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Your ref:  
Our ref: 01.08.10.43/381C

5 March 2010

Dear Mr Harrington

## **ENERGY ACT 2004**

### **PROPOSED OFFSHORE WAVE ELECTRICITY GENERATING STATION OFF THE COAST OF NORTH CORNWALL – WAVE HUB**

#### **SAFETY ZONE APPLICATION**

##### **1. The Application**

1.1 I am directed by the Secretary of State for Energy and Climate Change (“the Secretary of State”) to refer to the application submitted on 30 January 2009 (“the Application”) by the South West of England Regional Development Agency (“the Company”) for a notice to be issued by the Secretary of State under section 95(2) of the Energy Act 2004 (“the Act”) declaring that the area of 2km x 4km specified in the Application be a safety zone for the purpose of securing the safety of the Wave Hub energy site during the period of operation.

1.2 Notice of the Application was published and served by the Company on 30 January 2009 in accordance with the requirements of the Energy Act 2004 and regulations 4 and 5 of the Electricity (Offshore Generating Stations) (Safety Zones) (Application Procedures and Control of Access) Regulations 2007/1948 (“the 2007 Regulations”).

1.3 Objections were received by the Secretary of State following consultation on the Application in February 2009. The Cornish Fish Producers Organisation objected because of the location of the Wave Hub energy site in an important fishing area. They also expressed concerns about navigation safety from the risk of wave energy devices breaking their moorings, and the measurement of safety zones around moving devices. The Royal Yachting Association did not object to the proposal in principle but responded with a suggestion that smaller recreational vessels not equipped with an Automated Identification System (AIS) should be exempt because they would not receive automated warnings from the Wave Hub energy site.

As a result such vessels could accidentally enter into and so infringe the safety zone. The National Federation of Fishermen's Organisations expressed concerns about the size of the proposed safety zone on the grounds that it exceeded the maximum breadth of a safety zone permitted under international law.

1.4 Advice was provided to the Secretary of State from the Maritime and Coastguard Agency (MCA) that a safety zone of the size applied for by the Company would be contrary to the United Nations Convention on the Law of the Sea. The MCA recommended instead the establishment of a 500 metres safety zone.

## 2. The response of the Secretary of State to the Application

2.1 The Secretary of State after considering all the objections, and all other material considerations, was of the view that it would not be appropriate to issue a notice declaring as a safety zone the area around the Wave Hub energy site in the terms specified in the Application. In accordance with paragraph 5(1) (b) of Schedule 16 to the Energy Act 2004, the Secretary of State instead published a second notice in October 2009 ("the Proposal") stating that he proposed to issue a safety zone notice in terms materially different from those applied for by the Company and to declare a safety zone of 500 metres around the Wave Hub's electrical termination and distribution unit at one of two possible locations on the seabed.

2.2 Notice of the Proposal was published in the London Gazette and Fishing News on 1st and 2nd October 2009 respectively. Copies were also sent to the organisations that had made representations to the Secretary of State in relation to the Application submitted by the Company. The notice included details of where a map could be viewed showing the area where the 500 metres safety zone would be declared around the Wave Hub's electrical termination and distribution unit at one of two possible locations for the unit in the South West corner or alternatively close to the midpoint of the west facing site boundary.

2.3 No objections to the Proposal were made to the Secretary of State and no other representations in relation to the Proposal were received by the Secretary of State.

## 3. Secretary of State's consideration of matters raised on the Application

3.1 Having considered the objections the Secretary of States considers that:

- The location of Wave Hub is not relevant to the Application. The Secretary of State's reasons for granting consent under section 36 of the Electricity Act 1989 for the Wave Hub project at its current location are set out in the decision letter from the Department for Business Enterprise & Regulatory Reform to the Company dated 17 September 2007.
- The concern about wave energy devices breaking moorings has been addressed by conditions 3d and 3e in the Decision Letter which require the approval by the MCA of an Active Safety Management System for the Wave Hub and a specific navigation risk assessment of wave energy devices before any are deployed at the Wave Hub site.
- As regards the suggestion that non-AIS equipped vessels be made exempt from any safety zone, the Secretary of State does not agree that such vessels should be treated differently to any other vessels because, in addition to automated warnings, the Wave Hub site will be marked on Admiralty Charts as a renewable development zone and it will be marked and lit in accordance with Trinity House and MCA requirements. In addition, the Company, or its representative, will be required to promulgate regular notices to mariners on the planned Wave Hub construction programme. The Secretary of State believes that to implement a safety zone scheme where some vessels (other

than construction vessels) were exempt, and others were not, could lead to uncertainty about what was and was not permitted in a safety zone.

- The size of the safety zone applied for by the Company, exceeds the maximum breadth permitted under international law.

#### 4. The decision of the Secretary of State

4.1 The Secretary of State having considered the objections made, and all other material considerations, is of the view that it is appropriate to issue a notice declaring a 500 metre safety zone in the area in the South West corner around the site of the Wave Hub's electrical termination and distribution unit and does not consider it appropriate for a public inquiry to be held.

4.2 The Secretary of State considers that:

- the declaration of a safety zone of the dimensions applied for by the Company in the Application was unnecessary for the purpose of securing the operational safety of the Wave Hub energy site and in breach of international law and that instead a 500m safety zone above and around the Wave Hub's electrical termination and distribution unit when in situ at the South West corner of the Wave Hub site as shown on the map at [https://www.og.decc.gov.uk/EIP/misc\\_docs/WGEWHF-105-B.pdf](https://www.og.decc.gov.uk/EIP/misc_docs/WGEWHF-105-B.pdf) would be more appropriate for the purposes of securing the safety of the installation and individuals, and navigation safety in its vicinity;
- the MCA supports the need for a 500m safety zone; and
- the safety zone will be marked on Admiralty Charts, and the Company have stated that marine crews on installation vessels will monitor vessels and activities within the Wave Hub energy site and regularly issue notices to mariners on construction works and other activities planned in and around the site.

#### 5. The Declaration

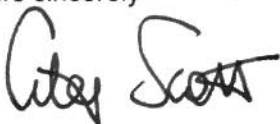
5.1 The Secretary of State hereby issues this notice declaring a safety zone in the following terms:

##### During operation

- 500 metres radius around the electrical termination and distribution unit in the South West corner of the Wave Hub site as can be seen on the map at [https://www.og.decc.gov.uk/EIP/misc\\_docs/WGEWHF-105-B.pdf](https://www.og.decc.gov.uk/EIP/misc_docs/WGEWHF-105-B.pdf)

5.2 This notice comes into force from the date of this letter.

Yours sincerely



Giles Scott  
Head, Development Consents and Planning Reform