

IN THE MATTER OF

SECTION 52 OF THE WATER RESOURCES ACT (AS AMENDED BY SECTION 22 OF THE
WATER ACT 2003) AND

REGULATION 31 OF THE WATER RESOURCES (ABSTRACTION AND IMPOUNDING)
REGULATIONS 2006

PROPOSAL BY THE ENVIRONMENT AGENCY TO VARY ABSTRACTION LICENCE NO.
14/46/004/0685 HELD BY MR MILES R. FURSDON IN RELATION TO OLD WALLS HYDRO

OBJECTION BY MILES R. FURSDON

OBJECTOR'S STATEMENT OF CASE

- 1 This statement of case is prepared on behalf of Mr Miles R. Fursdon (the **Objector**) in relation to his objection to a notice served by the Environment Agency (**EA**) to vary a water abstraction licence held by the Objector under section 52 of the Water Resources Act 1991. The statement is prepared further to the directions from the Planning Inspectorate in its letter dated 13 March 2026.
- 2 A bundle of documents referred to in this statement of case has also been filed. References to documents in the bundle are in the form **[Tab/Page]**.
- 3 This statement is designed to provide further information to supplement the Objector's Objection Letter dated 4 February 2026 **[1/2-6]**.

A: Introduction and overview

- 4 The Objector operates a hydroelectric power installation known as Old Walls Hydro, which generates electricity using water abstracted from the West Webburn River (the **River**). The Objector runs Old Walls Hydro in partnership with his wife, Gail Fursdon (the partnership is known as M.R. and G.R. Fursdon). Old Walls Hydro is situated at Old Walls Farm, and the Objector and Mrs Fursdon also live on the site in the cottage called Waterleat Lodge.
- 5 A hydroelectric scheme has operated at Old Walls Farm since 1936, with the current scheme having been in operation since 1995. The current scheme produces enough electricity to power around 150 average homes and is the primary power source for Old Walls Farm.
- 6 Old Walls Hydro operates subject to a water abstraction licence granted by the EA on 21 July 1992 and subsequently updated in 2010 to change the Objector's address (the **Licence**) **[2/7-13]**. Pursuant to the current Licence, water is abstracted from the River at Old Walls Weir by gravity via a partially concrete-lined leat of approximately 460m, and discharged back to the main River downstream, creating a deprived reach of approximately 600m in the River. As a brief summary of the features of the scheme:

- 6.1 The hydro scheme uses a cross-flow turbine. The level of abstraction is controlled by the turbine, and the measurement of reserve flow is carried out by a sensor at the head of the leat.
 - 6.2 A 10mm fish and debris screen is in place at the forebay at the end of the leat and at the head of the penstock (being the supply pipe to the turbine).
 - 6.3 Immediately upstream of the screener at the forebay, there is a smolt bypass in the form of a pipe with a diameter of 200mm leading down to the River. The pipe is opened by the Objector when smolt are present at the forebay.
 - 6.4 A tailrace screen is deployed by the Objector seasonally, typically from October to December to coincide with the upstream migration of fish.
- 7 Old Walls Hydro has been listed on the EA's Restoring Sustainable Abstraction (**RSA**) Programme since 2009.
- 8 On 6 January 2026, the EA proposed to vary the Licence. A draft variation to the Licence was provided (the **Draft Licence**) [3/14-24].

B: Basis of Objection

Summary

- 9 The Objector objects to the EA's proposals to vary the Licence on the basis that the EA has not provided evidence to show that abstraction under the current Licence has a detrimental effect on the ecology of the River.
- 10 The EA's evidence base, contained within its Licence Change Proposal Report (**LCPR**) [4/25-68], relies primarily on hydrological modelling, generalised fisheries risk assessment and expert judgment. The EA does not provide any site-specific evidence and therefore does not demonstrate that the current abstraction regime at Old Walls Hydro is causing measurable ecological harm. As such the EA has not demonstrated that the proposed licence changes, which are significant, are necessary or proportionate to achieve ecological improvement.
- 11 The EA, at paragraph 6.2 of the LCPR [4/55], confirms that the proposed licence changes are not necessary to protect the water environment from serious damage. The EA recommends these licence changes based on local impact. The EA has failed to demonstrate any detrimental impact that Old Walls Hydro has on local ecology.
- 12 By reference to the criteria which the EA considers when granting permission to build a new Hydro scheme,¹ the EA has not provided any evidence to suggest that the scheme at Old Walls Hydro:
- 12.1 Prevents the achievement of the Water Framework Directive objectives;
 - 12.2 Affects protected or designated sites or species in unacceptable ways;
 - 12.3 Is detrimental to fish passage;
 - 12.4 Affects people's access to the River;

¹ [Apply to build a new hydropower scheme - GOV.UK](#)

- 12.5 Has a negative impact on local communities.
- 13 Rather than providing site-specific evidence, the EA refers to the current scheme not complying with best practice guidance, as follows:
- 13.1.1 Guidance for run-of-river hydropower development 2017 (the **Hydropower Guidance**) [5/69-136].
- 13.1.2 Screening for intake and outfalls: a best practice guide.²
- 14 The two guidance documents are not statutory guidance and as such are not binding. The EA should not apply its guidance rigidly without considering whether departures may be appropriate for the specific circumstances to which the guidance is being applied. The EA is under no obligation to make changes to the Licence purely in order to bring the Licence in line with current best practice, and should consider site-specific evidence.
- 15 The Objector does not consider that the EA's proposals are reasonable or proportionate. The EA has not demonstrated that its proposals are no more intrusive than necessary to achieve the objective of sustainable abstraction. The EA has failed to balance the reasonable interests of the Objector with the possible benefits to the River from implementing the licence change proposals.
- 16 The following sections provide more detail in relation to the Objector's grounds of objection. The Objector intends to obtain further expert evidence and submit proofs of evidence to supplement his objection, as follows:
- 16.1 A proof of evidence from Adam Robbins of HalpinRobbins (environmental consultants) on the impact of Old Walls Hydro on the River; and
- 16.2 A proof of evidence from Chris Elliott of On-Stream Energy in relation to the engineering which would be required to implement the EA's proposals.

General Grounds

(i) Unsuitability of the evidence relied on by the EA

- 17 The EA has not provided site-specific evidence to show that the abstraction at Old Walls Hydro is unsustainable or that it is having a negative hydrological or ecological impact on the River.
- 18 The only evidence which the EA has put forward to justify its proposals is the evidence in its LCPR. In the LCPR, the EA refers to certain aspects of the scheme not meeting current best practice guidance, referring to general risks posed by certain types of infrastructure. No evidence is provided of any impacts actually observed at Old Walls.
- 19 The EA's hydrological assessment, referred to at paragraph 2.2.3 of the LCPR [4/37], is not based on direct measurement at the abstraction point. The EA confirms that there is no continuous flow monitoring at the site and that river flows have instead been derived from a gauging station at Austins Bridge, approximately 14km downstream of the abstraction point, with those flows transposed to the site using modelling techniques. The River is a Dartmoor upland river characterised by flashy flow responses and high variability over short distances. The EA's reliance on transposed data therefore is not appropriate in these

² [Screening for intake and outfalls: a best practice guide - GOV.UK](#)

circumstances, and is not sufficiently reliable to justify the significant changes proposed to the Licence, in particular relating to Hands Off Flow restrictions.

- 20 The Objector also queries the EA's reliance on its modelling given the limited evidence of validation, in light of the variability of flows in this type of catchment. The EA states that the model has been checked against spot gaugings, but there is no evidence of continuous monitoring or long-term calibration at the abstraction point.
- 21 Additionally, the EA's analysis is based on a "fully licensed scenario", assuming that abstraction occurs at the maximum rate permitted under the Licence. The modelling therefore represents a theoretical worst-case scenario rather than real-world operating conditions. The EA acknowledges that actual abstraction is constrained by available river flows and has historically been lower than the licensed maximum. The EA has therefore not demonstrated on the evidence that the current abstraction regime, as operated in practice, is causing ecological harm.
- 22 The EA's fisheries assessment, referred to at paragraph 2.2.4 of the LCPR [4/41], relies on the expert opinion of EA Fisheries Technical Specialists as to the effects that would be observed on fish migration if the Licence was operated to maximum authorised quantities. As with the EA's hydrological assessment, the EA has failed to consider site-specific evidence, and has inappropriately considered the possible impacts from a fully licensed scenario rather than typical levels of abstraction.
- 23 The EA has not presented any evidence, such as fish counter evidence, to demonstrate that the abstraction or associated structures at Old Walls are acting as a barrier to fish migration. The assessment does not include any direct study of fish behaviour, movement or mortality at the site, which would reasonably be expected to justify such extensive proposed changes to the Licence.

(ii) Ecological context of the site

- 24 Current available site-specific evidence, including the EA's own evidence, supports the Objector's position that Old Walls Hydro does not have a detrimental impact on the ecology of the River.
- 25 EA survey data³ records the presence of migratory species, including Atlantic salmon and European eel, both upstream and downstream on multiple occasions. This is supported by the Objector's observations on site. The presence of these species upstream necessarily indicates that Old Walls Hydro does not prevent or impede migration in practice. The EA has not presented any evidence to show a significant reduction of such species upstream, which would be expected if migration was being materially impeded.
- 26 Additionally, a smolt trial was conducted by the Objector and the EA in 2007, at the EA's request [6/137]. The trial recorded the movement of smolts and trout within the forebay and their subsequent return to the River via the bypass pipe. While this report was not signed off by the EA, for reasons which are not clear to the Objector, the report concluded that no damage to fish was observed under the conditions in which the trial was undertaken.
- 27 Furthermore, the following two EA reports prepared in 2018 under the Restoring Sustainable Abstraction regime provide site-specific evidence to show that Old Walls Hydro has not been demonstrated to have a detrimental impact on the ecology of the River:

³ Environment Agency. Protected and Invasive Species Records Collected Through Environment Agency Survey 1995 - 2021. Occurrence dataset on the NBN Atlas. Accessed 19 April 2026.

- 27.1 A fish investigation report **[7/138-143]**, which considered the impact of Old Walls Weir (incorrectly referred to as Jordan Weir) on migratory fish. The report concluded that no evidence had been identified that the observed decline in salmon numbers was caused by Old Walls Hydro. While the report acknowledges that the scheme may have some localised influence on fish movement, it does not conclude that the abstraction is causing population-level effects or material ecological harm.
- 27.2 An ecology report **[8/144-164]** assessing the ecological impact of abstraction at Old Walls Hydro. The report focussed on macro-invertebrate communities and concluded that none of the various tests showed an ecological impact caused by the abstraction. The report also concluded that water quality remained high at all times during the survey period, that the depleted stretch showed no sign of deterioration, and that the volume of water remained high in the depleted reach even after a long period of dry weather. This evidence suggests that water quality and habitat conditions within the river remain good and that the abstraction is not resulting in observable ecological degradation.
- 28 The EA's own classification data does not support the licence change proposals. The "Reasons for Not Achieving Good" (**RNAG**) dataset⁴ identifies the fish classification for the River as being affected by "other pressures", with no responsible sector identified. The EA has not attributed the moderate fish status to abstraction, hydropower, or any other specific activity.
- 29 Overall, the available ecological evidence indicates that:
 - 29.1 Macroinvertebrate communities are in good condition with no detectable downstream impact;
 - 29.2 Fish population changes are occurring at a catchment scale and are not attributed to the scheme; and
 - 29.3 The EA has not identified abstraction as a causal factor in the River failing to achieve good status.

(iii) Engineering feasibility and proportionality

- 30 The Draft Licence proposed has many complex conditions, but the EA has failed to assess if they are reasonably practicable. The Draft Licence requires the Objector to submit written plans and/or drawings detailing the design and specification of the intake structure required by Condition 9.2 and the screens required by Condition 9.4.
- 31 Therefore, if the Licence change proposals are implemented, neither the Objector nor the EA have any certainty that the proposal is capable of being delivered and at what cost.
- 32 While the Objector accepts that the costs impact of any implemented proposals will be addressed under a separate compensation application, which is not the subject of this Inquiry, the Objector stresses that the following factors are relevant to the Inspector's decision as to whether the Licence change proposals should be implemented:
 - 32.1 Whether the proposals, if implemented, will actually be effective in improving the ecology of the River or whether they will actually have a negative ecological impact. The Objector submits that the proposals will not materially improve the ecology of

⁴ Fish RNAG in the West Webburn River, [Fish RNAG in West Webburn River | Catchment Data Explorer](#). Accessed 21.4.2026.

the River. The Objector also has concerns regarding possible negative impacts from installing a fish screen at the head of the leat which are dealt with below.

32.2 Whether any benefit from the proposals would be proportionate to the burden that the proposals would place on the operation of the hydro scheme.

33 Additionally, at paragraph 7 of the LCPR [4/55], the EA states that it has taken account of the financial and environmental costs and benefits of its Licence change proposals pursuant to section 39 of the Environment Act 1995. Presumably the EA must have therefore considered the amount of compensation that would be likely to be payable if their proposals are approved. The Objector queries how this could have been achieved if the EA has not considered designs for the scheme as proposed by the Draft Licence.

(iv) EA's powers and responsibilities as a regulator

34 Pursuant to section 4 of the Environment Act 1995, the EA's principal aim in discharging its functions is to "protect or enhance the environment, taken as a whole, as to make the contribution towards attaining the objective of achieving sustainable development".

35 As highlighted in the recent Strategic Policy Statement for the Environment Agency,⁵ the EA (as a regulator) is also bound by:

35.1 the statutory principles of good regulatory practice (s.21 Legislative and Regulatory Reform Act 2006);

35.2 the Regulators' Code; and

35.3 the Growth Duty (s.108 Deregulation Act 2015).

36 In light of these responsibilities, the Objector objects to the Licence variation on the following bases:

36.1 The EA has failed to consider the proportionality of using its section 52 powers to vary long-established rights where there is no site-specific evidence of environmental harm; and

36.2 The EA, in considering the proportionality of its proposals and its overall objective of protecting the environment "as a whole", has failed to consider the role that Old Walls Hydro plays in renewable energy generation, which supports climate change mitigation and sustainable growth. The EA's licence change proposals will have a significant impact on the operation of Old Walls Hydro, likely reducing electricity generation from the site by approximately 75% and threatening the economic viability of the scheme.

Specific Grounds

(v) Imposition of a 6mm fish and debris screen at the head of the leat

37 The Objector objects to the proposed revised location and aperture of the fish screen particularised at condition 9.4(i), and corresponding conditions at 9.4(iii), 9.4(iv) and 9.5.

38 The location of the fish and debris screen is currently at the intake of the turbine (the forebay) and has been since 1996. The reason for the screen being moved to the forebay in 1996 was not, as suggested in the LCPR, due to the infirmity of the previous licence

⁵ [Strategic Policy Statement for the Environment Agency - GOV.UK](#), dated 12.3.2026.

holder (who had passed away three years previously). The reason for moving the screen was related to the volume of stones and grit deposited at the intake in high-flow events, which made it fundamentally difficult to operate and maintain a screen reliably in this situation on a steep upland river. Placing a screen at the intake was attempted in 1995 when the revised site layout was installed but was found to be unworkable in times of flood. At the time the relevant EA officer agreed that the better solution was to put the screens at the forebay, along with a smolt bypass pipe to be operated as required.

- 39 The Objector objects to the requirement to install a fish and debris screen at the head of the leat, predominantly on the basis that the EA has not provided any evidence of any actual harm or risks to the ecology of the River from the current system at Old Walls. The EA simply states that the current screening arrangements are "no longer considered acceptable under current operational and environmental standards", referring to Screening Guidance which was not in place at the time of the agreement with the EA to place the screen at the forebay.
- 40 Additionally, as the EA has placed the onus on the Objector to design the screen, the EA cannot possibly have evidence of the positive benefits of installing a screen at the head of the leat, or whether such benefits are proportionate to the practical implications of installing such a screen.
- 41 The Objector also objects to the EA's requirement that the fish screen (regardless of location) must have an aperture of 6mm, pursuant to the condition at clause 9.4(i) of the Draft Licence.
- 42 The current screen at the forebay is 10mm. The Hydro Guidance states that up to 10mm is appropriate for the protection of migratory salmonids where there is a cross-flow turbine. 6mm is recommended where there is evidence of Salmon parr. The Objector is not aware that there is any evidence of Salmon parr in the vicinity of Old Walls Hydro and the EA has not provided any evidence of this.
- 43 The EA has not assessed the practical implications of installing a 6mm screen in a flashy upland river environment. Evidence from the site indicates that the River is capable of transporting significant volumes of debris, sediment and coarse material during high flow events. The EA acknowledges that fine screens are susceptible to blinding and blockage caused by debris, which can reduce their effectiveness and impede flow. In these conditions, a 6mm screen may be prone to blockage, increased maintenance requirements and potential adverse hydraulic effects, including risks of fish impingement or delay if flows are restricted. The effectiveness of such a screen depends not only on mesh size but also on its positioning, approach velocities, and the availability of safe escape routes for fish encountering the structure. No site-specific evidence has been provided by the EA to demonstrate how a 6mm screen would perform under such conditions or how it would deliver an overall ecological benefit.
- 44 Additionally, in the event that the EA is successful in pursuing this Licence change and the Objector claims for compensation, the Objector expects the installation and maintenance of the screen to come at a significant cost, especially on the basis that the current screen at the forebay will still be required to prevent any humans or wildlife who fall into the leat from entering the turbine.

(vi) Reserve flows

- 45 The Objector objects to the introduction of a Hands Off Flow (**HoF**) condition of Q95 at condition 9.2(i) of the Draft Licence.

- 46 While Q95 is recommended in the Hydropower Guidance, the EA has not provided any evidence that the current levels of abstraction at Old Walls are unsustainable.
- 47 The EA's proposal is based on hydrological monitoring derived from a distant gauging station rather than site-specific measurement. There is no site-specific ecological evidence demonstrating that current low-flow conditions are causing ecological harm.
- 48 In the absence of evidence of harm, the proposed HoF represents a precautionary measure rather than a response to demonstrated impact.

(vii) Percentage take

- 49 The Objector objects to the introduction of a take of 35% above HoF at condition 9.2(ii) of the Draft Licence.
- 50 While 35% is recommended in the Hydropower Guidance, the EA has not provided any evidence that the current levels of abstraction at Old Walls are unsustainable. There is no evidence that the current abstraction regime is causing ecological harm through reduced variability.

(viii) Sweetening flow

- 51 For the reasons highlighted above at paragraphs (vi) and (vii) above, the Objector objects to the introduction of a sweetening flow required under condition 9.2(iii) and (iv) of the Draft Licence, on the basis that the EA has not shown any evidence that the current levels of abstraction at Old Walls are unsustainable.

(ix) Means of controlling and measuring abstraction at the head of the leat

- 52 The Objector objects to the addition of a means of controlling and measuring abstraction at the head of the leat (Condition 7.1). Abstraction is already effectively measured and controlled by the turbine, and the Objector sees no practical or ecological benefit of introducing a means of controlling and measuring abstraction at the head of the leat. The EA has not provided any justification in the LCPR for this change.

(x) Tailrace screen

- 53 The Objector objects to the requirement of a 25mm tailrace screen being installed permanently all year round (Condition 9.4(ii)).
- 54 The Objector currently operates a tailrace screen seasonally in October to December inclusive. The EA's fisheries evidence does not identify specific periods of increased risk or demonstrate that fish are being adversely affected under the current operation. As such the necessity of permanent operation has not been established on an evidence-based footing.
- 55 The Objector also objects to the requirement that the tailrace screen must be 25mm. The EA has not provided any evidence to suggest that the current screen, which has an aperture of 35mm, is inadequate.

(xi) Time limit

- 56 The Objector objects to the imposition of a time limit. The current South Devon WFD Management Area Abstraction Licensing Strategy [9/183] provides that all new licences and variations (other than downward variations or minor variations having no environmental impact) will have a time limit imposed. As the Objector's position is that the EA's proposals

to vary the Licence should not be accepted, the Objector does not consider that a time limit should be imposed.

(xii) Reduction in annual volume

- 57 The Objector objects to the proposed reduction in annual volume of abstraction, on the basis that it has not been shown to have any potential ecological benefit.
- 58 The EA's evidence indicates that the actual abstraction is already constrained by river flows and is unlikely to reach the current licensed maximum. The proposed reduction therefore appears to be an administrative adjustment rather than a response to ecological impact.

C: Conclusion

- 59 For all these reasons, and for those to be advanced in the evidence of Mr Robbins and Mr Elliott, the Objector will invite the Inspector to refuse the proposals to vary the Licence.

Michelmores LLP

Legal representatives of the Objector

8 May 2026