability cap figure in Schedule 5. We agree to these requests. If you have any additional requests, you will need to give reasons for each request explaining why you consider that publication would seriously and prejudicially affect your interests.

Yours sincerely

Katherine Goulding