

WATER RESOURCES ACT 1991

PROPOSED CHANGES TO FOUR ABSTRACTION LICENCES HELD BY SOUTHERN WATER AUTHORISING ABSTRACTION FROM THE RIVERS ITCHEN AND TEST, AND ONE ABSTRACTION LICENCE HELD BY ENVIRONMENT AGENCY AFFECTING THE CANDOVER STREAM

ENVIRONMENT AGENCY'S POSITION STATEMENT

1. Following the exchange of rebuttal proofs, the Agency was approached by Southern Water Services with a view to achieving a resolution of the issues between them. Discussions proceeded over the last 8 days and have resulted in the agreement of terms which are to be formalised in a water resources management scheme under s.20 of the Water Resources Act 1991 and in one or more associated documents.
2. The Agency's position in these proceedings has been that the proper mechanism for dealing with drought circumstances is not through the abstraction licences but through the bespoke drought regime under Part II, Chapter III of the Water Resources Act 1991.
3. We are pleased that the agreement now reached records SWS's acceptance of this. The agreement sets out the process by which SWS will be able to ensure it is 'application ready' in advance of drought conditions being anticipated, and by which an application for a drought permit or order will be made and considered. The arrangements are agreed to provide a workable mechanism for dealing with anticipated drought conditions, without fettering the Agency's discretion to consider the merits of any application that is made.
4. The consequence of this is that SWS now accepts that the abstraction licences do not need to make provision for drought circumstances. SWS has therefore

agreed to withdraw its objections to the Agency's proposals for the various licences, as clause 2 of the draft agreement records.

5. The EA's proposals for the abstraction licences remain unchanged, save in relation to force majeure events. The Agency was previously concerned that what SWS had proposed for force majeure events was too expansive. The force majeure provisions in the draft agreement now define the term 'force majeure' using the same words set out in Article 4(6) of the Water Framework Directive and the proposed arrangements for such situations are consistent with the terms of Article 4(6). On that basis, the Agency is content for there to be special conditions in the licences reflecting the force majeure provisions of the draft agreement.

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