

**Affinity Water  
Southeast Region  
2013 Drought Management Plan  
Statement of Response**

**February 2013**



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## 1 Amendments

On 21<sup>st</sup> September 2012 we received a letter from DEFRA regarding our revised Draft Drought Management Plan. The letter notified us of further amendments required on our Plan before receiving the full approval for publishing. The points raised in the letter that required further attention were:

- Specific information on the discussions that have occurred between us and the bodies responsible for issuing the drought permits and approvals needed to implement our drought measures;
- Reconsideration of the lead times required for the approval of drought permits and drought orders as 28 days is the minimum amount of time that is likely to be required and can only be met if a hearing is not required;
- Information showing when mitigation measures would be triggered and how they would be monitored;
- Clarification of the arrangements for agreeing access from riparian owners for fish rescues and re-introduction;
- Details on compensation that may be required as a result of implementation of drought actions.

Following the annotations from DEFRA we took the following actions:

- A meeting with the Environment Agency took place on 10<sup>th</sup> April 2012 to discuss the scope of environmental assessment and monitoring that would be needed to support a Drought Permit. The follow up actions of this meeting were put into place with the Environment Agency's support. The details of these actions have been added to the Plan through amendments in Section 4.6 and Appendix 5.
- Table 3.1 was updated with the action table used for the Affinity Water, central region, Drought Management Plan for the purposes of consistency. This table does not include detailed lead times. However we recognise the significance of the early preparation for Drought Permits and Drought Order. Following our 2012 Drought experience, we believe that a preparation of three months is required for the applications in order to allow adequate communication with the Regulators. The purpose of that is to keep the approval times to the minimum, however we recognise that, if public hearing is required, a lead time of 3 months from application should be allowed for.
- Section 4.1.3 was updated to include information on the timing of walkover surveys. Appendix 5 has been updated with a methodology for monitoring and mitigation measures before during and after the drought. The methodology was produced in liaison with the Environment Agency.
- During the 2012 Drought the potential affected area on the River Dour were accessed by appointed consultants in order to complete walkover surveys and identify an action plan should the situation deteriorate. There were no access issues on the selected and proposed sites. Section 4.4 has been updated to include this piece of information.
- Following relevant liaison with the Environment Agency, Section 3.2.3.4 was amended with details on compensation as a result of additional abstraction through the drought permitting process. The details were verified by our legal team.

The DEFRA letter is attached in Section 3 of this document.

## 2 Introduction

The purpose of the Drought Management Plan (DMP) is to demonstrate how we plan to monitor and manage future drought related events, restrain demand and mobilise extra resources, whilst minimising recourse to drought orders and permits and ensuring security of supply. A drought is a natural event that can not be prevented. As no two drought scenarios are ever the same, flexibility has been built into the plan to allow for the most efficient and effective way of dealing with different drought situations.

Drought management plans are a statutory requirement for all water companies as prescribed under section 39B of the *Water Industry Act 1991* (WIA) and as introduced by the *Water Act 2003*. Temporary bans on water use were provided for in section 76 of the *Water Industry Act 1991*, as amended by the *Flood and Water Management Act 2010*, which built on experiences gained in the drought of 2006. The revised DMP allows us to exercise new powers on restrictions for non-essential use introduced by The Water Use (Temporary Bans) Order 2010 and under the Drought Direction Statement 2011 for the imposition of Drought Orders to restrict Non Essential Use of water. These were defined in a UKWIR Code of Practice (2009) and have been incorporated in our DMP, and replace the former designations of sprinkler or hosepipe bans.

We prepared our draft DMP for consultation in accordance with the Act and in accordance with the Environment Agency's water company drought plan guideline, June 2011. This was published on our website and hard copies sent to individuals and organisations who requested one. The draft DMP was dated November 2011 and was open to any person or organisation that wanted to make a comment from early December 2011 for 8 weeks.

All comments received were directed to the Secretary of State for the Environment and in accordance with the Act we are now publishing this statement of response detailing-

- the consideration that we have given to the representations received;
- the changes that we have made to our draft DMP as a result of the
- representations and our reasons for doing so;
- where we have made no change to our draft DMP as a result of our
- consideration of any representation, the reason for this.

The regulations state that this response should refer only to changes that we have made to our draft DMP as a result of representations received. This Statement of Response also indicates where we have undertaken further work (e.g. additional surveys, analysis or investigations) in support of our response to the representations.

Our response will be published on our website along with a revised version of the draft DMP. An electronic copy of the statement will be sent to the Secretary of State and to the organisations which made representations in writing in relation to the draft DMP.

This document forms our Statement of Response to the representations received by the end of the consultation period. The Secretary of State received 2 representations concerning our draft DMP.

The remaining sections of this document include details on how we undertook the consultation of our draft DMP and the issues raised in the representations together with our response.

### 3 Consultation Process

In accordance with the Environment Agency's 'Water Company Drought Plan Guideline' we published our draft DMP for consultation on the 21<sup>st</sup> November 2011 inviting views from individuals and organisations on our proposals. The period of consultation was 8 weeks which ended on the 16<sup>th</sup> January 2012.

We are required to prepare a statement of response to the representations received and send this to the Secretary of State for the Environment by the extended date of 23 April 2012.

A copy of this statement must also be sent to any person or organisation that made a representation and in addition we are required to publish the statement on our website.

This section of our response details how we consulted on our draft DMP.

#### 3.1 The Statutory Consultation

We sent pre-consultation letters to our regulators, neighbouring water companies, MPs, local authorities and local interest groups on 24<sup>th</sup> February 2011. We notified our key stakeholders of our intention to update our DMP and advised them of the major changes following the new powers given under the *Floods and Water Management Act 2010*. We received acknowledgment of our intentions from a number of stakeholders and representations from the Environment Agency. The latter was followed up by focused meetings and feedback.

The draft DMP was published on the Affinity Water website with a link to the Affinity Water website ([www.Affinitywater.co.uk/southeast](http://www.Affinitywater.co.uk/southeast)) on 21<sup>st</sup> November 2011. Copies of the published draft DMP were sent to all the parties set out in the regulations. This included the regulatory authorities (Environment Agency and Ofwat), the Secretary of State c/o Defra, the Local Authorities and Natural England. The draft DMP was sent to the Chief Executives of South East Water and to the Consumer Council for Water. A letter was sent on 21<sup>st</sup> November 2011 detailing the consultation documents and the period of consultation (21<sup>st</sup> November 2011 to 16<sup>th</sup> January 2012).

A summary of the stakeholders informed by letter is shown in Table 2.1.

Table 2.1 (1) Consultation engagement

Group	Number sent to
Council Leaders	2
Council Chief Executives	2
Members of Parliament	2
Interest Groups	6
Regulators and other Water Companies	5
<b>Total</b>	<b>17</b>

Electronic copies and printed copies of the Plan were made available to the general public through our website. Printed copies were available on request.

#### 3.2 Stakeholder engagement

We have communicated with our stakeholders relating to the DMP and the current drought through the following methods and channels:

- Affinity Water drought website
- Customer call centre at Affinity Water
- E-mail note for all our staff outgoing e-mails with link to our drought website
- Water Efficiency information included as part of the compulsory metering packages
- Distributing water efficiency equipment on request
- Press releases in the *Folkestone Herald*, *Dover Mercury*, *Kentish Express*, and *Channel Coast News/Hawkinge Gazette*
- Meetings with key commercial customers
- Area, regional and national Environment Agency drought meetings
- Regional drought meetings with Thames Water, British Waterways and the Environment Agency
- National Water UK drought meetings
- Drought tolerant garden at Chelsea Flower Show 2012
- Allotment holders newsletter

These channels of communication are established and were used at this instance to inform our stakeholders of the current drought situation and their opportunity to be involved in the consultation process of our Drought Management Plan.

### 3.3 Responses

We would like to thank the following for their formal representations:

- Environment Agency
- Natural England

We have taken into account these representations made on our draft DMP and illustrate the changes that we have made in Section 3 of this Statement of Response. Where representations have not resulted in changes, we have outlined the reasons for this decision.

In this section we demonstrate the changes we made in the revised Plan as a result of our experience of the current drought, we list the comments we received from our stakeholders and we outline the ways that have addressed their suggestions and concerns.

One complication in the statutory process for updating our Drought Management Plan is the fact that we are managing a severe drought at this time before we have a new plan approved by the Secretary of State. However this has also given us the opportunity to verify our plan and include initial outcomes from our experiences through the work that is being done for the management of the actual drought. It needs to be recognised that at this stage any lessons learned from changes in process, policies and procedures have been included in our plan though where details and actions relate to the specific conditions of the current drought, these may not apply to every drought. The changes included using this approach are:

- A section explaining our current approach to exceptions to prohibitions influenced by our neighbouring water companies on the grounds of consistency and to avoid confusion. Our public notice for the restrictions has been added as evidence.
- Supply side options are updated with results and progress from ongoing work of the Asset and Production Teams. The purpose of this work is to identify additional supply options in the case of a dry 2012/13 winter.

- The environmental monitoring plan has been updated based on the action plan for this summer. We have refined the locations and frequencies of monitoring following agreement with the EA - an actual monitoring schedule that commenced last month (March 2012).

We have compiled the representations we received and our responses in the tables below.

Environment Agency	
1.1	The company should complete the environmental monitoring and analysis for each drought permit option in advance of any applications.
Our response	We have identified the environmental monitoring and analysis required for each drought permit option and specified them in the revised DMP. The company intends to undertake monitoring and analysis in advance of applications for drought permits and orders to the extent that the potential environmental impacts can be identified and evaluated. The monitoring and analysis for drought permits associated with the River Dour are detailed in Section 4 of the revised DMP.
1.2	The company should specify baseline, in-drought and post-drought monitoring; potential impacts; and mitigation for each permit option individually.  The company should identify any gaps in environmental information in its environmental monitoring plan, in advance of the onset of drought conditions.
Our response	We have specified the baseline condition of each permit and what monitoring is required. We have highlighted gaps in the environmental information and will implement plans to fill these in advance of the onset of drought conditions. We have looked at mitigation measures for each option individually. These are detailed in Section 4 of the revised DMP.
1.3	Preliminary environmental assessment reports for each site that may be affected by drought actions should show the sensitivity of the site and the likely impact of the proposed drought action based on an appraisal of the available baseline data. The assessment should: <ul style="list-style-type: none"> <li>• be risk based, focussing on the most sensitive issues and carried out in a consistent way (see section 7, Figure 5 of the drought plan guideline).</li> <li>• include an appropriate sensitivity to flow/level impacts. (See guideline Appendix H1.1, Stage 2).</li> <li>• detail any gaps in understanding or further information required.</li> <li>• set out adequate environmental assessment information that allows all drought permits and orders to be 'permit ready'.</li> <li>• set out those options which may be needed for reasons of over-</li> </ul>

	<p>riding public interest.</p> <ul style="list-style-type: none"> <li>prioritise options to show which will be implemented first, and explain the reasons for the order chosen</li> </ul> <p>show frequency, timing and duration of monitoring, for baseline, in-drought and post-drought conditions, for each permit option individually.</p>
Our response	We have prioritised each permit option and will produce a preliminary environmental assessment. based on the guidelines above. Pre, In and Post drought monitoring has been defined. In the case of the four potential drought permit applications on the River Dour the company intends to produce a single comprehensive environmental assessment for the catchment.
2	<p>Drought permit options should be listed individually and discussed separately in the drought plan.</p> <p>The company should include consistent information about the yield of each drought permit option.</p>
Our response	Each permit option has been listed individually and discussed separately in Section 3.4 of the revised DMP. We have included consistent information about the yield of each drought permit option in Section 3.4 and Appendix A4.2.
3.1	(a) The company should consider any further monitoring that may be needed. It should complete any additional monitoring of all relevant types, as necessary.
Our response	We have discussed further monitoring in the revised DMP and this is detailed in Section 4 of the revised DMP.
3.2	(b) More specific information should be provided about further survey data required for the environmental assessment of each permit option, focussing on the features that are most sensitive and relevant.
Our response	Further survey data has been included for each option and is relevant to the features that are most sensitive and relevant. This is detailed in Section 4 of the revised DMP.
3.3	(c,d) Additional monitoring for higher risk sites, and for any additional monitoring sites, should be assessed in the drought plan, rather than at the time a permit is applied for.
Our response	Additional monitoring has been assessed and detailed for each option in Section 4 of the revised DMP.
4.1	(a)The company should set out the sites that will require mitigation, the measures required, and how these measures will be triggered, monitored and managed. It should demonstrate that the actions will adequately minimise any environmental damage and/or protect from further damage from implementing supply-side drought actions.

Our response	Mitigation of the impacts of low /no flows will be undertaken as defined in the revised DMP. In cases where the river bed is already dry, further mitigation is unlikely to be required.
4.2	(b) The company should show that it has addressed Direction 4(f). A table showing where to find evidence of compliance with all the Directions might assist.
Our response	There are no permits associated with the mitigation measures proposed in our Drought Management Plan. Access agreements will be required with riparian owners for fish rescues and re-introduction, but these will be negotiated at the time they are identified. We believe we have addressed the other Direction 4 requirements in the revised text.
4.3	(c) The company should consider the impacts of its drought management actions on fish passage generally, making particular reference to eel passage and migratory salmonids
Our response	Consideration to fish and eel passage has been made with specific reference to eels and migratory salmonids. However, there are a number of structures in the river which prevent passage of both eels and fish and segment the river into reaches. The drought management actions will have little impact on these.
5	The company should consider including drought permits outside the Dour catchment. It should provide information relating to the assessment and discounting of drought options in other catchments.
Our response	We have considered drought permits outside the Dour Catchment and included the reasons why these are not taken up in the revised DMP at Section 3.4.
6.1	The company should consider the impact of its drought management actions on all water bodies that may be affected.  The company should set out where temporary deterioration in status is likely and aim to prevent this where possible via appropriate mitigation measures.  Some permits may be required due to over-riding public interest. However, the company needs to justify why this may be the case.
Our response	We have considered the impact of our options on the status of the water bodies and have aimed to put in place mitigation to prevent this wherever possible, however most impacts are temporary. We have stated where over-riding public interest needs to be used and justified this on the basis of providing public water supply.
6.2	The plan needs to show in which order the company's supply-side drought management actions would be best implemented.

Our response	The supply side drought management actions are staged to maximise the additional volumes of water available, whilst minimising their impact on the environment.
7	<p>The company should make its permit applications as ready as possible in advance, because the lead-in times shown in its severe drought scenario show little leeway. If some options are orders rather than permits, this should be specified.</p> <p>The company should ensure that it allows time for a public hearing or inquiry into a drought permit application.</p>
Our response	We will make all permit applications as ready as possible in advance by discussing and agreeing them with the Environment Agency and other interested parties. The time lines are shown in the revised DMP. Orders and permits have been clearly stated.
8	<p>The company should agree how this bulk supply will be managed during a drought with South East Water and be more specific in its plan.</p> <p>The company should present more information on how much extra supply might be available from South East Water as a drought option.</p>
Our response	We have agreed with South East Water how the bulk supply will be managed during drought conditions.
9	<p>The communications plan should specify how and when consultation with the Environment Agency and Natural England will take place.</p> <p>We would recommend that the company puts in place measures to monitor how effective its communications are during a drought, and details these measures in its final drought plan.</p> <p>The company should consider how its communications are joined up with other water companies and the Environment Agency.</p> <p>The company should demonstrate how it will choose and monitor the effectiveness of different methods of communications during a drought.</p>
Our response	<p>Consultation with the Environment Agency and Natural England is now detailed in Section 5.4 of the revised DMP.</p> <p>Measures to monitor the effectiveness of communications during a drought are in place and are now detailed in Section 5.9 of the revised DMP.</p> <p>The company maintains regular dialogue with the Environment Agency and other water companies which is described in Section 5.4 of the revised DMP.</p>
10	The company should clearly state the drought triggers that it will use to trigger drought actions. If the company is proposing to use only one

	trigger it should explain why the use of a single drought trigger is appropriate.
Our response	Section 4.1.2 of the revised DMP explains the position.
11	The company should set out the demand savings assumed for its drought planning scenarios.
Our response	Section 3.1 Table 3.1.2 of the Revised DMP sets out the demand savings the company has assumed for its drought planning scenarios.
12	The company should include a map of its drought permit sites
Our response	The location of water supply sources is considered to be sensitive information which should not be in the public domain. However, the company will be pleased to supply the Environment Agency with a map detailing the location of the drought permit sites.

<b>Natural England</b>	
NE1	Natural England notes the statement in paragraph A3.4 of Appendix 3 that “there are no Habitats Directive sites within our supply area that would be impacted by our DMP... “ This may be the case but we would expect an audit trail of the HRA screening process detailing the reasons why Affinity Water, southeast region, believe a likely significant effect assessment and appropriate assessment are not required. The HRA screening should be included in the Drought Plan so that compliance with the Habitats Regulations can be demonstrated.
Our response	<p>The following text has been added to Appendix 3.4 of the revised DMP and it is repeated here for convenience:</p> <p><b>Under The Conservation (Natural Habitats, &amp; c.) Regulations 1994,</b> Regulation 60 imposes a condition on all permitted development which:</p> <ul style="list-style-type: none"> <li>a) is likely to have a significant effect on a European Site (either alone or in combination with other plans or projects), and</li> <li>b) is not directly connected with or necessary to the management of the site for nature conservation.</li> </ul> <p>The condition imposed by Regulation 60 applies to ALL forms of permitted development. There are no exceptions. Regulation 60 applies only to European sites as defined by the Habitats Regulations. As a matter of policy though it should also be applied to pSPA and Ramsar sites. VWE Drought Management Plan is not a development plan. In addition, there are no European sites or pSPA or Ramsar sites within our supply area that would be impacted by our Plan and, therefore, a Habitats Regulation Assessment is not applicable.</p>
NE2	<p>In Section 3.4 of the drought management plan Veolia Water Southeast states “We have identified a small number of sources where there are provisions in the licence for abstraction to be controlled by environmental constraints, for example those associated with the Dour ALF. Accordingly, these sources have been identified as potential candidates for Drought Orders or Permits...”</p> <p>However, neither the remainder of the plan nor the appendices appear to contain any detail regarding the four sources listed. The abbreviated source names do not appear in the glossary and there is no map locating them spatially. For each supply-side drought management</p>

	<p>action, the company must carry out an environmental assessment to determine the environmental sensitivity of the site and likely impacts from the implementation of the proposed action.</p> <p>As much of the environmental assessment work should be completed during the preparation of the drought plan and a summary of this included in the plan. This will ensure that any potential issues are identified and addressed in advance of a drought event and enable drought permit and drought order applications to be dealt with promptly.</p>
Our response	<p>The location of the four sites has not been divulged as this is sensitive information which should not be in the public domain. However, we will be pleased to advise Natural England separately of their location and provide a suitable map.</p> <p>A preliminary environmental assessment covering the four sites is now included in the revised DMP.</p> <p>We have agreed an environmental assessment and monitoring programme with the Environment Agency for the four drought permit applications associated with the River Dour.</p>
NE3	<p>The area covered by Affinity Water, southeast region, contains a number of SSSI sites, none of which are mentioned in the drought plan or appendices. We would advise that these sites are listed and that the plan should document an impact assessment even if it is to discount impacts on these sites from supply side actions. However, such conclusions must be clearly justified.</p>
Our response	<p>None of the four sites associated with drought permit applications or reaches of the River Dour are located within SSSIs.</p>
NE4	<p>As stated earlier Natural England would expect the plan to outline how Affinity Water has considered the Habitat Regulations and an audit trail will need to be included to demonstrate how the HRA screening was undertaken</p>
Our response	<p>Please see 2.1 above. The company does not believe a HRA is required.</p>



## Representation on Veolia Water South East's draft drought plan

31 January 2012

We are the Environment Agency. We protect and improve the environment and make it **a better place** for people and wildlife.

We operate at the place where environmental change has its greatest impact on people's lives. We reduce the risks to people and properties from flooding; make sure there is enough water for people and wildlife; protect and improve air, land and water quality and apply the environmental standards within which industry can operate.

Acting to reduce climate change and helping people and wildlife adapt to its consequences are at the heart of all that we do.

We cannot do this alone. We work closely with a wide range of partners including government, business, local authorities, other agencies, civil society groups and the communities we serve.

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# 1 Introduction

This is the Environment Agency's review of Veolia Water South East's draft drought plan.

A water company drought plan sets out the short-term operational actions that a company will take in a range of drought situations to maintain public water supplies without causing unnecessary risk or damage to the environment. These plans should be flexible, consider the needs of customers and other stakeholders and be aligned to Government and Environment Agency objectives.

We have a statutory duty to manage water resources in England and Wales and we aim to make sure there is enough water for people and the environment in a drought. We have reviewed and reported to Ministers on water companies' previous statutory drought plans in 2006-07 and voluntary drought plans since 1999.

We are a statutory consultee and provide advice to Government on the content of these statutory plans. Government expects the company to follow the recommendations outlined in this report.

## 1.1 Structure of this representation

We have carefully assessed all the information set out in Veolia Water South East's draft drought plan. We have assessed the plan against the guidance in our drought plan guideline<sup>1</sup>, legislation and objectives set by Government. This representation sets out the issues or concerns we have with the draft plan following our assessment. It does not provide information on areas of the draft plan for which we had no comment.

Section two of this representation sets out our recommendations for the draft plan. These recommendations focus on the most significant issues we have identified from our technical assessment of the draft plan.

The report in appendix one outlines the evidence to support these recommendations. Links are made between the recommendations and the evidence report for ease of reference. The evidence report also logs less significant issues we have identified that would further improve the plan.

Section three outlines our view of how Veolia Water South East has met relevant legislation and Government Directions.

Section four gives our view of Veolia Water South East's public consultation on its draft drought plan.

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<sup>1</sup> Environment Agency water company drought plan guideline, June 2011.  
<http://publications.environment-agency.gov.uk/pdf/GEHO0311BTOJ-E-E.pdf>

# 2 Recommendations

## 2.1 Summary

Veolia Water South East's draft drought plan presents some risk to public water supplies and the environment in a drought. Some aspects of the draft plan do not follow the guidance set out in our water company drought plan guidance, do not meet legislation and/or do not meet Government objectives.

The company has proposed an appropriate balance between demand and supply-side drought management actions. These actions have been tested against appropriate drought scenarios and triggers in the draft plan.

However, the draft plan does not demonstrate that the environment will be adequately protected from adverse impacts from implementing some of the proposed supply-side drought management actions. This is due to the lack of substantial information on environmental assessment, monitoring and mitigation in the draft plan. The absence of this detail is also linked with non-compliance with several of the Drought Plan Directions.

Insufficient detail and consideration of these potential environmental impacts could result in a delay in determining and implementing drought permits or orders. The Environment Agency will not support drought permit or order applications that do not appropriately consider the environment. If the environmental impacts of drought management actions are assessed during a drought instead of in the draft plan, there is likely to be a delay to any drought permit or order application. This delay may present a risk to public water supplies in a drought.

We recommended improvements to this area of the drought plan during our pre-consultation discussions with the company in 2011 and during the previous drought plan process in 2006. The company has followed some but not all of these recommendations and has not made appropriate changes to the draft plan.

## 2.2 Improvements made to the draft plan

As a result of our pre-consultation discussions with the company, Veolia Water South East has made some improvements to its drought plan.

The company has taken account of our requirement to include drought scenario modelling in its drought plan. The draft plan now demonstrates how and when drought management actions would be implemented in different hypothetical drought situations that result from given rainfall deficiencies.

In formulating its approach to temporary restrictions, Veolia Water South East has taken account of the UKWIR Code of Practice and Guidance on Water Use Restrictions (2011), and has consulted with neighbouring companies with the aim of achieving a consistent approach. The draft plan clearly sets out an improved approach to planning and implementing temporary water use restrictions in a drought, however further information should be presented. More detail on this approach can be found in section 3.2.

## 2.3 Recommendations for changes

Below we have set out our recommendations that cover the key issues we have identified with Veolia Water South East's draft plan, together with the changes that it should make to its drought plan. Less significant and minor issues that could result in further improvements to the plan are detailed in the evidence report in appendix one.

### **Recommendation 1 - drought permits and orders**

The company does not set out sufficient detail about its proposed drought permit and drought orders. The company should provide accurate details of sources, deployable outputs and locations of all potential supply-side drought management actions. Without this information we cannot determine whether they are appropriate to implement in a drought. The company should also present further information on the likely order of implementation, lead-in times and the effects in combination with other actions. **See issues 1 and 2** in the evidence report for further details of changes we recommend to address this issue.

### **Recommendation 2 - environmental assessment of actions**

The company has not presented sufficient environmental assessment of its drought management actions. Without a detailed and accurate environmental assessment for all supply-side drought management actions, the environment may be at risk where drought management actions are implemented without sufficient consideration of the potential impacts. The company should consider the possible impacts of all of its supply-side drought management actions in its environmental assessment. This should include consideration of Water Framework Directive impacts. The company should provide sufficient information about its drought permits to show potential environmental impacts, monitoring data availability and a plan of how it would complete any gaps in the assessment and monitoring in time to implement them. **See issue 1** in the evidence report for further details of changes we recommend to address this issue.

### **Recommendation 3 - environmental monitoring**

The environmental monitoring plan in the draft plan is not sufficient to satisfactorily monitor environmental conditions before, during and after a drought. Without this, the effects of any drought management actions on the environment in a drought cannot be determined. Veolia Water South East should present more detailed information in its drought plan of its proposed monitoring plan. This should include details of monitoring sites, and the frequency, timing and duration of in- and post-drought monitoring. Links between monitoring actions and specific drought permits should be demonstrated. **See issues 1 and 3** in the evidence report for further details of changes we recommend to address this issue.

### **Recommendation 4- environmental mitigation measures**

Veolia Water South East does not present sufficient mitigation measures in its drought plan. The company should consider in more depth what mitigation measures it may need to implement to appropriately protect the environment in a drought. This issue is linked to insufficient environmental assessment and monitoring as described in recommendations 2 and 3. Without properly identifying environmental impacts, we cannot determine if mitigation may be required after supply-side drought management actions are implemented. The company should demonstrate in its drought plan that adequate mitigation measures have been considered and will be available to implement without delay in a drought. **See issue 4** in the evidence report for further details of changes we recommend to address this issue.

# 3 Compliance with relevant legislation

The first part of this section looks at compliance with the Drought Plan Direction 2011 and outlines where we consider Veolia Water South East has not complied with these Directions. In this assessment, we consider that a Direction has not been complied with where the draft plan does not meet the principles of the Direction.

The second part of this section looks at the approach Veolia Water South East has taken regarding recent changes to legislation regarding temporary water use restrictions.

## 3.1 The Drought Plan Direction 2011

Section 4 of the [Drought Plan Directions 2011](#) specifies additional matters that should be addressed in water company drought plans. We have assessed the draft plan for compliance against these Directions.

Veolia Water South East has not presented sufficient evidence in its draft plan to demonstrate compliance with all Directions. The company should provide more details to show how it complies with the following Directions.

Direction not complied with	Recommended changes to ensure compliance with Direction
4(b) the permits and approvals that the water undertaker may need in order to implement the drought management measures.	The company should provide details of all possible drought permits and drought orders, including the location, potential increase to deployable output and details of what monitoring will be needed. Appendix G of our guideline should be completed for all possible supply side drought management actions - they should not be grouped together. <b>Linked to issues 1 and 2 in the evidence report.</b>
4(c) the discussions that have occurred between the water undertaker and the bodies responsible for granting those permits and approvals.	The company says it consulted with the Environment Agency, Ofwat and other water companies at the pre-consultation stage. It is not clear how those views have been taken into account. The company should provide information to show the discussions it has had with statutory consultees and/or bodies responsible for granting permits and approvals mentioned under Direction 4(b), and how these discussions influenced the development of the draft plan. This could include a summary of discussions if appropriate.
4(d) the arrangements for discussions with those bodies during a drought.	The draft plan provides insufficient information on how and when the company plans to contact statutory consultees during a drought. The company should provide more detailed information on these arrangements. <b>Linked to issue 9 in the evidence report.</b>
4(e) the measures that may be needed	The plan does not satisfactorily consider what mitigation measures could be put in place when implementing supply-side

to mitigate any adverse effect on the environment resulting from the implementation of a drought management measure.	drought management measures. This could put the environment at unacceptable risk. The information should be completed as part of Appendix G of our guideline for all supply-side drought management actions and locations. <b>Linked to Direction 4(f) and issue 4 in the evidence report.</b>
4(f) the permits and approvals that may be needed in order to implement those mitigation measures.	The plan does not set out details of any additional permits or approvals required to carry out any mitigation measures. The company needs to consider what additional permits and approvals it may need to implement mitigation measures in a drought, and set out information in its plan detailing this. <b>Linked to Direction 4(e) and issue 4 in the evidence report.</b>
4(g) the compensation that may need to be made as a result of the implementation of a drought management measure.	The plan does not include details of the compensation it may be required to provide as a result of adverse effects from implementation of supply-side drought actions. The company should include details of any compensation that would be made available if other abstractors are adversely impacted by supply side drought measures. <b>Linked to issue 9 in the evidence report.</b>

### 3.2 Legislation relevant to demand-side drought management actions (temporary restrictions)

Section 36 of the Flood and Water Management Act 2010 (inserted into the Water Industry Act 1991) allows water companies to implement a wider range of temporary water use restrictions during a drought. The Water Use (Temporary Bans) Order 2010 gives further information and requirements on the implementation of this legislation. We have assessed how the company has approached this legislation and incorporated the principles of the UKWIR Code of Practice (11/WR/33/3) into its draft plan.

The company has considered how this new legislation could affect its management of a drought and has incorporated the principles of it into its drought plan. The draft plan clearly sets out the changes in legislation that have occurred and how this has led to changes in the company's approach to demand management measures in a drought. It also sets out the process that customers should follow to make representations and includes a proforma template for representations in appendix 4.

Veolia Water South East proposes to implement all 11 categories of temporary use restrictions in one phase (during its zone 3 trigger) and to apply to restrict all 10 categories of demand restrictions under an ordinary drought order (during its zone 4 trigger). Zone 4 constitutes an unprecedented situation for Veolia Water South East as in the past its sources have proved robust to drought.

The company's approach to implementing the temporary powers is consistent with some but not all neighbouring companies, some of which are proposing to make more use of phasing. The plan discusses consistency across the region, considers why inconsistencies might arise, and proposes appropriate liaison with neighbouring companies. We recommend that the company considers how its approach to temporary restrictions may work alongside the approach neighbouring companies are proposing and present further information on this in the drought plan.

It is not clear whether the company consulted with customers during the pre-consultation period and if so, how those views were taken into account to form the approach to temporary restrictions. Details of how the company has taken on board customers' views from the consultation should be reflected in the Statement of Response.

In addition, the draft plan proposes to implement only the exemptions and concessions specified in the Flood and Water Management Act 2010 and the Water Use Temporary Bans Order 2010. We would encourage the company to consider if any additional exemptions and concessions could help to protect economically and socially vulnerable customers from any adverse effects from temporary water use restrictions.

The process for making representations is clearly described and allowed for in the timeline. The company allows two weeks for representations, followed by a third week for the company to respond.

In summary, the approach proposed by Veolia Water South East would meet statutory requirements for implementing temporary restrictions in a drought, and is workable, as demonstrated by the scenarios. However the draft plan does not demonstrate that all of the principles within the UKWIR Code of Practice guidance have been fully considered.

## 4 Our view of the public consultation

Veolia Water South East began its public consultation on 15 December 2011. The consultation ran just short of seven weeks, until 31 January 2012.

The draft plan is available on the Veolia Water South East's website with details on how to make a representation. There is no homepage link to the drought plan consultation or accompanying press release. Paper copies are available on request by telephone or email. The company notified us of the consultation by letter, dated 6 December 2011.

In summary, we consider that the consultation gave satisfactory opportunities for customers to make representations.

# Appendix 1 Evidence report

In this table we detail the issues we have raised in this representation and the evidence behind these.

- Issues categorised as 'major' are those that we consider highly significant to the draft plan that may result in an unnecessary risk to public water supplies and/or major risk to the environment in a drought. These issues may also contribute to issues raised in section three, Compliance with relevant legislation.
- Issues categorised as 'moderate' are those that we consider significant to the draft plan and may reduce the effectiveness of drought actions, stakeholder/customer understanding and/or present a moderate risk to the environment.
- Issues categorised as 'minor' are those that we consider would further improve the draft plan.

Major issue				
Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
1	Environmental assessment and monitoring	<p>The company has taken a generic, lumped approach to monitoring and mitigation at drought permit sites. It has not considered the monitoring required or specific impacts of individual drought permits (sections 3.4, 4.5).</p> <p>The company's discussion of environmental monitoring (section 4) is too generic. It assumes the existing sites will be adequate plus any suggested by the Environment Agency during drought permit discussions. The plan does not detail appropriate frequency, timing and duration of monitoring.</p> <p>The plan indicates that gaps in information</p>	<p>Without an adequate monitoring plan for each of its drought permit options the environment may be put at unacceptable risk.</p> <p>We may not be able to determine drought permit options without sufficient monitoring actions included in the accompanying environmental report. The company could not afford delay to its drought permit applications in a prolonged severe drought situation (see issue 7 below).</p>	<p>The company should complete the environmental monitoring and analysis for each drought permit option in advance of any applications.</p> <p>The company should specify baseline, in-drought and post-drought monitoring; potential impacts; and mitigation for each permit option individually.</p> <p>The company should identify any gaps in environmental information in its environmental monitoring plan, in advance of the onset of drought conditions.</p> <p>Preliminary environmental assessment</p>

Major issue				
Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
		<p>will be reviewed in conjunction with the Environment Agency following a single 'dry winter' at a meeting in the following April (section 4.5). Such gaps should be identified earlier.</p> <p>The company defers preparing full environmental details of its drought permits until they are needed on the grounds that each drought is unique (section 3.4).</p> <p>In response to the company's last drought plan consultation we advised the company that it should include baseline monitoring requirements and an environmental monitoring plan for each of the drought permits or orders included in the plan. We also said that it should complete preliminary environmental assessments these sites. The company has not followed our advice.</p>		<p>reports for each site that may be affected by drought actions should show the sensitivity of the site and the likely impact of the proposed drought action based on an appraisal of the available baseline data. The assessment should:</p> <ul style="list-style-type: none"> <li>• be risk based, focussing on the most sensitive issues and carried out in a consistent way (see section 7, Figure 5 of the drought plan guideline).</li> <li>• include an appropriate sensitivity to flow/level impacts. (See guideline Appendix H1.1, Stage 2).</li> <li>• detail any gaps in understanding or further information required.</li> <li>• set out adequate environmental assessment information that allows all drought permits and orders to be 'permit ready'.</li> <li>• set out those options which may be needed for reasons of over-riding public interest.</li> <li>• prioritise options to show which will be implemented first, and explain the reasons for the order chosen</li> <li>• show frequency, timing and duration of monitoring, for baseline, in-drought and post-drought conditions,</li> </ul>

**Major issue**

Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
				for each permit option individually.

**Moderate issues**

Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
2	Supply-side drought management options	<p>The company has set out information about different types of supply-side drought management action in Appendix A4.2. It has not set out this information for its four drought permit options individually.</p> <p>The total benefit shown in Appendix 4.2 does not tally with the individual figures quoted in section 3.4.</p>	It is not possible to assess the implications of individual drought permits or orders on public water supply or the environment.	<p>Drought permit options should be listed individually and discussed separately in the drought plan.</p> <p>The company should include consistent information about the yield of each drought permit option.</p>
3	Environmental monitoring	<p>(a) The company appears to rely on the bi-annual invertebrate monitoring done by the Environment Agency (appendix 1). This may need to be increased when a drought permit is in place. Many fisheries sites are only monitored once every three years now.</p> <p>(b) The plan does not detail (section 4.5.2 or elsewhere) when further survey data will be made available and the drought plan updated.</p>	<p>Monitoring may be inadequate and the environment put at risk.</p> <p>Provision of additional monitoring arrangements may add to the delay in issuing a drought permit.</p> <p>Monitoring may be insufficient for higher risk sites. Deferring this to the time of application may cause further delay.</p>	<p>(a) The company should consider any further monitoring that may be needed. It should complete any additional monitoring of all relevant types, as necessary.</p> <p>(b) More specific information should be provided about further survey data required for the environmental assessment of each permit option, focussing on the features that are most sensitive and relevant.</p>

**Moderate issues**

Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
		<p>(c) The monitoring plan (section 4) does not detail any additional considerations needed to ensure sufficient information is monitored for higher risk sites (drought plan guideline appendix H1.1, box 3). The company proposes to discuss this with the Environment Agency when a permit is applied for.</p> <p>(d) Veolia Water South East uses many existing Environment Agency monitoring sites. No appropriate additional monitoring sites have been proposed in the plan as a result of the Stage 1 and 2 assessments (section 4.5 in the plan does not conform to our guideline Appendix H1.1 Stage 3).</p>	<p>Any additional monitoring sites may not be able to distinguish between the natural impacts of the drought and those caused by drought actions.</p>	<p>(c,d) Additional monitoring for higher risk sites, and for any additional monitoring sites, should be assessed in the drought plan, rather than at the time a permit is applied for.</p>
4	Environmental mitigation	<p>(a) The plan does not set out the sites that will require mitigation (section 4 &amp; Appendix 4.2). It only specifies "river support if possible".</p> <p>(b) The plan does not set out details of any additional permits or approvals required to carry out any mitigation measures (Appendix 4.2).</p> <p>(c) The plan does not appropriately consider the impacts of supply-side drought management actions to eel passage. Furthermore, there is no</p>	<p>Mitigation may be overlooked, inadequate, or made more difficult through lack of advance consideration. Late consideration may also cause delays in issuing a permit.</p> <p>The company's surface water drought permits may affect fish passage.</p>	<p>(a)The company should set out the sites that will require mitigation, the measures required, and how these measures will be triggered, monitored and managed. It should demonstrate that the actions will adequately minimise any environmental damage and/or protect from further damage from implementing supply-side drought actions.</p> <p>(b) The company should show that it has addressed Direction 4(f). A table showing where to find evidence of compliance with all the Directions might assist.</p>

**Moderate issues**

Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
		<p>consideration of fish passage for other fish species, at existing structures or at fish passes. Under section 9 of the Salmon and Freshwater Fisheries Act (UK) there is a requirement to maintain fish passes in an efficient state on waters frequented by migratory salmonids.</p>		<p>(c) The company should consider the impacts of its drought management actions on fish passage generally, making particular reference to eel passage and migratory salmonids.</p>
5	Unexplored potential supply-side drought management actions	<p>All of the company's drought permit options are in the Dour catchment. The majority require removing the hands-off-flow conditions agreed in the Dour Memorandum of Understanding (section 4). The company has not presented any information to show that it has considered drought permit options in other parts of its supply area.</p>	<p>The company relies on drought permit options from a single catchment, which could pose a risk to public water supply during a drought. There may be other options elsewhere in the company's supply area, which might give the company more flexibility to manage supplies during a drought.</p>	<p>The company should consider including drought permits outside the Dour catchment. It should provide information relating to the assessment and discounting of drought options in other catchments.</p>

**Moderate issues**

Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
6	Water Framework Directive	There is no consideration of the Water Framework Directive, other than a reference to data that the Environment Agency collects (section 4.5.2). There is no consideration of how to prevent or mitigate against temporary deterioration.	The company may not invoke its supply-side drought management actions in the least damaging order, environmentally.	<p>The company should consider the impact of its drought management actions on all water bodies that may be affected.</p> <p>The company should set out where temporary deterioration in status is likely and aim to prevent this where possible via appropriate mitigation measures.</p> <p>Some permits may be required due to over-riding public interest. However, the company needs to justify why this may be the case.</p> <p>The plan needs to show in which order the company's supply-side drought management actions would be best implemented.</p>
7	Time-line and lead-in for drought actions	The company states that in the event of a severe single season drought it would apply for drought permits from the Environment Agency in July to be implemented in September. Subsequently, in a severe single or multiple year drought the company says it would apply for drought orders to be implemented as soon as possible (section 2.4.3 and 2.4.4). The company has not completed any environmental assessment for these drought permit and orders (issues 1-3 above).	<p>The company may find that there are delays to the determination of its drought permits and orders due to insufficient environmental assessment. This may put public water supplies at risk in a severe drought.</p> <p>There may not be time for a hearing or public inquiry if required.</p>	<p>The company should make its permit applications as ready as possible in advance, because the lead-in times shown in its severe drought scenario show little leeway. If some options are orders rather than permits, this should be specified.</p> <p>The company should ensure that it allows time for a public hearing or inquiry into a drought permit application.</p>

Moderate issues				
Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
		Appendix 4.2 mentions both permits and orders – the company does not differentiate between the two.		

**Minor issues**

Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
8	Bulk supplies	<p>It is not clear from the plan how the 2 Ml/d bulk supply from South East Water would be managed during a drought.</p> <p>There is also a drought option for an increased supply from South East Water but no quantity is given.</p>	<p>The company may not be able to rely on the bulk supply from South East Water if South East Water is also in drought.</p>	<p>The company should agree how this bulk supply will be managed during a drought with South East Water and be more specific in its plan.</p> <p>The company should present more information on how much extra supply might be available from South East Water as a drought option.</p>
9	Communications plan	<p>The company should provide more information on how and when it plans to contact statutory stakeholders such as the Environment Agency and Natural England. Consultation is mentioned but the timing and frequency is not specified.</p> <p>The plan says it will review and revise the communications plan depending on effectiveness to date but does not say how it would do this (section 5.8).</p> <p>No explicit consideration is given to joined-up communications with the Environment Agency or other water companies, other than 'liaison' generally (section 5).</p> <p>The plan does not demonstrate how the company will monitor the effectiveness</p>	<p>Neither we nor other stakeholders can anticipate from the plan when we will be consulted.</p> <p>The company has no plan for keeping communications under review.</p> <p>Messages may not align well with those put out by other parties.</p> <p>The company may not use the most effective method of communication for its customers.</p>	<p>The communications plan should specify how and when consultation with the Environment Agency and Natural England will take place.</p> <p>We would recommend that the company puts in place measures to monitor how effective its communications are during a drought, and details these measures in its final drought plan.</p> <p>The company should consider how its communications are joined up with other water companies and the Environment Agency.</p> <p>The company should demonstrate how it will choose and monitor the effectiveness of different methods of communications during a drought.</p>

Minor issues				
Issue ref.	Area of issue	Issue and reference	Implications	Information or changes required
		of different communications actions during a drought (section 5).		
10	Drought triggers	The company has presented conflicting information about the drought triggers that it will use. It states both that only Wolverton New is used (section 2.2.1) and that Wolverton, Denge and Crabble Mill are used (appendix 1).	It is not clear what drought trigger(s) will be used to trigger drought management actions.	The company should clearly state the drought triggers that it will use to trigger drought actions. If the company is proposing to use only one trigger it should explain why the use of a single drought trigger is appropriate.
11	Demand savings	The company presents a range of values for demand savings. It does not state what numbers it uses for its demand calculations for drought planning (section 3.1).	It is not clear what assumptions the company has used in its drought planning scenarios.	The company should set out the demand savings assumed for its drought planning scenarios.
12	Drought permit map	The company has not provided a map of its drought permit sites.	It is not easy to see the location of the company's proposed drought permits.	The company should include a map of its drought permit sites.

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**Date:** 31 January 2012

Dear Carol

**VEOLIA WATER SOUTH EAST'S DRAFT DROUGHT PLAN**

Please find enclosed our representation to the statutory consultation on the draft drought plan published by Veolia Water South East on 15 December 2011.

In reviewing this and other companies' plans, we believe that there are some significant changes that Veolia Water South East should make to its drought plan to improve the management of water resources in a drought and security of supplies to its customers.

We intend to assess the company's Statement of Response and any revised draft drought plan and send you an advice report within six weeks of Veolia Water South East publishing its Statement of Response. Our advice will detail how the company has addressed representations made on its draft plan and outline any outstanding issues in Veolia Water South East's drought plan.

If you or anyone in your team has any questions about our representation please contact Lisa Cullimore on 01179 344214 by e-mail on [lisa.cullimore@environment-agency.gov.uk](mailto:lisa.cullimore@environment-agency.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read "Pauline Smith", with a long, sweeping underline.

**Pauline Smith**  
**Environment and Business Manager**