

SCHEDULE

DEFRA/Natural England Position Statement

It is not true that the Secretary of State and Environment Agency does not intend to apply for WPZs. As the draft RBMP (30 October 2015) states in the “Information on Mechanisms for the Water Framework Directive (WFD)” Annex, WPZs can be designated to establish ¹existing statutory provisions to prevent water pollution where evidence shows that existing statutory or voluntary measures have not been or unlikely to be sufficient to meet WFD objectives.

The phrase “last resort” as used in the 2010 and 2011 documents to which the Claimants refer should not be understood in any other way. In particular, the EA has never decided not to pursue proposing any WPZs in the future, or that it would only do so if and when other measures had been demonstrated to have failed.

Instead the evidence base that is required to be obtained before a WPZ can be applied consists of evidence:

- (i) Of the cause of pollution in each specific site;
- (ii) What measures would be most effective to achieve the objectives for the site and what mechanism is the most appropriate to implement the identified measures, whether a WPZ or General Binding Rules on Agriculture (currently being consulted on), anti pollution works notices, cross-compliance, or any other available mechanism.

The work needed before a WPZ can be proposed and deployed has been and is being carried out through catchment based initiatives, partnership working and ongoing investigations, monitoring and evidence gathering to support implementation of WFD requirements. The evidence that has been and is being produced as a result of this work forms the necessary evidence base to assess whether the identified measures are likely to be sufficient to meet WFD objectives for each site, including whether those measures need to be backed by a WPZ order.

For the avoidance of doubt, the work described at (ii) above will involve evaluation of the potential for measures to be included in WPZ orders to achieve the protected area objectives in each Natura 2000 site and the effectiveness of delivering those measures through a WPZ mechanism. The results will be set out as soon as reasonably practicable in the Diffuse Water Pollution Plans and/or Site Improvement Plans as appropriate for each site, as amended from time to time.

¹ The draft Consent Order at line 4 says “WPZs can be designated to establish existing statutory provisions”). This should read ‘additional’ not ‘existing’.