Protecting consumers, promoting value and safeguarding the future

Centre City Tower
7 Hill Street
Birmingham
B5 4UA

Cath Beaver
SWMI Consultation Co-ordinator
Environment Agency
Rio House, Aztec West
Bristol
BS32 4UD

24 January 2008

Dear Ms Beaver

Consultation on WFD Significant Water Management Issues

The Water Services Regulation Authority (Ofwat) appreciates the opportunity provided by the Environment Agency to comment on the Significant Water Management Issues (SWMI) consultation documents.

The water sector, in particular privatised water and sewerage and water-only companies in England and Wales, contribute to the pressures identified as part of the implementation of the Water Framework Directive (WFD). These comprise chiefly water quality and quantity pressures. Ofwat's role as the economic regulator of the water and sewerage sector is to protect consumers, promote value and safeguard the future. And as such, we welcome the opportunity to express our views on an issue of significant interest to the companies we regulate and their bill paying customers.

Our response to this consultation is structured around the specific questions raised. The focus of our comments is on the areas with which the water and sewerage industry are principally concerned, namely water resources and sewage. Please note that our comments are not specific to individual River Basin Districts.

We are responding as Ofwat, and also as chair of the water industry preliminary cost-effectiveness analysis (pCEA) working group and have included comments from members of the group in this document.

You seek respondents' views on a number of specific questions. We present below our response to each of these questions.

Rowena Tye OBE, Scientific Advisor
Direct line: 0121 625 1364 Fax: 0121 625 1382
Email: rowena.tye@ofwat.gsi.gov.uk Website: www.ofwat.gov.uk

1. Have the significant water management issues been correctly identified? If not, why not?

We consider that the significant water management issues that have been identified are reasonable. However, we would like to make the following observations:

Abstraction

We are pleased that WFD planning includes consideration of how drinking water abstraction is being included in river basin management plans and cost effectiveness analysis. The water industry's expectation is that drinking water resource protection will be included as a significant water management issue in the majority of the river basin districts and particularly in water stressed areas. Measures to protect resources should continue to be included in the ongoing cost effectiveness analysis (being led by Defra) so that the polluting sectors can plan for the necessary improvements.

We believe that it would be helpful to address the legal and administrative framework to ensure that the provisions of Article 7 (Waters used for the abstraction of drinking water) are met; in particular, whether the Competent Authority has the necessary powers and duties to prevent deterioration.

Cost-effectiveness analysis

We are pleased that more in-depth cost effectiveness analysis will be carried out where additional assessment is required on a site-specific basis. This will help establish the measure(s) that best achieve a WFD environmental objective, at the least cost and within the required time scale at a specific location.

Sustainability

The Climate Change Bill (currently going through Parliament in draft form) will set out a framework for moving the UK to a low-carbon economy. For the water and sewerage companies in England and Wales this will mean increasing their investment in low-carbon fuels, technologies such as wind and combined heat and power (CHP) processes, and increasing energy efficiency across their business.

However, the water industry is an energy-intensive industry, with statutory requirements to supply water and wastewater services and to meet stringent health and environmental quality standards. Purifying water and wastewater is energy intensive and will continue to be so. A key issue for all the companies is how they achieve the quality improvements required by new Directives such as the WFD, while reducing energy use and CO_2 emissions, as required by new national, European and international legislation.

Rowena Tye OBE, Scientific Advisor
Direct line: 0121 625 1364 Fax: 0121 625 1382
Email: rowena.tye@ofwat.gsi.gov.uk Website: www.ofwat.gov.uk

The water industry is concerned that in a rush to implement European legislation with absolute certainty, there could be a reliance on the quick fix of imposing stricter standards on water companies. Doing this has negative consequences for the environment; most notably, an emphasis on energy and chemical intensive treatment systems. Instead, attention should be paid to other ways of improving the water environment, including the promotion of better catchment management and more sustainable water treatment.

Legislation at all levels must take full account of energy and carbon implications. All new legislation should be subject to carbon impact assessment and the full range of options should be explored.

We welcome the inclusion of a Strategic Environmental Assessment[1] (SEA) to contribute to the integration of environmental considerations into the preparation and adoption of river basin plans and programmes. The SEA allows for assessment of the wider non-water environmental effects (positive and negative) of River Basin Management Plans, including climate change.

1.1. What other significant water management issues do you think should have been identified?

Please see our response to question 1 above.

1.2. What else would you change and why?

Please see our response to question 1 above.

2. Have the measures and the sectors involved for each significant water management issue been correctly identified? If not, why not?

We are supportive of measures that are in line with the polluter pays principle, are cost-beneficial and represent the most cost effective solution of a range of options. We are well aware of the high cost of traditional end-of-pipe solutions and believe that control at source is more likely to be the cost effective solution. The removal of chemicals and other pollutants at source has significant benefits to the water and sewerage industry in the form of reduced treatment costs (and carbon footprint), and the higher efficiency of treatment processes due to the smaller variations in hydraulic load at both water and sewage treatment works.

We believe that it is not only important to have mechanisms that effectively control diffuse pollution, but that the mechanisms are formulated such that their costs are recoverable from the polluters and the

[1] The requirement to undertake Strategic Environmental Assessment comes from the European SEA Directive (EU Directive 2001/42/EC)

Rowena Tye OBE, Scientific Advisor
Direct line: 0121 625 1364 Fax: 0121 625 1382
Email: rowena.tye@ofwat.gsi.gov.uk Website: www.ofwat.gov.uk

consequence of diffuse pollution are not borne by the generality of water customers. The burden should be spread in a fair and proportionate way across all sectors - in line with the polluter pays principle.

The water industry recognises that cost-effectiveness analysis is a key element of meeting the requirements of the WFD in ensuring that there is a balance of investment and obligations across sectors in accordance with the polluter pays principle. Cross-sector analysis will enable the application of the polluter pays principle and the principle of cost recovery which the industry considers to be key requirements of the WFD and will ensure that customers are not paying for the problems caused by other polluters.

The information available so far indicates that there is potential for very significant costs to arise, whether from source control or from end-of-pipe treatment, to meet the environmental quality standards (EQSs) and other standards. The cost of any measures implemented must be assessed against the environmental protection it will deliver, and hence the benefits gained. Measures adopted must be cost-beneficial. For many pressures we are a long way from this situation, and much more evidence on both the costs, consequences and impacts must be gained before embarking on significant investment programmes, whether for substitute products or additional treatment methods.

2.1. What other types of measures not listed in the SWMI documents should be considered?

Given the current level of uncertainty, we are content with the types of measures that have been listed in the SWMI documents. We consider that fewer measures would not allow the necessary refinement and, given the tight deadlines, more measures could make the production of the first River Basin Management Plan unduly bureaucratic and increase the risk of failure.

The real measure of success is the achievement of the Directive's objectives and we believe that it is necessary to have criteria for measuring success. Once agreed, the criteria will focus attention on working towards achieving the objectives.

We believe that the following principles are critical to the transparent and equitable application of the WFD to meet the needs of the customer and the environment.

- adopt a realistic approach to the environmental objectives and pace of delivery
- ensure all the improvements identified offer value for money – ie they are worth doing in their own right
- incorporate a reasonable approach to risk, rather than being unduly risk averse

Rowena Tye OBE, Scientific Advisor
Direct line: 0121 625 1364 Fax: 0121 625 1382
Email: rowena.tye@ofwat.gsi.gov.uk Website: www.ofwat.gov.uk

- spread the burden in a fair and proportionate way across all sectors, in line with the polluter pays principle
- use the exemption process to postpone measures if the information is not yet available to confirm either their need or effectiveness, perhaps by using specialised ‘value of information’ techniques
- identify a realistic timetable to achieve objectives over three river basin plan periods to 2027 at the overall least cost, again using exemptions as appropriate
- align with the principles of sustainable development.

2.2. What else would you change and why?

We would like to make the following observations with regard to the possible types of measures that have been included in the RBD SWMI documents.

PR09[2]

Annex 6 within five of the supporting information documents[3] includes 'Use PR09 to deliver outcomes' as a national measure (within the 'Flow Problems' group). PR09 should not be regarded as a 'measure'; work should be justified using specific criteria. PR09 is an administrative procedure for work needed for and by water and sewerage companies (WaSCs) and water-only companies (WoCs) to be incorporated into investment plans and the bills paid by customers. It is not a delivery mechanism of the WFD in its own right.

WFD timetabling for PR09 is a key issue for the water industry - unless the EA and water companies pre-empt the draft classification and the draft environmental objective stages (July 2008?), it will not be feasible for companies to include fully-costed, worked-up solutions to these environmental issues in the draft business plans in August 2008.

Abstraction sustainability and Statutory Water Resources Management Plans

The water industry is keen to see the first river basin planning cycle (2009 - 2015) being used to promote investigation into the contribution of abstraction for the public water supply to failures of good ecological status (GES). This would then help determine whether any changes have to be made in the second cycle (2015 - 2021). The EA are currently undertaking analysis to determine which water bodies will need investigating. The water industry's expectation is that they will include investigations, as necessary, in PR09 proposals.

[2] The water industry price review (also know as ‘periodic review’) which will take place in 2009 and set prices for the period April 2010 to March 2015

[3] The Humber, North West, South East, South West and Thames RBDs

Rowena Tye OBE, Scientific Advisor
Direct line: 0121 625 1364 Fax: 0121 625 1382
Email: rowena.tye@ofwat.gsi.gov.uk Website: www.ofwat.gov.uk

Meter installation

Many of the RBD SWMI supporting information documents include the 'installation of meters' (within the 'Flow Problems' group in Annex 6) as an RBD-level measure to deliver outcomes under the 'Flow problems' (abstraction and other artificial flow regulation) category.

Ofwat considers that metering is the fairest method of charging for water, as customers are charged for the amount of water they use and/or the sewage they discharge. It reflects the actual costs of the services used. However, we do not yet advocate universal metering across England and Wales because, in many areas, the extra capital and operating costs of metering might outweigh the benefits in water savings. We are currently consulting on our future charging strategy and seeking more information on the costs and benefits of metering in different areas.

Water companies are required to produce plans to meet or manage demand for services. Ofwat aims to make sure that companies choose the right mix of leakage reduction, resource development and demand management through promoting efficient use of water by customers.

Note: Defra recently consulted on metering in areas of water stress. Defra has decided that where a water company serves an area designated as serious water stress it must formulate and include in its water resources management plan an assessment of the costs and benefits of compulsory metering alongside the costs and benefits of other water supply and demand measures. All other water companies will also need to consider metering when assessing how to meet their supply/demand balance.

Heavily modified and artificial water bodies

At the recent UKTAG workshop[4] on heavily modified and artificial water bodies (HMWBs and AWBs) and good ecological potential (GEP) there was discussion on the trialling that is being undertaken on assessing potential mitigation measures for HMWBs/AWBs. For various reasons, there are likely to be many water bodies that will be classified as such - flow, flood defence works, 'urbanisation' etc.

Several workshop attendees expressed concerns about the timescale for completing the work, the level of work involved and the proposal that sectors lead on application and the EA quality assures the outputs. Measures to achieve GEP will need to be included in the draft RBMPs; it is therefore important for early decisions to be made on the process for deciding what the measures should be (e.g. should the decisions be made through River Basin District Liaison Panels or through 'expert committees'?). We are aware that there may need to

[4] Held in Birmingham on 23 November 2007. Copies of the workshop presentations are available online at: http://www.wfduk.org/st_workshops/index_html

Rowena Tye OBE, Scientific Advisor
Direct line: 0121 625 1364 Fax: 0121 625 1382
Email: rowena.tye@ofwat.gsi.gov.uk Website: www.ofwat.gov.uk

be local decisions made in a very short time and the process is still in development. However, it will be important to make the decisions in a timely way in order for there to be sufficient opportunity to manage the HMWB/AWB designations properly. It will also be necessary to focus on what are appropriate and cost-effective measures.

Other areas of uncertainty that will need clarification are:

- Should the assessments look at a wider range of ecological indicators than was used in the trials, eg macrophytes and invertebrates
- The trials appeared to omit the source apportionment/pCEA stage of WFD planning ie it was not obvious whether there would be any assessment of who is the polluter and what would be the most cost effective action to remedy any deficiency in GEP
- 'significant adverse impact on use' is a wide term that could be interpreted in different ways - a clear definition needs to be agreed
- Mitigation measures for 'urbanisation' and who would be responsible for implementing these
- Will it be possible for a water body to be classified as heavily modified, but then to pass all the monitoring tests for GES?

Yours sincerely

Rowena Tye
Scientific Advisor

Rowena Tye OBE, Scientific Advisor
Direct line: 0121 625 1364 Fax: 0121 625 1382
Email: rowena.tye@ofwat.gsi.gov.uk Website: www.ofwat.gov.uk