

From: Morelli, Emer <Emer.Morelli@dfpni.gov.uk>
Sent: 07 September 2015 11:45
To: Scott, Michelle
Subject: FW: SUPL - Follow up casework meeting minutes
Attachments: Minutes - Invest NI - SUPL- Follow up meeting - DFP - Tracked changes 2.doc

Michelle

I am content with the attached minutes. Are you happy for me to respond on behalf of Supply or do you wish to add anything?

Many thanks

Emer

From: Hutchinson, Lee-Anne
Sent: 01 September 2015 15:55
To: Morelli, Emer; Scott, Michelle; Houston, Michael
Cc: Manikpure, Francine; Linton, Rachel; McFarlane, Iain
Subject: SUPL - Follow up casework meeting minutes

Dear All

This is a reminder about the SUPL follow up casework minutes.

I would be grateful if you could confirm if you are content, or, alternatively let me know of any further amendments (a DFP consolidated response) which should be made in tracked changes mode.

Many thanks

LA

Lee-Anne Hutchinson

Accountability & Casework
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Netherleigh
Massey Avenue
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From: Linton, Rachel [<mailto:Rachel.Linton@detini.gov.uk>]
Sent: 14 August 2015 11:45
Subject: SUPL - Follow up casework meeting minutes

Dear All,

Please see attached draft minutes of the SUPL Casework follow up meeting with Invest NI's proposed amendments included. Please also see below Invest NI's response to the action point regarding the position on liquidated damages.

Grateful if you could confirm if you are content, or, alternatively let me know any further amendments which should be made in tracked changes mode.

Do not hesitate to contact me if you have any queries.

Kind regards,

Rachel

Rachel Linton

Accountability & Casework
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From: Joanne McStay [<mailto:joanne.mcstay@investni.com>]
Sent: 12 August 2015 15:20
To: Linton, Rachel; McCulla, William (InvestNI); McVicker, Alan
Cc: Cooper, Trevor; McFarlane, Iain; Hutchinson, Lee-Anne
Subject: RE: Minutes - SUPL - Follow up meeting

Rachel,

Please find attached the updated minutes showing tracked changes. In relation to the action point regarding the position on liquidated damages, please see the note below.

DFP raised the query regarding what happens if the AD plant is delayed during construction and ROCs cannot be availed of.

This was discussed with the Promoter's advisor, KPMG, who advised us that biogas could be sourced elsewhere and run through the proposed CHPs at Bombardier and Montupet, effectively unlocking ROCs even if the gas is not coming from the AD plant we are funding. We have sought clarification on this point from DETI Energy (email sent this afternoon to Michael Harris, Trevor McBriar and Barbara Swann). In addition, KPMG advised that they are confident that there is sufficient time within the proposed build period to have the plant built and commissioned in advance of the ROCs deadline, to allow for possible delays.

Thanks,
Joanne

From: Linton, Rachel [<mailto:Rachel.Linton@detini.gov.uk>]
Sent: 07 August 2015 16:14
To: William McCulla; Joanne McStay; McVicker, Alan
Cc: Cooper, Trevor; McFarlane, Iain; Hutchinson, Lee-Anne
Subject: Minutes - SUPL - Follow up meeting

Dear All,

Please see attached draft minutes of the follow up meeting with DFP iro the SUPL Project for your consideration.

Grateful if you could confirm if you are content, or, alternatively let me know any proposed amendments which should be made in tracked changes mode.

Do not hesitate to contact me if you have any queries.

Kind regards,

Rachel

Rachel Linton

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**MINUTES OF INVEST NI/DETI CASEWORK COMMITTEE
- FOLLOW UP MEETING
SUSTAINABLE USE OF POULTRY LITTER (SUPL)
27 July 2015**

COMMITTEE:	Trevor Cooper	(Head of Finance, DETI)
PROJECT TEAM:	William McCulla	(Invest NI)
	Joanne McStay	(Invest NI)
	Alan McVicker	(SIB)
IN ATTENDANCE:	Emer Morelli	(DFP)
	Michelle Scott	(DFP)
	Michael Houston	(DFP)
SECRETARIAT:	Lee-Anne Hutchinson	(ACB - DETI)

Introduction

1. TC welcomed everyone to the Invest NI/DETI casework follow up meeting with DFP to discuss the SUPL project. The meeting was to provide DFP with a detailed overview of the case given that they were unable to attend the casework meeting due to other commitments.

Background

2. JMcS provided a brief overview of the project explaining that it was a £9.3m commercial loan to a company for an anaerobic digester (AD) plant in Donegal with combined heat and power plants in Northern Ireland. The project would partially address the poultry litter issue within Northern Ireland and provide reductions in energy costs to Northern Ireland manufacturing companies. JMcS confirmed that the investment would be on a pari-passu basis with SQN, an asset finance company based in Guernsey. JMcS confirmed that Invest NI were relying on the due diligence work that had been commissioned by SQN initially, but which has since been updated to a joint reporting to both funders, SQN and Invest NI. WMcC said a previous Rose Energy project had not proceeded and SIB was then brought in to assist in looking for technical solutions to solve the poultry litter issue. AMcV confirmed that the EU wants to see progress made from 2014-2017, the current NAP3 period.

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DFP Queries

3. MS queried the 400k tonnes figure for expected levels in poultry litter and if this was evidence based. AMcV confirmed that there was a strong evidence base for current levels of poultry litter and for the expected increase in these levels; and that the EU wanted the issue resolved. He explained that the EU could enforce farm based targets which will become more restrictive.
4. EM enquired if the South of Ireland were content to accept the poultry waste. AMcV stated that in ROI the mix of the land base is different to NI. He explained that in Northern Ireland there is less arable land available for spreading poultry litter on; but that the litter and digestate can be used as a good fertiliser, and in this instance the digestate is to be spread on forest land in ROI which is under nourished. The land could be used for at least fifty years. WMcC said that this will be captured in the length of the licence for spreading of the digestate and it may not all be used in the forest but also in farmland that will be tested.
5. MS asked for information regarding the AD and what goes into it. WMcC explained that there would be other food waste contracted from Moy Park along with the poultry litter and in total of 60k tonnes pa out of the 90k tonnes pa will be contracted. The remaining 30k tonnes pa will not be contracted as there is a need for flexibility to spread the input mix. The poultry litter is high in nitrogen and may need balanced with another waste product for example bread waste which will have a gate fee. Invest NI confirmed they are content with the split of waste 60k tonnes pa contracted and 30k tonne pa not contracted.
6. MS enquired if poultry litter and slurry were two different items and can the poultry litter amount be increased. AMcV said that it was generally accepted that best practice is to have the poultry litter percentage at c.25%. He said Fichtner had completed the technical due diligence to ensure the mixture was correct and flexibility was required. WIS is building and maintaining the plant, they are experienced and confident they can provide a long term guarantee around operational efficiency and around poultry litter input. WMcC said Invest NI is confident that the plant can succeed following the due diligence report completed for SQN. EM enquired if the project will meet the current requirement to reduce poultry litter. Following on from this project AMcV expects that other different technical projects will come forward that together with this initial project should deal with the issue.
7. EM asked if the Moy Park expansion would still proceed if this project didn't go ahead. WMcC stated it could proceed but that it could move to England due to the availability of arable land on which to spread the litter. MS asked if it was possible that Moy Park could create the plant on their land and use the electricity. WMcC stated Moy Park is focussed on capital directly related to its core activities and that it would rely on a third party for a proposal like the one presented. AMcV also stated that there were bio security

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issues for Moy Park. WMcC said in the long term the electricity would be going to Bombardier, Montupet and if they didn't require it then it could go to Moy Park. MS asked if they didn't need it would the electricity go anywhere in Ireland. AMcV thought it was likely to stay in Northern Ireland due to the high electricity costs compared to the South of Ireland. The energy would go to other companies or go back on to the grid.

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8. MS said that there were normally gate fees and enquired why this was not the case for this project. WMcC said it would be more attractive to charge gate fees but Moy Park could move production to England where they could achieve a zero gate fee. MS asked what was the critical time path for the ROCs. AMcV confirmed the current ROCs Scheme expires in April 2017 with another scheme expected to follow on, but no details are known yet. MH asked if the EU were content with the steps being taken. AMcV confirmed they were content as there were a few projects ongoing that showed action was being taken.

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9. MS said that DARD spent money on underground storage tanks and would this be linked to this project. AMcV confirmed they were not as the poultry litter is stored in field heaps. He said that records of the field heaps were part of the EU requirement. MS asked would this be an administration burden on DARD. AMcV said this would be recorded by the producers who would send it to DARD to link it to the plant where it was being delivered.

10. MS asked Invest NI to run through the model and the people involved and she asked what the interests of Connective Energy Holdings Limited were regarding the £0.5m which has been invested. JMCS said that this relates to costs that have been incurred to date including the ground work, road access etc. JMCS confirmed that Connective Energy Holdings Limited is owned by Mr McElhinney's wife's and the special purpose vehicle is owned by Connective Energy Holdings Limited. She said the land is in debt with the Bank of Ireland to the level of c.£2m, but the plant will be held within the SPV which is ultimately owned by his wife, and the land leased to the SPV by another Connective Energy Holdings Ltd owned company, Glenmore Farms Limited. JMCS said discussions were being held regarding the £250k lease payment from the SPV to Glenmore Farms Limited, which was in effect to reflect the payment to the bank, and Invest NI had spoken to the Bank of Ireland around lease payments which were dependent on the debt servicing ratio to Invest NI being achieved by the SPV. MS asked whether this payment was inflated. WMcC said it was the means of paying off the bank debt but it would only be payable if there was headroom and debt service ratios within the SPV were maintained, or an independent valuation would be undertaken to determine the market value of the lease and this would then be the amount paid by the SPV for the lease of the land.

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11. MS asked Invest NI what the reasoning was behind the inflated lease payment; was it a tax issue to deflate profits. WMcC said he

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didn't think it was, but rather set up as a mechanism to repay debt owing to the Bank of Ireland but there may be a tax advantage to this. MS enquired if there was any disadvantage in dealing with one person but the project assets being in his wife's name. WMcC didn't think there would be any disadvantage but Invest NI heavily relies on the due diligence completed by A & L Goodbody. AMcV said this will be included in the legal papers.

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12. MS asked how they will know if the ROCs deadline is missed. WMcC said that the construction work needed to commence in the next month or so. He said it needed to start by September to ensure that it is completed by the end 2016. MS asked what would happen if there was a problem half way through the build. WMcC said that pressure needed to be applied to ensure the job is completed. MS asked if the ROCs were missed, what is the alternative plan. JMcS said that the plant was reliant on the ROCs. WMcC said there may be potential for a liquidated damages clause to apply during construction phase if funds were drawn in part and any unforeseen event occurred which would mean that construction would not meet the deadline for ROCs accreditation. He confirmed that he would check this position and whether it has been included in any of the legal documents.

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13. EM asked if there was a risk due to the planning permissions not being in place. JMcS confirmed the EPA licence was outstanding but shouldn't take long to get in place. WMcC said the planning permission and EPA licenses have to be in place but the licence for the disposal of the digestate will likely be through at a later date. EM asked if the plant was successful and wanted to have them in Northern Ireland would it be difficult to get planning permission. AMcV said the biggest issue would be the connection to the grid.

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Action point: Invest NI to confirm position on liquidated damages in legal documents

14. MS asked in terms of financing would the risk reduce when the plant was built. WMcC said it was likely there would be a loan refinance in 3-5 years which is the norm. Local banks were not interested upfront due to the technical risk but when the ROCs were being produced they would be possibly interested in a 70% loan. MS asked why SQN would not fully fund the project. JMcS explained that SQN were limited to the amount of investments in different sectors.

15. MS asked about the total funding requirement regarding the contingencies; if the full amount is not required whose investments reduce. WMcC said that it was prudent to include headroom withing the funding requirement but the funding would only be approved against actual spend only and be drawn down on a pari passu basis. MS asked is it normal for part of an FTC loan to be sitting in an account to pay back the loan if they don't have the finance available and is this normal practice. JMcS said she had previous experience in this when she worked in corporate finance,

that part of an advance could cover some elements of contingency around debt servicing. WMcC said they were taking the lead from the private sector as the funding is on a pari-passu basis.

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16. EM asked was there any precedent with companies being based in the South of Ireland, Guernsey and Northern Ireland. JMcS said the materials will cross to the south but the SPV is registered in Northern Ireland. TC said money will be spent in the South on the plant and also in Northern Ireland for combined heat and power plants.

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17. MS asked Invest NI were they content to lend money for a plant that would be built in the South of Ireland. WMcC said this had been discussed at the Invest NI SECC, and at Board level, and it was satisfied that there was nothing prohibiting it. MS noted the legal advice states "on balance" so was not absolute. JMcS confirmed they had discussed this at length with the internal legal advisor and the Invest NI Board had considered the advice and was content.

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18. MS asked why companies such as Montupet and Bombardier had involvement in the project. AMcV said he knew through other projects that Bombardier had high electricity costs and that was the reason. JMcS confirmed that WIS made the introduction between Bombardier and Mr McElhinney.

19. MS queried the risk of failure of LCC Power as it is considered higher than average and she asked had this progressed recently. JMcS confirmed Invest NI had not made further credit checks as the parent company were making strong profits and the reason for the poorer credit score was because LCC Power was a relatively new entity. WMcC said Invest NI were satisfied overall with the risk profile for this project.

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20. TC asked would it be an issue if one of the links broke in the contracts. WMcC didn't see this would be an issue that a replacement would be found. EM asked if any discussions had taken place with the government in the south of Ireland. WMcC said there hadn't been but as all the permissions will be in place he didn't see this would be an issue.

21. TC said the project had been approved by the DETI casework committee subject to the action points being completed. MS asked if DARD had been involved even though they aren't funding it. AMcV confirmed they had been involved from the start and they sat on the steering committee. TC said the spend was FTC so from a Block perspective whether the funding was provided by DETI and/or DARD was not an issue.

22. TC queried with DFP the position of FTC. He said that there was potential for a bid to be made in October but the project was due to start in September if all approvals were in place. EM advised that a bid should be made in the October monitoring round and it was

likely that FTC would be available so this should not delay commencement if the project is approved and able to proceed in September.

23. TC concluded the meeting by stating that it was a risky project, there was comfort from private funders who had experience and so far as possible long term contracts were in place to help mitigate risks, however the project remained high risk but if successful could deliver significant downstream benefits and act as a catalyst for further projects.

24. TC advised that the minutes that were issued in the meeting were a first draft of the DETI Casework minutes. MS asked when it was expected that the case would formally be submitted to DFP. TC expected that it would be in a few days time.

TREVOR COOPER

XX AUGUST 2015