

ICL PUBLIC INQUIRY

BEFORE

THE RIGHT HONOURABLE LORD GILL

**APPLICATION IN TERMS OF RULE 9 OF THE INQUIRIES (SCOTLAND) RULES
2007 AND PARAGRAPHS 30.2 AND 34.6 OF THE INQUIRY PROCEDURES
PROTOCOL**

On behalf of ICL Tech Limited and ICL Plastics Limited (Core Participants)

1. Inquiry Witness 11 – James Smith

Application is sought to ask questions of this witness regarding his comments on health and safety at ICL Tech Limited and ICL Plastics Ltd (hereinafter referred to as "ICL").

Application is sought to ask questions of this witness regarding his knowledge of any communications between ICL and their Insurers.

Reference is made to paragraphs 32 and 37 of his Inquiry witness statement.

No new matters or issues to be raised.

2. Inquiry witness 21 – Kenneth Platt

Application is sought to ask questions of this witness relating to the issue of what the practice was at a five year test and whether, if a pipe was

installed in a basement area, this would be the subject of a report to Calor Gas Limited (hereinafter referred to as "Calor").

Application is sought to clarify with this witness his state of knowledge in the 1970's about instructions to install LPG pipes into basements or to fit LPG pipes to appliances in a basement or pit area and the factual position regarding ICL in that respect.

Reference is made to paragraphs 43 and 49 of his Inquiry witness statement.

No new matters or issues to be raised.

3. Inquiry witness 22 – Morris Colville

Application is sought to question this witness regarding his dealings with John Ives (Inquiry witness 42) of the Health and Safety Executive (hereinafter referred to as the "HSE") regarding correspondence dated 4th January 1989 [ICL/11479] relating to an action plan involving Calor and his involvement with ICL in that process. This important area of evidence relates to the issue of the involvement of Calor in giving advice to ICL in response to recommendations made by the HSE, any remedial action following thereon and the state of knowledge of ICL relating to this process.

Reference is made to paragraphs 45, 46, 47 and 64 of his Inquiry witness statement.

No new matters or issues to be raised.

4. Inquiry witness 25 – Alan Elliott

Application is sought to ask questions of this witness relating to the role of Johnston Oils Ltd (hereinafter referred to as "J Gas") in their agreement with ICL [ICL/12054, ICL/12055-12058 and ICL/11966-12044].

Application is sought to ask questions about J Gas' knowledge regarding the role of the LPG supplier in relation to responsibility for LPG pipe work and what checks were made in respect of the existing pipe work at ICL when J Gas took over as supplier.

Application is sought to ascertain J Gas' state of knowledge of the LPG pipe work at ICL's premises at the time of entering into agreement to become their LPG suppliers and, in particular, whether they made enquiries as to the age and type of LPG pipe work installation and the route of the pipe work leading into ICL's premises.

Application is sought to ask questions relating to tightness tests carried out by J Gas.

Application is sought to ask questions regarding J Gas' practice of sending out HSE leaflets to their customers and their knowledge of the number of their customers who have dug up their pipe work for inspection.

Reference is made to paragraphs 45, 48, 50, 51, 52, 68 and 85 of his Inquiry witness statement.

No new matters or issues to be raised.

5. Inquiry witness 26 – David Inglis

Application is sought to ask questions of this witness regarding the location of the emergency shut off valve on the LPG pipe where it entered into the building/the basement and in respect of the issue of LPG odour and the ability to recognise a leak.

Reference is made to paragraphs 69 and 96 of his Inquiry witness statement

No new matters or issues to be raised.

6. Inquiry witness 42 – John Ives

Application is sought to question this witness in order to clarify matters relating to the risk of underground pipes and his view on the role of Calor.

Reference is made to paragraphs 87 and 120 of his Inquiry witness statement.

No new matters or issues to be raised.

7. Inquiry witness 41 – Alan Tyldesley

Application is sought to question this witness in respect of his assessment of the recommendations made by Mr. Colville (Inquiry witness 22) as to why he understood that part of the underground pipe would be dug up and examined and how that related to correspondence dated 8th September 1988 [ICL/011444-011445] from the HSE to ICL, and to seek clarification regarding his satisfaction with Calor's proposals [ICL/11479].

Reference is made to paragraphs 83, 84 and 91 of his Inquiry witness statement

No new matters or issues to be raised.

8. Inquiry witness 31 – Alistair McNab

Application is sought to question this witness regarding the issue of LPG pipe work entering premises at a level lower than ground level and the priority of such LPG pipe work with the HSE.

Application is also sought to clarify this witness' views regarding the recommendations made by the HSE in their letter of 8th September 1988 [ICL/011444-011445] and Mr. Colville's (Inquiry witness 22) response on behalf of ICL in his correspondence dated 4th January 1989 [ICL/ 11479] referred to as the "Calor agreement".

Application is sought to ask questions regarding the practice at the relevant times relating to excavation of LPG pipe work.

Reference is made to paragraphs 9, 16, 37, 51, 53, 57, 58, 71, 72, 73 and 75 of his Inquiry witness statement.

No new matters or issues to be raised.

9. Inquiry witness 45 – Alistair McCourt

Application is sought to clarify with this witness his experience of risk assessments relating to LPG installations and his state of knowledge of the LPG industry and responsibilities in respect of maintenance and inspection of such installations.

Reference is made to paragraph 48 of his Inquiry witness statement.

No new matters or issues to be raised.

10. Inquiry witness 13 – Colin Foard

Application is sought, if necessary, to clarify this witness' position regarding the company risk assessments involving the now deceased Stewart McColl.

Reference is made to paragraphs 24 to 41 of his Inquiry witness statement.

No new matters or issued to be raised.

11. Inquiry witness 1 – Campbell Downie

Application is sought to be able to ask questions of this witness, if necessary, to clarify his position regarding any matters arising out of questions raised by Counsel for the Inquiry, Counsel for Core Participants, Core Participants in their own right, or any Recognised Legal Representative in respect of interested persons.

12. Inquiry witness 2 – Lorna Downie

Application is sought to be able to ask questions of this witness, if necessary, to clarify his position regarding any matters arising out of questions raised by Counsel for the Inquiry, Counsel for Core Participants, Core Participants in their own right, or any Recognised Legal Representative in respect of interested persons.

13. Inquiry witness 7 – Andrew Stott

Application is sought to ask questions of this witness, if necessary, to clarify his position regarding his role in carrying out risk assessments for ICL.

No new matters or issues to be raised.

On behalf of ICL Tech Limited and ICL Plastics Limited, it is respectfully submitted that the above Applications, limited as they are, will be of assistance to the Chairman to the Inquiry in relation to the Terms of Reference, the remit for phase 1 and also it is hoped they will provide necessary information required for phase 2 of the Inquiry.

IN RESPECT WHEREOF

Kate Bennett
Solicitor
HBM Sayers
13 Bath Street
Glasgow G2 1HY
Recognised Legal Representative

Our Ref: AL/KB/FB/COR.37.3

2 July 2008

Your Ref:

F.A.O. Jillian Glass

The ICL Inquiry Team
3rd Floor
Lothian Chambers
59-63 George IV Bridge
EDINBURGH
EH1 1RN

Dear Jillian

ICL Inquiry

I refer to our recent telephone discussion regarding witness Jim Smith. I would be grateful if you would put the following questions to Mr Smith on our behalf. We will reserve our position regarding our Application regarding this witness pending his response.

1. With regard to paragraph 32 of his statement
 - (a) What involvement did he have in health and safety matters?
 - (b) Was he aware of the Risk Assessments that had been carried out from 1997 onwards?
 - (c) Did he have any direct communication or involvement with ICL Tech's insurance company? Was he privy to any correspondence with them? If so, what?

2. With reference to paragraph 37
 - (a) Was he privy to any correspondence or communications between ICL Tech's insurance company regarding fire alarm testing? If so, what?
 - (b) Was he privy to the Fire Service's inspections and Fire Certificates issued by the Fire Service?
 - (c) When did Lorna Downie ask him to recommence fire alarm testing? Did she state why or on what basis she was doing so?

(d) Can he say when this change in procedure took place?

In addition, I enclose supplementary Application in respect of witness John Powell. You will recall this witness was added on to the List of Witnesses to be called at the Inquiry after the deadline for lodging applications.

Yours sincerely

Kate Bennett
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Encl:

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**SUPPLEMENTARY APPLICATION IN TERMS OF RULE 9 OF THE INQUIRIES
(SCOTLAND) RULES 2007 AND PARAGRAPHS 30.2 AND 34.6 OF THE INQUIRY
PROCEDURES PROTOCOL**

On behalf of ICL Tech Limited and ICL Plastics Limited (Core Participants)

1. Inquiry Witness 28 – John Powell

Application is sought to ask questions of this witness regarding his communications with Mr Downie (Inquiry Witness 1).

Reference is made to paragraph 138 of his Inquiry Witness Statement.

No new matters or issues to be raised.

IN RESPECT WHEREOF

Kate Bennett
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