

CO/3029/2015

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

30 NOV 2015

BEFORE THE HONOURABLE MR JUSTICE COLLINS

BETWEEN:

- (1) WWF-UK
(2) THE ANGLING TRUST
(3) FISH LEGAL



Claimants

-and-

- (1) THE SECRETARY OF STATE FOR THE ENVIRONMENT, FOOD AND
RURAL AFFAIRS
(2) THE ENVIRONMENT AGENCY

Defendants

CONSENT ORDER

UPON the Defendants having set out their position in the attached Schedule

IT IS ORDERED BY CONSENT:

1. The claim is withdrawn other than for the purposes of enforcing the Schedule.
2. Liberty to the parties to apply in relation to the enforcement of the Schedule.

19 November 2015

A handwritten signature in black ink, appearing to be 'A. Collins'.

Signed:

Sir Andrew Collins

1

By the Court

SCHEDULE

DEFRA/Environment Agency Position Statement

It is not true that the Secretary of State and Environment Agency do not intend to apply 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 additional statutory provisions to prevent water pollution where evidence shows that existing statutory or voluntary measures have not been or are 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 Environment Agency has never decided not to pursue proposing any WPZs in the future, or that it would only do so if and when all 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 of:

- (i) the cause of pollution in each specific site;
- (ii) what measures would be most effective to achieve the objectives for the site and where they should be deployed; and what mechanism is 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 the catchment based initiative, 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 the 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.