

TEST, CANDOVER AND ITCHEN INTERIM ABSTRACTION SCHEME

DRAFT AGREEMENT BETWEEN SOUTHERN WATER SERVICES ("SWS") LTD AND THE ENVIRONMENT AGENCY ("THE AGENCY")

General

- 1) It is agreed that the settlement arrangements set out in these Heads of Terms will be recorded in a water resource management scheme under section 20 Water Resources Act 1991.
- 2) SWS accepts the Agency's proposed licence changes for Licence Number 11/42/22.6/92; Licence Number 11/42/22.6/93; Licence Number 11/42/22.7/94 ("**the Itchen Licences**") as specified in the Agency's Notice dated 7 November 2016; Licence Number 11/42/18.16/546 ("**the Test Surface Water Licence**") as specified in the Agency's Notice dated 30 June 2017; and to renew Licence Number SO/042/0031/026/R01 ("**the Candover Licence**") as specified in the Agency's emails to the Secretary of State of 22 December 2016, subject to implementation of the Test, Candover and Itchen Interim Abstraction Scheme (set out in clause 6) below).
- 3) The Agency accepts that SWS's programme of water restrictions is not sufficient to make up all of SWS's water supply requirements for the Hampshire and Isle of Wight Water Resources Zones in drought circumstances.
- 4) SWS agrees to use all best endeavours to implement the long-term scheme for alternative water resources ("**the Long-term Water Resources Scheme**") set out in its Final Water Resources Management Plan ("WRMP") 2019, as may be revised by future plans. For the avoidance of doubt the long-term scheme will be based on Scenario A in the draft WRMP 2019, subject to any changes required by the consultation process in which SWS is statutorily required to engage.
- 5) The Agency accepts that, for an interim period whilst SWS implements the Long-term Water Resources Scheme, there is no alternative recourse available to SWS to meet its supply obligations to the Hampshire and Isle of Wight Water Resources Zones during drought other than abstraction of greater quantities of water from the River Test, Candover boreholes or the River Itchen than would be authorised under the Agency's proposed licence changes.

- 6) Subject to clause 13 below, the Agency agrees that SWS's proposed sequence of drought actions set out in SWS's forthcoming Drought Plan 2018 (set out in Annex 1 to these Heads of Terms) ("**The Test, Candover and Itchen Interim Abstraction Scheme**") is an appropriate/acceptable priority of drought actions to minimise the risks of environmental damage during drought, having regard to environmental sensitivity, probability of use and likely impact.
- 7) It is agreed between the Agency and SWS that any relaxation of the Test Surface Water licence, the Itchen licences and the Candover licence required to enable SWS to meet its supply obligations should be authorised through the drought regime (specifically drought orders and drought permits) established under the WRA 1991 (or any successor legislation) in accordance with the agreement on the process to be followed for drought order and drought permit applications set out below.

Ecological assessment and environmental monitoring

- 8) SWS and the Agency agree on the further work required to develop SWS's ecological assessment of the environmental impacts of abstracting below authorised flows under a drought order/permit on the Test, Itchen and Candover. The additional requirements will be recorded in an agreement between the parties.
- 9) SWS commits to fund and support the implementation of targeted environmental improvement measures for the Test Surface Water Drought Permit and Drought Order applications, and applications for the Itchen and Candover Drought Orders, for the purpose of improving resilience to drought. This will be carried out in accordance with the terms of documents to be agreed between the Agency and SWS. On the River Test this will focus on the stretch from the estuary to [Kimbridge or Greatbridge at Timsbury to be specified following mitigation and IROPI compensation discussions] The details of the improvements to be agreed between the parties, including works identified by the Agency from the Test & Itchen River Restoration Strategy, and only implemented with the consent of all relevant landowners. This package of mitigation will mean that SWS is application ready for the purpose of a Test Surface Water Drought Permit and Order and Itchen and Candover Drought Orders. SWS agrees to commit phased funding of £XXX [Sum to be finalised when scope of environmental mitigation agreed] in the period X to Y to these works. SWS's commitment in this respect will be recorded in a [Document to be determined] between the parties signed on the same date as this Agreement and recorded in SWS's Final Drought Plan 2018.

10) Baseline environmental monitoring

10.1 SWS and the Agency agree that the arrangements set out below with respect to environmental monitoring to provide an assessment of the environmental baseline for the Test Surface Water Drought Permit and Drought Order applications and applications for Itchen and Candover Drought Orders, will ensure that SWS is 'application ready', within the meaning of the [Agency's Drought Plan Guidance] for the purposes of any application for a drought permit or drought order. Monitoring will be carried out in accordance with the terms of a [Document title to be agreed] document to be agreed between the Agency and SWS.

10.2 With regard to the Test drought permit, the Monitoring Plan to be agreed will include the following: [Note - precisely which documents this agreement will be recorded in to be determined]

- a. Agreement that any monitoring downstream of the Test Surface Water Abstraction will be carried out for the purposes of gathering environmental data in order to assess the impacts of a drought permit or drought order on the River Test, as required by the Agency's Drought Plan Guidance. For the avoidance of any doubt, any such data will not be used to support increased abstraction from the Test Surface Water abstraction beyond that authorised under the Test Surface Water Licence or a Test Surface Water Drought Permit or Order.
- b. Monitoring downstream of the Test Surface Water Abstraction will be undertaken by the Agency not SWS.
- c. SWS will reimburse the Agency for any such monitoring undertaken by the Agency up to an annual payment of £XXX.
- d. The monitoring undertaken by the Agency will be non invasive, in the sense that it will be compatible with the running of the Testwood Fishery and the presence of large numbers of adult salmon and sea trout.

10.3 For the avoidance of doubt, as far as the Agency is concerned, in respect of any Test Surface Water Drought Order or Permit, Candover Drought Order or Lower Itchen Drought Order:

- a. SWS will not be required to install monitoring points on land outside its ownership, or to undertake monitoring activity where landowner consent is withheld.

- b. The Agency will have regard to any inability of either SWS or the Agency to obtain monitoring data resulting from the actions of third parties, when considering whether any application is 'application ready' and whether such an application should be granted. The Agency will not refuse any application for lack of evidence or decide that SWS is not 'application ready' where landowner consent is withheld without first having considered its own use of the powers under s.172 of the Water Resources Act 1991 to obtain the necessary evidence in the regular 6 monthly reviews.

11) SWS will produce an IROPI compensation package document for the Itchen Licences and for the Candover Licence in line with the United Utilities IROPI document referred to in Tim Sykes' proof for consideration by the EA and NE during settlement discussions.

Agreement as to process by which SWS will apply for drought permits and drought orders authorising relief from licence conditions to abstract from the Test, Candover and Itchen during drought conditions

(a) SWS's commitment to carry out further work

12) SWS will update its draft drought plan as requested by the Agency, as follows:

- a. Provision of a drought trigger curve/dashboard in relation to the River Test, to be used with real-time monitoring and forecasting, as part of SWS's multi-factorial approach to drought management decisions.
- b. Inclusion of worked examples of how SWS's drought trigger curve/dashboard would operate under a range of historic droughts or other plausible drought events.
- c. Commitment to initiate further liaison with stakeholders and potential objectors to ensure the requirement of the drought permit/orders and their impacts are understood.
- d. SWS's Final Drought Plan 2018 will be updated to reflect the commitments to environmental monitoring and environmental mitigation developed pursuant to the requirements of this agreement.
- e. Production of draft drought permit/order application documents for review by the EA and, if appropriate, Defra.

13) SWS acknowledges that the Agency may provide further comments on its draft Drought Plan during the statutory consultation process but the order in which SWS

will abstract from the Test, Candover and the Itchen, set out in Annex 1 will not be subject to change.

(b) Drought arrangements for abstraction below 355 MI/d (TTF) from the Test

14) In the event that it is necessary to abstract from the River Test in flows between 355 MI/d and 265 MI/d Total Test Flow (“TTF”) in accordance with the Test, Candover and Itchen Interim Abstraction Scheme, the parties agree the principles and process set out below and the time-line at Annex 2 to this agreement.

15) Principles

15.1A drought permit is the appropriate mechanism to authorise abstraction below 355 MI/d to 265 MI/d (TTF) from the Test. For the avoidance of doubt the Agency’s agreement to the use of the drought permit process does not fetter its discretion to accept or refuse any drought permit application by SWS.

15.2The provisions of Article 4(6) Water Framework Directive can be used in principle to enable the grant of a drought permit authorising abstraction below 355 MI/d from the Test (TTF) (“**a Test Surface Water Drought Permit**”) and the low flows on the Test of between 355 MI/d and 265 MI/d are capable of constituting exceptional circumstances for the purpose of Article 4(6) Water Framework Directive.

15.3Drought permit arrangements between the parties will take place in three phases; as set out in detail in the administrative process below:

- (i) Regular review: a six monthly review of drought permit documentation; any material changes in relevant legislation and stakeholder liaison
- (ii) Pre application consultation with the Agency
- (iii) The substantive application for a drought permit

15.4There is nothing in the statutory framework or the Agency guidance that stipulates at what point the Agency may accept for substantive consideration a drought permit application or consider the evidential basis for the ESOR test.

15.5The Agency will accept a Test Surface Water Drought Permit application for substantive consideration where the ESOR case is, at the stage the application is made, based on actual rainfall, up to the point of application, plus rainfall forecasts in line with the threat to supply forecast.

15.6 The Agency will accept for substantive consideration a Test Surface Water Drought Permit application 35 days (or such other period as has been agreed in pre-application discussions with the Agency) before Southern Water predicts that flows will fall to 355 ML/d.

15.7 It shall be a condition of appointing any person to [chair a hearing] into any Test Surface Water Drought Permit application that the appointed person can comply with the timescales set out in these arrangements. For this reason, the appointed person may be one of the following:

- (i) A Planning Inspector
- (ii) An Agency officer from another area
- (iii) A barrister

15.8 The Agency recognises that in the case of extreme urgency (eg. ESOR test only met under 14 days before flows predicted to reach 355 ML/d) it can dispense with a hearing and determine the drought permit application.

15.9 The arrangements set out in clauses 14 to 17 are without prejudice to any applicable provisions of primary or secondary legislation governing the process for drought permits at the applicable time. This agreement will be reviewed and may be amended as necessary from time to time in accordance with clause 16.2 in order to ensure that it is compliant with any changes to statutory requirements.

16 Administrative process

16.1 The following administrative arrangements will apply to the regular review and stakeholder liaison process for SWS to obtain a Test Surface Water Drought Permit.

16.2 The Agency agrees to review and comment on SWS's Test Surface Water Drought Permit application documents every six months (in February and September) to indicate what needs to be done to ensure that the Test Surface Water Drought Permit documents are "application ready". As part of this review, SWS and the Agency will make any necessary amendments to the process set out in this agreement for the Test Surface Water Drought Permit to ensure it is compliant with any relevant changes to statutory requirements in the preceding six months.

16.3 SWS commits to initiate stakeholder liaison in relation to the Test Surface Water Drought Permit. This will involve sending stakeholders updated Test Surface Water

Drought Permit application documents every six months, inviting stakeholders to a meeting to discuss and provision of detailed written information to ensure the need for the Test Surface Water Drought Permit and its impact are understood. The Agency accepts that so long as SWS has carried out these steps to engage with stakeholders, the absence of stakeholder engagement or consent will not be a barrier to the Agency accepting a Drought Permit application is “application ready”.

16.4 The following administrative arrangements will apply to the pre-application process for SWS to obtain a Test Surface Water Drought Permit:

- (1) When SWS identifies that flows in the Test are 60 days away, unless otherwise agreed, from reaching 355 MI/d (TTF), SWS and the Agency will engage in pre-application discussions and actions, including but not limited to the following:
 - (i) SWS will send the proposed draft Test Surface Water Drought Permit, including forecast ESOR and threat to supplies, to the Agency and relevant stakeholders for review.
 - (ii) The Agency will check the draft Permit is “application ready” and advise the company of any consents that need to be obtained.
 - (iii) The Agency will undertake appropriate consultation with other authorities in respect of the draft Permit.
 - (iv) The Agency will advise SWS of any additional supporting information required for the draft Permit.
 - (v) The Agency will raise and discuss any possible contentious issues in respect of the permit with SWS.
 - (vi) The Agency will notify the potential appointed persons (set out in clause 15) of the draft Permit application having been received. The Agency will compile a shortlist of available venues with a range of room sizes, capable of accommodating variable numbers of objectors.

17 Application process

17.1 When SWS identifies that flows in the Test are 36 days away from reaching 355 MI/d (TTF), unless otherwise agreed, SWS will notify the Agency of the company’s intention to apply for a Test Water Surface Drought Permit the following day. The parties will agree the date for any hearing required and the Agency will notify SWS of the venue for the hearing. The Agency will contact three potential appointed persons: the Planning Inspectorate, an Agency officer from another area, Counsel (i.e. a barrister in private practice). Any Counsel proposed to act as the appointed person must be agreed between the Agency and Southern Water, but subject to this it shall

be a matter for the Agency as to whom the appointed person will be. As a precondition of appointment, the appointed person must agree and be required to determine the application in accordance with the timetable set out below (Day 0 on the timeline at Annex 2).

17.2 When SWS identifies that flows in the Test are 35 days away from reaching 355 Ml/d (TTF), unless otherwise agreed, SWS will apply for a Test Water Surface Drought Permit based on actual rainfall, up to the point of application, plus rainfall forecasts in line with the threat to supply forecast (Day 0 on the timeline at Annex 2).

17.3 On the same day that it applies for a Test Surface Water Drought Permit, Southern Water will give notice of its application under schedule 8 WRA 1991. The notice will include the date and venue of any hearing required in respect of the application. The date for any such hearing will be 9 days from the date of application, unless otherwise agreed by Southern Water and the Agency (Day 0 on the timeline at Annex 2).

17.4 Within 1 working day of Southern Water's application, the Agency will acknowledge receipt of the application (Day 1 on the timeline at Annex 2).

17.5 Any objections to the application must be received within 7 days of the date of the application (Day 7 on the timeline at Annex 2).

17.6 The Agency will decide the next working day whether a hearing is necessary (Day 8 on the timeline at Annex 2).

17.7 If there are no objections to the application, the Agency will postpone determination of the drought permit application until Southern Water provides updated ESOR evidence that is based on actual rainfall rather than rainfall forecasts, unless otherwise agreed by the parties.

17.8 Any hearing required will open the next working day and consider any or all objections which are unconnected with the statutory requirement for exceptional shortage of rain (ESOR) (Day 9 on the annexed timeline) before adjourning. Any objections relating to ESOR will be considered at the reconvened hearing.

17.9 As soon as is reasonably possible before the reconvened hearing on ESOR matters, Southern Water will provide the objector(s) with its updated ESOR evidence that is based on actual rainfall rather than rainfall forecasts (Days 13, 14 or 15 on the attached timeline)

17.10 The reconvened hearing will open 16 days from the date of the Test Surface Water Drought Permit application (Day 16 on the timeline at Annex 2).

17.11 The latest date by which the person appointed to chair the hearing should issue his/her report is 6 days from the opening of the reconvened hearing or 22 days from the date of the application for the Test Surface Water Drought Permit (Day 22 on the timeline at Annex 2), whichever is the later.

17.12 The Agency will use reasonable endeavours to issue its written determination whether to grant or refuse the Test Surface Water Drought Permit Application within 2 working days of receiving the appointed person's report and in any event within 7 days (Days 24 and 29 on the timeline at Annex 2). In the event there are no objections, the Agency will issue its decision on the grant of the permit 29 days after the date of the application at the latest.

Drought arrangements for abstraction below 265 Ml/d (TTF) from the Test

18) SWS agrees to apply for a drought order in order to authorise abstraction from the Test below 265 Ml/d (TTF).

Drought arrangements for abstraction from the Candover boreholes

19) SWS agrees to apply for a Candover Drought Order to authorise abstraction from the Candover boreholes to operate SWS's proposed reconfigured Candover augmentation scheme ("**the Candover Drought Order**").

20) The Agency agrees in principle, subject to SWS obtaining a Candover Drought Order and satisfying the requirements of the Habitats Directive (addressed at clause 21) below) to SWS utilising its Candover Drought Order augmentation scheme in drought scenarios, as per the Test, Candover and Itchen Interim Abstraction Scheme, during the interim period pending implementation the Long-term Water Resources Scheme.

21) SWS will work closely with the Agency, Natural England and other stakeholders to implement the new infrastructure required to operate the Candover Drought Order as a temporary scheme during the interim period whilst SWS implements the Long Term Water Resources Scheme. For the avoidance of doubt the scheme will be decommissioned on completion of the Long Term Water Resources Scheme.

22) As regards the Habitats Directive requirements in respect of the application for a Candover Drought Order:

- a. SWS agrees to carry out further investigation of the risks to the Itchen SAC (and SSSI) from operation of the Candover Drought Order scheme, in accordance with guidance provided by the Agency and Natural England.
- b. SWS accepts that, for the purposes of its Drought Plan (2020 – 2025) and on the basis of the currently available ecological evidence, a likely significant effect and adverse effect on the integrity of the Itchen SAC cannot be ruled out from the operation of the Candover Drought Order scheme. Accordingly SWS will provide a relevant compensation package as outlined in clause 11) above.
- c. The Agency agrees with SWS that for the period of the Drought Plan 2020 until implementation of the long-term solution, SWS has a good case that it has no alternative solutions to its Candover Drought Order scheme, in order to maintain public water supply and that the Candover Drought Order scheme satisfies the test in Article 6(4) of the Habitats Directive. For the avoidance of doubt, the Agency is not fettering its discretion to come to a different view if circumstances material to the question of available alternative options and IROPI under Article 6(4) of the Habitats Directive change.
- d. The Agency will work closely with SWS and others to develop SWS's Habitats Regulation Assessment of the 2025 to 2030 Drought Plan well in advance of 2025. That will take account of new data obtained through point (a) above and other sources, to enable a more evidence-based appropriate assessment to be made. The Agency accepts that new site-specific information is likely to enable a decision to be reached with greater certainty.
- e. The Agency agrees to maintain the necessary infrastructure (including but not limited to boreholes, pumping, power and other controls facilities) to enable abstraction of up to 27 Ml/d to enable their use by SWS to operate the Candover Drought Order scheme; or to lease the infrastructure to SWS subject to landowner consent until the Long-term Water Resources Scheme has secured alternative sources. The requirements will be set out in a further agreement.

Drought arrangements for abstraction from the Itchen

23) SWS agrees to apply for a drought order in order to authorise abstraction from the Itchen below 198 Ml/d (“**an Itchen Drought Order**”).

24) As regards the Habitats Directive requirements in respect of the application for a Itchen Drought Order the Agency agrees that, subject to any change in surrounding circumstances material to the question of available alternative options and IROPI under Article 6(4) of the Habitats Directive, SWS has a good case that it has no alternative options to its Itchen Drought Order to maintain public water supply until SWS implements the Long-term Water Resources Scheme and the Agency will not argue that it is unacceptable with regard to Article 6(4) of the Habitats Directive. For the avoidance of doubt, the Agency is not fettering its discretion to come to a different view if circumstances material to the question of available alternative options and IROPI under Article 6(4) of the Habitats Directive change.

Force majeure Arrangements for the Test (for inclusion in conditions on the licence rather than in the s.20 Agreement)

25) A “**Force Majeure Event**” means unexpected threat to provision of public water supply beyond the control of SWS, arising from circumstances of natural cause or force majeure which are exceptional or could not reasonably have been foreseen, in particular extreme floods and prolonged droughts, or the result of circumstances due to accidents which could not reasonably have been foreseen. The following are illustrative examples of events capable of meeting that definition:

- a. act of terrorism, vandalism, act or omission by a third party affecting lawful abstractions (eg. flows diverted away from the Great Test into the Little Test) which severely reduces the ability of the SWS to discharge its supply duty;
- b. major pollution events or contamination of SWS’s water supply sources or unforeseeable deficiencies in water resources arising from deterioration of raw water quality;
- c. damage (e.g. significant unforeseen failure of fixed pumps or other relevant plant or apparatus or burst in a pipeline) which severely reduces the ability of the SWS to discharge its supply duty;
- d. widespread interruption to power supplies to SWS infrastructure.
- e. an exceptional inability on the part of SWS to discharge its supply duty due to flows in the River Test falling to 355 Ml/d due to natural causes but the Agency has refused an application for a Test Surface Water Drought Permit due to a failure to meet the ESOR test under the WRA 1991, or the Agency has indicated that it is not possible to meet the ESOR test under the WRA 1991.

- 26) SWS undertakes to take all reasonable steps to avoid Force Majeure Events and to deal with Force Majeure Events expeditiously.
- 27) It is agreed that the following process will be followed in the event of a Force Majeure Event:
- a. In the event that SWS becomes aware of a Force Majeure Event affecting the supply network in the Western Area, SWS will contact the Agency as a matter of urgency.
 - b. On contacting the Agency, SWS will provide details of the nature of the Force Majeure Event and its implications for meeting public water supply, including the quantity of water in excess of the daily abstraction limit that SWS considers necessary to abstract and the likely duration for which temporary authorisation is required.
 - c. If the Agency is satisfied that a Force Majeure Event is occurring and will threaten the reliable provision of public water supply, it will declare an emergency.
 - d. In the event that SWS does not receive a response from the Agency to a request made under clause 27(a) above within [X] hours, or in the case that any dispute arises, SWS may continue to abstract up to a maximum 96 Ml/d (with commensurate increase in the maximum annual volume specified in condition [6] of the Test Surface Water Licence) OR abstract below the Hands off Flow of 355 Ml/d (TTF, until the Agency has responded to SWS's request or the Secretary of State has determined any dispute between the parties referred to him/her under section 26(e) below.
 - e. Any dispute concerning a declaration of an emergency shall be referred for determination to the Secretary of State.
- 28) To the extent permitted by the Agency, condition [9.1] of the Test Surface Water Licence will cease to have effect and SWS shall be permitted to abstract water from the River Test when the combined flow in the River Test as gauged by the Agency at Testwood Bridge and at its flow gauging stations at Test Back Carrier and Conagar Bridge is equal to or less than 355 Ml/d.
- 29) In the event the Agency declares an emergency, condition [6.1] of the Test Surface Water Licence will cease to have effect and SWS shall be permitted to abstract water from the River Test up to a level specified in writing by the Agency when declaring an emergency (up subject to a maximum of 96 Ml/d) (with commensurate increase in the maximum annual volume specified in condition [6] of the Test Surface Water Licence until the Agency declares an end to the emergency.

30) The Agency agrees that the appropriate way of dealing with the foregoing provisions relating to Force Majeure is via conditions on the Test Surface Water Licence authorising (in the foregoing terms) the increased abstraction following a Force Majeure Event, as opposed to via a s.20 agreement, save that the provisions about dispute mechanisms in clauses 27(d) and (e) above will be dealt with in a s.20 agreement.

Annex 1:
The Test, Candover and Itchen Interim Abstraction Scheme:
sequence of drought actions

The table below sets out the sequence in which SWS plans implement drought actions. Although drought action 5 will always follow action 4, it is possible that drought action 6 and 7 may be implemented alongside drought action 5.

1) Maximise use of existing water sources	Utilise existing water sources available to supply the Hampshire and Isle of Wight Water Resources Zones within the terms of their respective licences as required by its Final 2019 WRMP and draft Drought Plan 2018 (e.g. transfers from Southampton West WRZ to Southampton East WRZ provided supply can be maintained in the Southampton West WRZ and subject to any support required to the Isle of Wight WRZ)	
2) Level 1 water use restrictions	Escalate demand-side water efficiency measures including media campaigns to reduce water use (Level 1 water use restrictions).	
3) Portsmouth Water bulk supply scheme	Utilise water available under the Portsmouth Water bulk supply scheme up to 15 Ml/d (in so far as Portsmouth Water is able to supply this water).	
4) Level 2 water use restrictions	Implement partial temporary use bans pursuant to section 76 WIA 1991 (Level 2 water use restrictions, e.g. hosepipe restrictions) unless agreed with the Agency that it unnecessary to implement temporary use bans because it will only result in minimal water savings.	
5) Abstract below 355 Ml/d (TTF) down to 265 Ml/d (TTF) from the Test	6) Level 3 restrictions	7) Candover augmentation scheme
Abstract from the Test Surface Water source below the EA's proposed hands off flow of 355Ml/d (TTF) down to 265 Ml/d	Apply for a drought order to authorise partial NEU restrictions Level 3, phase 1 drought restrictions) (subject to a drought order	When River Itchen flow falls below 205 Ml/d (when measured at Allbrook & Highbridge): abstract up to 27 Ml/d

(TTF) pursuant to a Drought Permit	having being obtained to authorise Level 3, phase 1 restrictions)	(limited to 20 MI/d in certain months) from the Candover boreholes in order to operate the Candover augmentation scheme, re-engineered so that the location of the main discharge is to the River Itchen downstream of the Candover Stream, with an environmental flow into the Candover Stream pursuant to a Drought Permit or Drought Order.
8) Abstract below 265 MI/d (TTF) down to 200 MI/d (TTF) from the Test	When River Test flow falls below 265 MI/d (TTF): Abstract from the Test below 265 MI/day (TTF) down to a baseline of 200 MI/d (TTF) pursuant to a Drought Permit or Drought Order.	
9) Level 3 phase 2 drought restrictions	When River Itchen flow falls below 200 MI/d when measured at Allbrook & Highbridge: Implement full TUBs and full NEUs (Level 3, phase 2 drought restrictions) (subject to a drought order having being obtained to authorise Level 3, phase 2 restrictions) pursuant to a Drought Order.	
10) Abstract below 198 MI/d from the Itchen	When flow in the River Itchen falls below 198 MI/d (when measured at Allbrook & Highbridge): as a measure of last resort abstract below the 198 MI/d hands off flow in the River Itchen down to a floor of 160 MI/d pursuant to a Drought Permit or Drought Order. Coincident with this, Portsmouth Water will also need to abstract below the Riverside Park hands off flow of 198 MI/d at Gaters Mill on the River Itchen in order to continue its essential supply to SWS. Portsmouth Water and SWS have reached	

	an understanding that, as a general rule, SWS will apply for the drought order necessary to allow this.
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Annex 2: Drought Permit process timeline

Day Action

0. SWS applies to EA, publishes last advertisement of application (if more than one advertisement is required) and gives notice of hearing on day 9.
1. EA acknowledges receipt, contacts PINS/EA officer from another area/Counsel, and secures potential venues.
- 2.
- 3.
- 4.
- 5.
- 6.
7. Deadline for any objections.
8. EA decides if hearing is necessary.
9. Hearing (into non ESOR matters). Hearing adjourned.
- 10.
- 11.
- 12.
13. SWS gives ESOR update (could be day 14 or 15)
- 14.
- 15.
16. Reconvened hearing on ESOR
- 17.
- 18.
- 19.
- 20.
- 21.
22. Latest date for Agency to receive report on application.
- 23.
24. Agency uses reasonable endeavours to issue a decision whether to grant a drought permit.
- 25.
- 26.
- 27.
- 28.
29. EA decision whether to grant drought permit (long stop).
30. 355 MI/d Test. SWS abstracts.