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Janet Forbes,
WFD UKTAG c/o Sniffer,
25 Greenside Place,
Edinburgh,
EH1 3AA

27th February 2013

Dear Janet,

WATER FRAMEWORK DIRECTIVE UKTAG STAKEHOLDER REVIEW – PHOSPHORUS AND BIOLOGICAL STANDARDS

Thank you for inviting comments from stakeholders on UKTAG's proposals for revised standards to assess compliance with the EU's Water Framework Directive (WFD) in relation to phosphorus in rivers and biological standards for lakes, rivers, transitional and coastal waters. We were also grateful for the opportunity to attend the workshop UKTAG hosted in January.

These comments are from Dŵr Cymru Welsh Water, the statutory water and sewerage undertaker that supplies over three million people in Wales and some adjoining parts of England. We are owned by Glas Cymru, a single purpose, not-for-profit company with no shareholders. We provide essential public services to our customers by supplying their drinking water and then carrying away and dealing with their wastewater. In this way, we make a major contribution to public health and to the protection of the Welsh environment. Our services are also essential to sustainable economic development in Wales.

UKTAG has published separate but linked consultation papers relating to phosphorus and biology. We welcome this transparency. Dŵr Cymru also supports the intention to ground truth phosphorus results by cross referring to the biology at relevant waterbodies: that approach is sensible and is entirely within the spirit of the Directive.

Dŵr Cymru recognises that the impact of nutrients on water quality and the associated biology is an evolving area of scientific study. We are aware that before making its recommendations, UKTAG has examined the outputs of many related studies, including those listed in the supporting paper "*A revised approach to setting Water Framework Directive phosphorus standards*" and in each of the Annexes. We do not doubt the rigour of UKTAG's efforts.

However, in setting and applying standards, there is a balance to be struck in terms of costs and benefits. The WFD's disproportionate cost provisions implicitly acknowledge that a degree of pragmatism is needed.

More generally, UKTAG needs to recognise that the current downturn affecting the UK economy may have implications for its level of ambition for WFD. What may seem



We welcome correspondence in Welsh and English
Rydym yn croesawu gohebiaeth yny Gymraeg neu yn Saesneg

affordable during a time of economic growth may be less realistic during a period of austerity when cut backs are being made by many organisations and families alike.

The inherent uncertainties underpinning UKTAG's recommendations strengthen the case for reconsidering whether now is the right time to press ahead with the introduction of more stringent standards. For the reasons given below, Dŵr Cymru believes that these uncertainties are too great to warrant the adoption of these standards in the next WFD cycle and, in particular, cannot justify the implied levels of investment. The uncertainties bolster the disproportionate cost argument under the WFD – for agriculture as well as the sewerage sector.

For example, and as UKTAG's consultation paper acknowledges, there are still considerable uncertainties and "noise" in the data. Many factors such as shade, river flow, river bed composition, grazing and the effects of other plant nutrients, or the presence of other pressures could all influence the biological response to phosphorus. At the workshop we learnt that UKTAG has only a 50% certainty that the achievement of the proposed phosphorus standards will deliver Good Status.

There are particular uncertainties surrounding the implications for Wales. (Unlike for Scotland and Northern Ireland) the phosphorus consultation paper includes no separate assessment of the impact on Wales' non-compliance with WFD. We were told at the workshop that there are only four sites in Wales where the requisite suite of phosphorus and biology sampling had been undertaken, so the dataset was too small to extrapolate a Wales-wide picture.

This suggests that the Welsh Government will be asked to decide whether or not to accept UKTAG's recommendations without having a proper assessment of the scale of the resultant reduction in Wales' compliance with Good Status. The Minister has said publicly that his ambition is to achieve 50% of water bodies in Wales at Good Status by 2015¹: we fear that UKTAG's recommendations could seriously undermine the achievement of this worthwhile goal.

Meeting UKTAG's standards might also imply that the Welsh Government and Natural Resources Wales will need to exert much greater control over agricultural practices if Good Status is to be achieved and/or maintained in Wales. Although UKTAG's consultation paper on phosphorus standards gives the clear impression that they will only impact point discharges, the Environment Agency's own data² show that whilst the sewerage sector accounts for about 48% of phosphorus in Welsh rivers, agriculture contributes almost as much, i.e. 45% (the proportions are very different in England).

As part of its justification of the review of the phosphorus standard, UKTAG's consultation paper says, "*The... need to reach agreement on standards with the UK conservation agencies led to this topic being revisited by UK TAG...*" However, elsewhere the report concedes that, "*in carrying out this work a comparison was also made with phosphorus targets developed by the UK conservation agencies for protecting river habitat in rivers with special wildlife designations...further work is required before clear recommendations can be made. This will be taken forward, together with a similar review of lake P standards and is not included in this extract report.*" Thus we can expect a further revision of the phosphorus standard to be applied to many of the major rivers in Wales – again this compounds uncertainty.

¹ November 2012 evidence from Minister for Environment and Sustainable development to National Assembly for Wales Committee inquiry into marine policy

² See Freshwater Eutrophication – a nationally significant water management issue – briefing note for 10/12/12 workshop

Against that background, the Welsh Government may want to opt for further research in Wales. Much more baseline data needs to be collected if Welsh Government is to be in a position to understand the impact that the proposed standards would have on Wales' non-compliance with Good, including the Minister's 50% goal. Collection of that data should be a priority for Natural Resources Wales in the WFD's second cycle.

Particularly given that a significant proportion of Wales' major rivers are Habitats Directive Special Areas of Conservation, we think there is a case for awaiting the development of a combined WFD and Habitats standard, rather than applying an interim standard pending agreement between the UK's environmental and conservation regulators.

Such a postponement would have wider advantages for business planning within for sewerage sector and others. The Environment Agency and sewerage undertakers are already considering the programme of work that our industry should be required to carry out during 2015-2020 (AMP 6). The mismatch between Ofwat's periodic reviews and the WFD planning cycles means that, irrespective of UKTAG's latest proposals, there will be some residual uncertainty when Ofwat sets prices in 2014. This uncertainty will be compounded if UKTAG's revised standards are adopted for the next cycle, especially as so little seems to be known about the extent of Welsh waterbodies' current compliance.

A delay would also enable an assessment of the benefits that will be delivered by the reductions of phosphates in detergents coming into force during the next few years. Other forms of source control, such as reducing phosphate in food additives, should also be examined. Only after these issues are fully explored should decisions be taken on expensive, energy intensive capital WWTW solutions: the sewerage industry's effort during AMP6 should, instead, be focussed on investigating the impact and practicality of the proposed standards, including in terms of disproportionate costs and technical feasibility.

Turning to the recommendations relating to biology, Dŵr Cymru believes that priority must be given to developing a better, practical (and non fatal) means of assessing fish abundance and species variety in water bodies. The current and proposed methodologies are flawed. For example, current sampling programmes do not acknowledge the differences that can exist between the fish populations in tributaries and the main river stem, so large programmes of measures can be driven by potentially inaccurate fisheries assessments.

We have worked closely with relevant regulators in designing our on-going, ambitious programme of investigations into the Wye and Usk rivers. Our work has, for example, demonstrated the limitations of the current methodologies in assessing fish populations and shown the importance of tributaries in terms of providing valuable habitat. It has also highlighted an apparent lack of regular, coordinated monitoring between the three regulators that have an involvement in these catchments. We would be happy to share the lessons we have learnt with UKTAG.

We would also like achievement of the WFD fish standard to be combined with the achievement of Favourable Conservation Status under the Habitats Directive for waterbodies that are Special Areas of Conservation and where fish is a feature. Applying different standards for the same element – as happens now - is an obvious example of poor regulation. (Hopefully the amalgamation of CCW and EAW into Natural Resources Wales and CCW's new 'LIFE' Natura 2000 programme for Wales will help to reduce such mismatches in Wales in the future.)

More generally, we question the need for so many measures of compliance. The Directive itself prescribes a number of specific elements, but here in the UK we seem to have opted for additional - and unnecessary - complication. Particularly given the "one out, all out" implementation regime, this serves to maximize the chances of failure.

Finally, we are concerned about the implications for the new Natural Resources Wales. As noted above, there are apparently only four sites in Wales where the necessary sampling has previously been done, so UKTAG's recommendations seem to imply a huge increase in sampling effort here. Before accepting UKTAG's recommendations, the Welsh Government will need to be satisfied that Natural Resources Wales is equipped to deliver them – in terms of funding, staff numbers and laboratory capacity. We also wonder whether Natural Resources Wales will have sufficient staff with the requisite skill-sets to apply the very specialized techniques that underpin the macrophyte and phytobenthos standards for example.

A copy of this letter is being sent to Nicola Thomas, Head of the Welsh Government's Water Branch and to Ceri Davies at Environment Agency Wales.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Paul Henderson', with a long horizontal flourish extending to the right.

Paul Henderson
Environment Strategy and Research Manager

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