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A revision of the Water Framework Directive

Introduction

The water industry has begun to think about what it would like to see from a revision of the Water Framework Directive.

This document is a summary of the principles we would like to see underpinning any future Directive. We are engaging with EU and UK government and regulators, and are keen to discuss this issue with community and environment groups and others who have an interest in future EU environmental legislation.

Background

Over the past 20 years, environmental legislation has improved the quality of the nation's habitats. Rivers are stocked with fish and water mammals; biodiversity is returning to areas previously suffering from many kinds of pollution. The Environment Agency recognised this when it stated:

... "efforts to regenerate waters have resulted in some impressive achievements: Atlantic salmon and brown trout have returned to rivers such as the Thames, Tyne, Wear and Mersey to breed for the first time in more than a century. After being virtually extinct in the early 1970s, the otter has made a dramatic return and is now present in every English county.... A river monitoring and classification scheme, called the General Quality Assessment (GQA) scheme, has been used to assess changes in water quality over the last 20 years. In 1990, the chemical quality of 55% of monitored rivers was good or excellent. This had improved to 80% by 2009. For biological quality the improvement was from 63% to 73% over the same period^[1].

[1] "Water for life and livelihoods", Environment Agency, 2013, pp 10 and 12

Indeed, the move to privatise the industry and bring in billions of pounds of investment was an implicit recognition of the scale of the task of achieving European environmental goals. The industry sees its environmental responsibilities as a core function of company work.

Water UK works closely with colleagues from water sectors across Europe. Despite widely differing economic and regulatory structures, different approaches to managing the water cycle and different levels of closeness to national government, one thing is abundantly clear: it is looking increasingly uncertain that any member state will be able to achieve good status in all water bodies by 2015 and significant use of exemptions is likely to be required. Improving this position by 2027 will rely not only on an improvement in the economic climate but also in a level of environmental understanding.

We understand that the Commission is concerned that the economic environment may lead to a further loss of impetus, and a further slowing of any progress between now and 2027. It is palpably in all our interests to ensure that Union's precious and finite supplies of water are conserved, supported and protected, and this may be more pragmatically achieved by accepting that these targets are more and more difficult to achieve. Whilst it could be argued that the exemption process provides this flexibility, exemptions are, in principle, the exceptions that prove the rule. We would argue for greater acceptance by the Commission of the legitimate use of exemptions and derogations from the Directive.

With pragmatism again in mind, we are concerned that the current requirement to prevent deterioration is absolute and neglects the fact that some deterioration may be derived from long-term 'natural' causes such as climate change. While we note that paragraph 32 of the preamble states that there may be grounds for exemptions in "unforeseen or exceptional circumstances", we consider that, given the increasingly erratic and intense weather conditions predicted by climate change scientists, such circumstances will become less and less exceptional. Therefore, we propose that the 'no deterioration' clause be amended to reflect that this direction can only be managed with respect to anthropogenic activities, such as pollution inputs and abstraction, and that the technical feasibility and disproportionate cost tests should also be applied to no deterioration.

Whilst protecting vulnerable eco-systems is vitally important, a balance needs to be struck between environmental costs and costs to water customers, particularly when measures to protect the environment are not backed by comprehensive data supporting the case. We are concerned that the review may

be taken as an opportunity to seek ever tighter restrictions on water quality, without supporting evidence of the economic and social consequences of these decisions. We would propose that the Commission supports adherence to sensible disproportionate cost and technical infeasibility tests, while potentially extending the number of cycles before alternative objectives or lower targets can be set when economics is the root cause.

Outcomes of the review

We would like a tacit acknowledgement, and greater acceptance, of exemptions. While we acknowledge that the Water Framework Directive is, as its name suggests, a framework within which member states can work, it is still the case that only a handful of member states are likely to be able to work towards good status, with the majority finding the economic and social costs unfeasible. The Framework was drawn up when economic circumstances were very different.

If all member states do all technically feasible, proportionally costly investment by 2027 then 100% compliance will be achieved. However, for the reasons we have outlined above, we assume that this will not be the case. It makes sense, therefore, to extend the number of WFD cycles before more realistic objectives are set.

We would propose that one function of the Review should be to clarify the WFD process beyond 2027. The text in the Directive implies that after 2027 there will be water bodies where less stringent objectives will have been applied, and that these will be reviewed every six years. However, it is not clear whether the current RBMP process is expected to continue after 2027 and therefore whether it will be acceptable for the current process to effectively roll forward for phases four, five and beyond.

Extending the deadlines beyond 2027 will allow member states to trial the efficacy of more economic catchment-based approaches and postpone capital investment which at best might not be necessary and, even if it is, either might not be disproportionately costly in a different economic climate in the future or might be replaced by a more cost effective solution through technological developments in the meantime. This would provide clarity and certainty to member states, and would greatly assist business and investment planning.

We suggest, moreover, that more time should be allowed to address wider catchment issues, to determine how much could be achieved through broader land management strategies. It is vital that any Review, for example, seeks to align CAP reform and WFD, ensuring that CAP provides incentives for good

water management, before the European water industry progresses much further with asset solutions.

We would ask that the Urban Waste Water Treatment Directive be transposed into the WFD, as the Shellfish Waters Directive has recently been, to ensure one, efficient evidence led vehicle to guide companies on water related issues. This would allow companies to align the various review and reporting work they do, allowing them to focus on investment on improving the environment.

We do not believe the current ‘one out, all out’ approach to the status of water bodies promotes the best and most efficient use of investment for environmental outcomes. We think, for example, that it might be better to spend £1m to improve the quality of five rivers even if all the status boxes cannot be ticked, than investing that £1m to raise the status of just one river from good to high. The current Framework promotes perverse incentives.