



Commission for Energy Regulation
An Coimisiún um Rialáil Fuinnimh

28th July, 2010

Mr. Alan McArdle,
An Bord Pleanála (The Board),
64 Malborough Street,
Dublin 1.

Our Ref: D/10/11757
Your Ref: 16.GA0004

Re: Onshore upstream gas pipeline facility relating to the Corrib Gas Field Project

Dear Alan,

The CER is pleased to respond to your letter dated 25th June. I address your specific request for comments later in this letter.

However, I think it is appropriate by way of background to give an overview of the CER's future role with respect to the safety regulation of upstream gas pipelines specifically and designated petroleum activities of petroleum undertakings generally under the *Petroleum (Exploration and Extraction) Safety Act 2010* and progress the CER has made to date in implementing its new statutory responsibilities.

Envisaged Operation of the Petroleum Safety Framework

The *Petroleum (Exploration and Extraction) Safety Act 2010* (the '2010 Act') was passed on April 3rd 2010. To assist general understanding of the 2010 Act, the following paragraphs provide a high level description of how its key provisions will operate. This should not be viewed as an exhaustive overview or legal description and interpretation of the 2010 Act. It is simply offered to provide some clarity and guidance on the CER's future role under the 2010 Act. The 2010 Act itself should be read in conjunction with the following paragraphs, particularly for defined terms like petroleum undertakings, designated petroleum activities, and petroleum infrastructure.

The 2010 Act, amongst other things, gives the CER the function to regulate the designated petroleum activities of petroleum undertakings with respect to safety. The CER is required to establish and implement a risk-based Petroleum Safety Framework. It is useful to understand the Petroleum Safety Framework as a description of the system the CER will use to regulate petroleum undertakings with respect to safety. It will describe what activities and infrastructure will be regulated and how these will be regulated. This includes activities related to each stage of the lifecycle of petroleum infrastructure (design, construction, operation, maintenance, modification and decommissioning).

Under the Petroleum Safety Framework, and in line with the requirements of the 2010 Act, petroleum undertakings will be required to submit a safety case to the CER covering petroleum activities it intends to carry out and the associated petroleum infrastructure related to those activities. The safety case is a living document which describes, amongst other things, the safety management system the petroleum undertaking has in place with respect to the carrying on of petroleum activities. The safety case must demonstrate to the CER, amongst other things, that:



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- Petroleum activities are being carried out by the petroleum undertaking in such a manner as to reduce any risk to safety to a level that is as low as is reasonably practicable;
- Any petroleum infrastructure is designed, constructed, installed, maintained, modified, operated and decommissioned in such a manner as to reduce any risk to safety to a level that is as low as is reasonably practicable; and
- Adequate arrangements for monitoring, audit, compliance reporting and safety performance reporting have been established.

To support the above safety case development process, the CER will publish Safety Case Guidelines relating to the appropriate contents of the safety case. These Guidelines may also set out the technical principles and specifications relating to design, construction, operation, maintenance, modification and decommissioning of petroleum infrastructure and the applicable standards and codes of practice for designated petroleum activities. Safety cases submitted by petroleum undertakings will be assessed by the CER against the Safety Case Guidelines.

It will be an offence to undertake a petroleum activity without a Safety Permit from the CER for that activity¹ and it will be a condition of a Safety Permit that a petroleum undertaking must act in accordance with its approved safety case. The CER will not issue a Safety Permit to a petroleum undertaking unless it is satisfied that the submitted safety case complies with the requirements of the Safety Case Guidelines and demonstrates to the CER that the petroleum undertaking can implement its safety management system and carry on its activities in such a manner as to reduce any risk to safety to a level that is as low as is reasonably practicable.

The CER has the function to monitor and enforce compliance by petroleum undertakings with their obligations under the 2010 Act and will put in place a system of ongoing audit and inspection under the Petroleum Safety Framework. CER will also have significant enforcement powers with respect to petroleum undertakings such as the power to issue improvement notices, prohibition notices or ultimately to revoke a Safety Permit.

In carrying out its petroleum safety functions the CER will be governed by its principle objective under the 2010 Act to *protect the public by fostering and encouraging safety as respects the carrying on of designated petroleum activities*.

Petroleum Safety Framework Implementation Project

Since the 2010 Act was passed on April 3rd, the CER has formally established a project team to manage the full implementation of the 2010 Act, and specifically to manage the design and implementation of the Petroleum Safety Framework. The project is formally titled the Petroleum Safety Framework Implementation Project. The CER has a strong track record in the implementation and operation of safety regulatory regimes, most specifically the Natural Gas Safety Regulatory Framework under the *Energy (Miscellaneous Provisions) Act 2006*. In particular, the CER is committed to ensuring that all elements of the design and operation of the Petroleum Safety Framework are in accordance with best international practice.

¹ The 2010 Act does allow a limited time period for existing petroleum undertakings to transition to this new regulatory regime.



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The Petroleum Safety Framework Implementation Project is currently in the initial planning and scoping phase. This involves three distinct areas of work:

1. A factual report on the existing regulatory and operational framework pertaining to petroleum activities and infrastructure in Ireland, which the new Petroleum Safety Framework will interface with;
2. A report on a number of international regulatory regimes to determine best international practice in the area of petroleum safety regulation; and
3. The development of detailed plan for the full implementation of the 2010 Act.

The CER expects that this initial phase of the project will be completed in Quarter 4 2010, with the publication of the above reports and the detailed implementation plan. The CER will undertake the project in an open and transparent manner, underpinned by a fully consultative approach.

Response to Specific Request for Comments

Your letter states that:

The Board requests the comments of the Commission in anticipation of the role CER will be given in respect to upstream gas pipelines and is particularly interested in your comments on the following:

- (1) The likely procedures that will apply and the timescale for the assessment and certification of the safety of the pipeline*
- (2) Any observations the Commission wishes to make to the Board in relation to the proposed development and the safety of the pipeline.*

It should be noted that the 2010 Act is quite clear on the consultative process the CER must follow in designing the Petroleum Safety Framework and the petroleum activities and infrastructure that will be subject to regulation by the CER. The CER has an obligation to co-operate and consult with a number of statutory bodies for the purpose of avoiding unnecessary regulatory overlaps generally, and also has an obligation to consult with the general public in the design of Petroleum Safety Framework amongst other things. Therefore the CER cannot be specific on the procedures that it will apply for the safety assessment of upstream gas pipeline as it does not wish to prejudge any aspect of the various consultation processes yet to be held. While subject to consultation, it is clear from the 2010 Act that such infrastructure (and associated activities) will require the submission of a safety case to the CER for its assessment, with a decision resting with the CER on whether it is appropriate to issue a Safety Permit or not. It is not possible at this stage to give a timescale on the implementation of the Petroleum Safety Framework (given that the detailed plan will not be completed until Quarter 4 2010). The CER will implement the Petroleum Safety Framework in a timely manner, but the timescale for delivery is largely dependent on agreeing interfaces and timelines with the other statutory bodies with responsibilities in the petroleum regulatory environment as set out above.

However, given currently available information, the CER anticipates that the Petroleum Safety Framework will be in place in advance of any potential operation date for the proposed onshore upstream gas pipeline facility relating to the Corrib Gas Field Project. Given that, the CER expect that the proposed pipeline will not be able to commence operation without a Safety Permit from the CER.

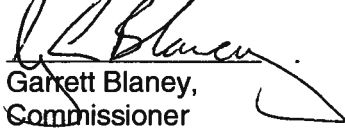


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The CER has no observations to the Board in relation to the proposed development and the safety of the pipeline as the CER is not in position to express any views until such time as the Petroleum Safety Framework has been implemented.

If the Board requires any further comment or information from the CER, please do not hesitate to contact.

Yours sincerely,


Garrett Blaney,
Commissioner