

DROUGHT PERMIT HEARING NOTE

WATER RESOURCES ACT 1991 (AS AMENDED) s79A

SWS: DROUGHT PERMIT TO MODIFY ABSTRACTION LICENCES:

DP/22/01 TESTWOOD

Hearing will open – 3 August 2022 10.00am

INSPECTOR'S NOTE

Introduction:

1. The Inspector notes the submission of what are as yet unresolved objections to the drought permit sought by Southern Water Services (SWS) for the River Test abstraction. She has copies of objections from:
 - Hampshire & Isle of White Wildlife Trust;
 - Mr Cole;
 - Mr Christopher Dodd;
 - Little River Management Ltd;
 - Fish Legal on behalf of Little River Management Ltd.

She also notes that the closure date for objections has now passed and that as such further submissions in this regard are not expected. She would be grateful for confirmation that no further objections have been made.

2. She accepts that there is unlikely to be time to achieve Statements of Common Ground with objectors. Having noted the evidence submitted to date she will require a response from SWS on the matters raised in the above objections. To this end she has provided some specific questions which the parties will need to review and respond to which are appended. The Agency should also provide any necessary clarification on the matters raised. **These statements should be supplied by C.o.P on Monday 1st of August.**
3. She also notes that not all objectors may be able to present their evidence at the Hearing. This does not diminish the importance of a full consideration of their concerns and SWS will be expected to respond to the written submissions also.

Scope of the Hearing and Procedures

4. The responsibility for deciding whether to allow modification of the existing abstraction through the drought permit rests with the Environment Agency. The purpose of the hearing is to give SWS an opportunity to set out their case and for any objectors to clearly articulate their arguments as to why the permit should be refused. The event allows the Inspector, through questioning, to seek the respective positions of the Company and the Agency regarding those objections, and in doing so gather the information necessary to set out findings of fact, suggested modifications or conditions and conclusions.

5. As a result, it will involve an assessment of whether suitable notification has been made to allow all parties a fair opportunity to comment. SWS will be given to opportunity to set out justification, in accordance with their Statement of Reasons, which may include the most recent Drought Plan, appropriate trigger levels, the position regarding Exceptional Shortage of Rain (ESOR) and actions taken to this point to manage supply and demand.
6. The report will be provided to the Agency in support of their assessment of the permit application, but will not include any recommendation on how that application should be decided.

A simple preliminary Agenda is set out below:

1. Introduction
2. Confirmation of Objections
3. SWS Case
4. Agency clarification of position
5. Objectors' Case and Questions – to be put either directly or by the Inspector.
6. Closing Comments and agreed timetable

A short virtual meeting will take place between on Tuesday at 10.00am with a representative of the Agency, the Inspector and staff from PINS which is solely to ensure that the technology is in place to enable to the event to go ahead effectively. Otherwise we look forward to a productive hearing on Wednesday 3rd at 10.00am.

Inspector Initial Questions

In the interests of focusing discussions at the hearing I have set out below some specific questions arising from the objections received. As far as possible these should be addressed in the statements requested above. In some cases it may be sufficient to provide references to evidence already provided in the submission, with details of the specific sections/paragraphs of the relevant documents provided.

- 1) Confirmation that the Agency is not seeking the hearing to address the matter of ESOR.
- 2) Confirmation that the draft permit, dated 19/7/19 is the most up to date proposed permit.
- 3) Confirmation from the parties that they are satisfied that the notification procedures have been correctly followed (see comments of HIIWT regarding 1 week consultation period).
- 4) Have Natural England been consulted and if so, are they satisfied with the findings of the HRA doc 2.4 HRA Test Surface Water Drought Permit Stage 2 ? Similarly, can the Agency confirm that they are satisfied with the findings of this report.
- 5) Which parts of the "emerging" drought plan have been relied upon by SWS and do the Agency have any dispute with this ? What is the Agency's view in relation to the status of the 2022 drought plan?
- 6) In relation to comments from objectors regarding future planning for infrastructure – Mr Dodd (1.5 and 1.6), Mr Cole and HIWWT (comments re draft Water Resource Management Plan for 2024) – can the parties provide comments on how these matters might be addressed by the hearing (I note some details of this in doc 2.3 section 3).
- 7) What are the views of the Agency and SWS on comments from HIWWT regarding the delivery of mitigation measures as part of the Section 20 agreement and as recommended in 2019 ? (I note the 2018 Mitigation package sets out measures are to be delivered by 2024, and details of progress on these contained in doc 2.3 parts 1,2 and 4 and table 2?)
- 8) Have SWS appropriately followed the sequence of actions set out in the S20 agreement:
 - Is there sufficient evidence of fully utilising all existing sources and bulk supplies from Portsmouth Water (see comments on LRM re Testwood Lakes);
 - Is there sufficient evidence of SWS delivering appropriate demand side water efficiency measures and other measures to reduce water use (LRM paras 16, 17 and 18);
 - Position in relation to TUBs.
- 9) Is there sufficient evidence to support the view that flow calculations and abstraction reporting are reliable ? (LRM paras 9 and 10) ?
- 10) Are the quantities sought by SWS reasonable ? Where is this demonstrated?`
- 11) What measures are proposed in mitigation ? (All contained in doc 2.2 Environmental Monitoring and Mitigation Plan ?)
 - How have these been arrived at ?
 - Are the measures in relation to Salmonid rescue appropriate and likely to be effective? – What are the Agency's views on the measures set out in doc 2.2 mmp-app-1 fish monitoring mitigation plan ? Have they been tested? Does the mitigation

contain effective measures to address oxygenation/thermal changes ? (LRM 3-8, 10-15 and 19)

- Should they address pollution ? (doc 2.2mmp app3 blackwater surveys)
- How will they be monitored ? (All contained in doc 2.2 Environmental Monitoring and Mitigation Plan ?)
- How has/will the baseline be established? (again, All contained in doc 2.2 Environmental Monitoring and Mitigation Plan ?)

Anne Jordan

INSPECTOR

28 July 2022