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Dear Defra,

Re: Consultation on changes to the regulatory framework for abstraction and impounding licensing in England.

Thank you for inviting us to respond to this consultation to seek our view on the proposals for amending the Environmental Permitting Regulations (EPR) to include abstraction and impounding licensing.

Whilst we support the ambition to reform water abstraction management and improve the overall framework of environmental regulation, we have concerns on how the move to EPR will be implemented and the potential for significant, unintended impacts for longer-term strategic water resources planning and trading between companies.

The changes in the consultation affect Anglian Water in particular as half of our licences are time-limited and under the proposals all would be captured under EPR by 2025. Given the challenges envisioned, we wanted to highlight and summarise our key points of concern below.

1. *The new draft statutory instrument is not available for review.*

A key concern with the consultation is that the draft statutory documents are not available for review through the consultation process. This means we will not see how the Water Resources Act (WRA) 1991 will be formally incorporated into EPR. The details in the terminology and phrasing are important. A key concern is whether we, as a water undertaker, will have the same level of protection as written within the current Act. Without the ability to review the draft legal text, we cannot assess the risk to our future ability to provide water supplies to customers in our region.



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For example, under EPR, most regulatory decisions and notices continue to have effect while they are being appealed (with exceptions for revocation notices and/or decisions to impose conditions for standalone water discharge activities). Abstraction licences granted under the WRA 1991 benefit from assurance under S46A that if an application is made for a new licence (at least three months prior to the expiry of the existing licence by the same licence holder), the licence will take effect immediately until any appeal is determined. As our abstraction licences are integral to the provision of safe, clean drinking water to our customers, we expect similar provisions relating to public water abstraction to be incorporated in the EPR regime.

The recent publication of the new national licence capping policy by the Environment Agency amplifies our concerns. Supplies to customers would be put at significant risk if there is insufficient protection within the new regulations.

2. The proposed permit review process undermines strategic water resources planning.

The implementation of a six-yearly review period for all permits gives no medium or longer-term assurance of licence availability, significantly impacting the ability of abstractors to secure substantial investment for large-scale infrastructure projects. Consequently, this proposal has the potential to drive lower-risk but higher cost and more carbon-intensive options such as desalination over environmentally optimised solutions, such as large-scale regional reservoirs that deliver multi-sector benefits.

Retaining the ability to review permits at any time would also create a degree of uncertainty that would be unattractive to the external market, putting off new entrants. For example, this could result in the Direct Procurement for Customers (DPC) delivery route becoming infeasible for certain strategic projects in future AMP periods.

Finally, the uncertainty created through this proposal could have a knock-on impact on housing and business development, with the availability and security of water potentially becoming a barrier to growth and economic development.

We would recommend different review types to those outlined within this consultation to be included in the move to EPR. Our recommendation is the proposed permit review process should link back to environmental destination scenarios, allowing for appropriate investment decisions to be made to achieve long-term environmental outcomes.

3. The proposed timescale to introduce an Environmental Management System (EMS) is too short, especially as requirements remain uncertain.

We take compliance with our abstraction licences extremely seriously in order to protect the environment. We already have a robust management system in operation even though not externally accredited or audited. In principle, we agree there is merit in introducing EMS

into water abstraction management but the timescales proposed are too short. It would not be possible for us to have a fully compliant EMS at the point of transition into EPR. The expectations being set for the system are also uncertain at this stage.

As a company we are uniquely exposed to these changes because 50% of our licences are time-limited with the majority due to expire by 2023. In addition, we have already taken an industry-leading position to cap all permanent groundwater licences, where possible, at recent historic peak levels by 2025. This means all our licences would be regulated under EPR by the end of AMP7. Adopting an accredited EMS will require substantial time and cost to implement, and we are not funded to do this within the current AMP. This impacts Anglian Water disproportionately, as we are not being given the same timescales as other abstractors to manage the EPR transition and identify any additional investment requirements. We recommend a transitional or glidepath process to adopt EMS is included within the proposal to move to EPR.

We are also unclear on the specific EMS requirements and request for more detailed guidance to be published than included within this consultation. For example, we understand that an MCERTS management system is not deemed to be acceptable due to the 8% level of uncertainty it operates to. The EA's aspiration is to move towards a 3% level of uncertainty as a maximum with metering. We are not aware of a management system which would enable this. ISO14001 is recommended however this would involve significant time and cost implications for water companies, as our entire Water Operations would need to be compliant to satisfy the accreditation. We would welcome further dialogue on which systems would be acceptable and to agree a transitional period to adapt to the new requirements.

4. A potential barrier to future sharing and trading of abstraction licences.

All future transfer or apportionment opportunities will now require a new application to be made rather than a simple notification to the Environment Agency. This would trigger a formal sustainability review, potentially reducing the opportunity presented to both parties. At a time when we are being encouraged by Ofwat to trade and share licences this will do the opposite.

Thank you for considering our comments and feedback on this important change. We have attached our full response in the appendix of this letter and submitted a response via the online survey portal. We would be happy to discuss anything in our response in more detail.

Yours faithfully,

Sarah Underhill