On behalf of the Environment Agency
Witness: Emma Townsend
OBJECTION REFERENCE NUMBER: ENV/3378112
Dated: 14 July 2026

PROOF OF EVIDENCE OF EMMA TOWNSEND

A. Personal statement

1. My name is Emma Townsend. I am a Senior Specialist for water resources working for the Environment Agency. My role is as an environmental planner for water resources, with a responsibility for the geographical area of Devon, Cornwall and Isles of Scilly.

2. I work at the Area level within the Agency. The remit of my role is to undertake environmental planning, including making informed interpretation of evidence and decisions, within the boundaries of Government policy and following guidance set out by the Agency.

3. I hold a first class combined honours degree in Biology and Geography (BSc) from Exeter University (1997) and a distinction for a Masters degree in Environmental Management (MSc) from De Montfort University (2005).

4. I have worked for the Agency for 28 years. I have previously held environmental planning roles within the Agency in the south west focussed on water quality, diffuse pollution and agriculture. I have been undertaking water resources environmental planning since 2018.

5. I have worked on the Restoring Sustainable Abstraction programme in two main periods, between 2018 to 2020 and more recently 2024 to 2026. My role is as the project manager for the programme and to provide technical expertise with regards to water resources matters.

6. I am not the principal author of the options appraisal report or the licence change proposal report prepared for this site but I led the discussions of the virtual technical team for the site, was consulted on both documents and signed the options appraisal report as complete.

7. This witness statement will cover the following :
    - Environmental planning and water resources
    - History and purpose of the RSA programme and inclusion of Old Walls HEP.

- Water Framework Directive status for the West Webburn River and the use of this as additional justification to support the case for licence change
- Options appraisal and preferred option selection, including how this translated into new conditions for the abstraction licence
- The licence change proposal report and how this report fits into the RSA process
- The cost benefit assessment completed
- How we considered balancing the needs of the licence holder against the environment, taking into account that it is an existing operational HEP site

8. In relation to each of these issues this proof of evidence will not repeat the relevant paragraphs in the Agency's Statement of Case, which I was involved in drafting, or the relevant underlying paragraphs in the LCPR and Options Appraisal Report, Instead I will summarise the thrust of those paragraphs, in so far as they informed the Agency's decision to proceed with the proposals, and then highlight particular issues, and respond to points made by the Objector.

9. I refer to a number of core documents (CDs) in this proof of evidence, all of which are contained in the agreed bundle of documents. Wherever possible, I have tried to adopt the terminology used in the EA's Statement of Case when referring to documents.

10. I am duly authorised by the Environment Agency to make this witness statement on its behalf.

11. Insofar as the contents of this witness statement are within my own knowledge they are true, otherwise they are true to the best of my knowledge, professional opinion, information and belief and are derived from the sources identified herein and Environment Agency records.

B. History and purpose of RSA programme

12. Restoring Sustainable Abstraction (RSA) is an Agency national programme of work to identify, investigate, and resolve environmental risks or problems caused by unsustainable licensed water abstraction throughout England. The RSA programme began in 1999 when a group of sites (predominantly water-dependant SSSIs) thought to be at risk from abstraction were initially identified in consultation with key partners such as English Nature.

13. Each RSA investigation is centred on a defined site, area, or river where an abstraction-related concern has been raised. Once the EA has concluded that licensed abstraction has resulted in environmental impact or presents an unacceptable risk of impact, it appraises the options available to improve and protect the site under consideration. Where the solution to protect the site

involves changing one or more abstraction licences, for example reducing volumes licensed for abstraction, these changes are achieved either by the licence holder applying voluntarily to change their licence under section 51 of the Water Resources Act 1991 (WRA1991) or by using the EA's statutory powers provided by section 52 of the WRA1991.

14. Between 1999 - 2012, the RSA programme considered approximately 500 sites across England. These sites were prioritised according to their sensitivity to abstraction and also in line with statutory obligations.

15. Each site required careful investigation and options appraisal work to identify if any action was required and if so, the appropriate steps to ensure no adverse effect on the environment from abstraction.

16. Whenever the RSA programme identified changes to abstraction licences as the preferred solution, the EA consulted with abstraction licence holders to try and agree solutions on a voluntary basis. Failing this, the EA would need to use its statutory powers to enforce licences changes using s.52 of the Water Resources Act 1991.

17. Since 2008 the RSA programme has been used to vary or revoke 343 permanent licences (i.e. those without an expiry date) throughout England to address a range of abstraction related issues.

18. The RSA programme was closed to new sites in 2012. All sites potentially at risk from abstraction had been identified by this point and closing the programme gave the EA a clear indication of the remaining workload, timescales, and costs. The EA has since been investigating and resolving potential environmental risks caused by licensed abstraction affecting those sites which were part of the programme. If new evidence shows that a site needs investigation, then the EA can still address these but not as part of the RSA programme.

19. 85% of the changes required to abstraction licences identified by the RSA Programme were completed by 31 March 2020 and there are 22 remaining in the programme. All other sites in the programme that did not require a licence change have been fully investigated and either closed as 'no action required' or have been resolved through non licence changes or similar restoration work.

20. Old Walls HEP was added to the RSA programme in 2009. This was done by my predecessors. It was included in the programme with a local driver on account of concerns raised by local area staff relating to the low flows in the West Webburn River and risks of fish entrainment.

21. RSA sites on the programme were prioritised for resolution based on regulatory requirements. Those with a local driver were timetabled later for action. I have been involved in the task to progress licence changes for Old Walls HEP since 2018.

22. In relation to Old Walls HEP, work was undertaken to confirm the outcomes being sought, to review the impact of the abstraction licence, to develop options for changes to the licence and agree the preferred option. This included:
    - The options appraisal report
    - The licence change proposal report
    - The proposed licence

23. I was involved in this process in my role as project manager and technical advisor.

C. Environmental planning and water resources

24. Environmental planning is a recognised discipline within the Agency. Within the regulatory framework for which the Agency is responsible, it involves using data and evidence to identify where action is required to comply with regulatory requirements and put action plans in place to deliver compliance. The delivery of the actions is tracked and the outcomes assessed to decide if further action is required.

25. For water resources, a key consideration is to ensure that rivers and streams have a flow regime which supports the ecology, whilst at the same time enabling abstraction of water for human activity. This balance is achieved by making reference to the Environmental Flow Indicator (EFI), which is an environmental standard for river flow.

26. The EFI was developed by the UK Technical Advisory Group on the Water Framework Directive (UKTAG) in 2005/06. Workshops were attended by a panel of river experts specialising in freshwater ecology, hydrology and water resources management. This project team defined a set of risk-based standards for EFI, setting levels of deviation of the hydrological regime from natural conditions where they could no longer be certain that Good Ecological Status would be achieved.

27. The EFI is based on the percentage of river flow that is considered sustainable to abstract. The percentage varies according to river flow and also to the sensitivity of the river ecology to reduced river flows. For example, at high flows, a greater percentage of the river flow (and therefore absolute quantity) is acceptable to abstract compared to low flows, where a smaller percentage of flow is available

for abstraction and so a smaller absolute quantity of water is available for abstraction.

28. Where flows do not meet the EFI targets, this indicates that abstraction pressure may be causing or may risk causing an undesirable effect on river habitats and species.

29. We use modelling of river flows with reference to the EFI for abstraction licensing decisions, for both new applications and for the review of existing licences.

30. Where there are already abstraction licences issued for a waterbody, it may not be possible to licence a new abstraction if our modelling shows that to do so would result in the flows falling below the EFI. It may only be possible to licence a new abstraction with restricted conditions, or even not at all.

31. We use 'hands off flow' (HoF) conditions on abstraction licences to require abstraction to be restricted or cease at specified river flow values, in order for the river flows to be compliant with the EFI.

32. A HoF condition is generally used in combination with other conditions in an abstraction licence (such as the maximum daily abstraction, total annual abstraction and a requirement to only abstract a percentage of the available flow) to ensure flows do not fall below the EFI.

33. Under the Water Framework Directive (WFD), a subset of the full EFI assessment, compliance at Q95 low flows, is used for the hydrological regime element. This element is a supporting element for the waterbody classification for ecological status. WFD elements are explained in paragraph 4.16 of the Agency's SoC [CD33], which document also explains that Q95 flows are low flows which only occur naturally 5% of the year, on average. This equates to 18 days per year.

34. The EFI applies along the full length of the stream / river within a waterbody. Compliance with the Q95 EFI under the hydrological regime element is only assessed and reported at the downstream limit of each waterbody for the ecological status classification.

35. Waterbodies are either classed as 'supports good' or 'does not support good' for the hydrological regime element for the ecological status classification.

36. Where all the ecological elements are achieving good status or better, the ecological status would be reported as good or high status in the River Basin Management Plan (RBMP), even if the hydrological regime was 'does not support good'. This is because there is no evidence of an impact on the flow sensitive ecological elements.

D. WFD status of the West Webburn River

37. The WFD status for the river is explained in paragraphs 5.7, 5.11 and 5.12 of the Agency's SoC. This section gives more detail on the matters stated in those paragraphs, and that section of the SoC generally.

38. The first River Basin Management Plan (RBMP) for the South West river basin district was published in 2009 [CD9]. The Agency has to update these plans every 6 years. The second RBMP was published in 2015 and the third, most recent, published plan was in 2022. Work is underway to update the plan for publishing in 2027.

39. River basin management plans (RBMPs) set the legally binding locally specific environmental objectives that underpin water regulation (such as permitting) and planning activities.

40. Updating the RBMPs is informed by three public consultations. The 2022 RBMP was informed by the Working Together consultation in 2018, the Challenges and Choices consultation October 2019 to September 2020 and the consultation of the actual plans was between October 2021 and April 2022.

41. The RBMPs are published on gov.uk as a series of documents and maps for each river basin district South West river basin district river basin management plan: updated 2022 - GOV.UK . The catchment data explorer web portal is part of this and is how the public can explore the objectives, classifications, reasons for not achieving good and actions planned at the individual waterbody scale.

42. The overall status for the West Webburn River in the 2025 classification is moderate. This is based on the combination of the ecological status, which was moderate, and the chemical status, which was fail.

43. The statutory objective for the West Webburn River is to achieve good status by 2063, based on the combination of the objectives of good ecological status by 2015 and good chemical status by 2063.

44. The extended deadline of 2063 for chemical status is for Polybrominated diphenyl ethers (PBDEs) justified under regulation 16(3)(c) of the WFD Regulations 2017(which allows for extensions where natural conditions do not allow timely improvement in the status of the water body). These are substances in widespread use which are persistent and bioaccumulate in the environment.

45. The status for the fish element of the West Webburn River deteriorated from high status in 2015 to moderate in 2016 and it has remained at this status since then (EA SoC 5.12).

46. The fish element classification for the assessment of good ecological status was developed by UKTAG for the Water Framework Directive in 2008. For each survey site, the methodology predicts reference numbers of 'expected' fish species and numbers based on site altitude, distance from the tidal limit, mean wetted width of the channel and survey area.

47. For the West Webburn River waterbody, the 'expected' numbers for good status for the fish classification are as follows: 13 salmon per 100 m2, 29 trout per 100 m2 and at least 1 eel per 100 m2. In each year since 2002, available data demonstrates that trout have exceeded this density, although there are still pressures acting on sea and brown trout (EA SoC 5.15). For salmon, the most recent year that the density exceeded 13 per 100 m2 was 2007 and for eels, the last time that sufficient density was found was in 2014.

48. For the three survey sites in the West Webburn River waterbody, comparison of the observed surveys against this reference expected population led to the waterbody status for fish being classified as moderate since 2016.

49. The hydrological regime element classification for the West Webburn waterbody is 'supports good'. This is because the hydrological modelling assesses river flows against the EFI at the downstream limit of the waterbody. Within the West Webburn River waterbody, this is downstream of the discharge location of the Old Walls HEP leat into the river. The 600m deprived reach is upstream and wholly within the waterbody and so the impact on the EFI at Q95 is not demonstrated by the classification.

50. Where a waterbody deteriorates from good status or does not achieve good status, we identify the reasons for this and actions required to resolve. We recognise that there are a number of pressures impacting on salmon in the West Webburn River and this is why we have identified four reasons requiring action (EA SoC 5.9). We assigned a 'probable' certainty for the impact of the abstraction and infrastructure at Old Walls HEP based on expert judgement because it is not possible to derive the proportional impact of this site at the fish population scale, separate to the other pressures acting.

51. Responding to points 21.1 ('probable' and 'suspected' classifications not being available on the Catchment Explorer or the Agency's exhibited data [CD8]) in the licence holder's comments on the Agency SoC, we assign a certainty to each reason for not achieving good, based on evidence and expert judgement. The definitions are available here River basin planning process overview - 3. Defining

and describing the water environment - Guidance - GOV.UK The certainty assigned can be confirmed, probable, suspected or unknown. A probable certainty means that there is reasonable evidence that the pressure is causing the element to not achieve good status. To assign probable as the certainty, we do not require field based, site specific evidence. As stated in our response to point 23 of the licence holder's statement of case, robust data proving harm, which would have enabled a certainty of 'confirmed' to be attributed would require detailed monitoring such as via a fish counter or direct tagging and tracking. This would be labour intensive and expensive. We considered that the hydrological evidence and reference of the site infrastructure to best practice was sufficient for a 'probable' certainty.

52. Considered together, our hydrological assessment (EA's SoC 5.2) clearly demonstrating the risk to river flows associated with abstraction and the existing location of the screen and inadequate bywash enable us to derive a strong causal link between these activities and the moderate fish status. We prioritise action where we have assigned a probable certainty for an RNAG. I therefore disagree with the licence holder's suggestion in paragraph 21.3 of his Response that we do not have sufficient evidence to demonstrate a causal link between the decline in fish status and the Old Walls HEP.

53. We have initiated action regarding the other local pressures considered to impact salmon in the West Webburn River (EA SoC 5.10). Under the WFD Regulations we have a responsibility to take forwards action to reduce the impact of the abstraction at Old Walls HEP. Where there are multiple reasons for a waterbody to not achieve good status, the likelihood of good status being restored is improved if all of the reasons are acted upon. If we do not reduce the impact of the abstraction at Old Walls HEP, the potential benefits from the actions underway to reduce the impact from the old, abandoned mines and forestry activities upstream of Old Walls HEP will be reduced if the risk from low flows and entrainment into the leat remains.

54. In his objection to the section 52 notice the licence holder asserted that the Agency's 2018 ecology report (titled Jordan's Leat (Old Walls Farm) Restoring Sustainable Abstraction Ecology Report') [CD14] the Agency did not say that the HEP abstraction was having an adverse impact on macroinvertebrate communities. The licence holder repeats this point in paragraphs 27-29 of his Statement of Case. This ecological survey was undertaken at Old Walls HEP in 2018 as part of a wider programme of field work to assess the impact of abstraction at a number of sites across Devon and Cornwall. The report did conclude that none of the tests we conducted showed an ecological impact, but we consider that this report had limitations for the reasons we explain in paragraph 8.1 of our SoC, and in our response to paragraph 29.1 of the licence holder's SoC. We do not believe that we can conclude that the abstraction is

having no adverse impact on macroinvertebrates, but we are not putting it forward as a justification for the proposed licence changes.

E. Options appraisal and preferred option selection

55. To assess the impact of the Old Walls HEP abstraction, I coordinated a virtual team of technical specialists. My colleagues in the virtual technical team were drawn from a number of different teams within the Agency and were technical leads in the following matters:
    - Water resources environmental planning and legislation requirements
    - Water resources licensing and how to translate changes to site operations into legally valid conditions in the changed licence
    - Water resources regulatory inspection of abstraction licences
    - Hydrological modelling of river flows
    - Fish species and their habitat requirements
    - River ecology, including macroinvertebrates
    - Legal procedures for enforcing licence changes via Section 52

56. Creation of a virtual technical team to deliver a task is a common approach within the Agency and coordinating such a team to deliver a task is a role which I regularly undertake.

57. The initial stage of the options appraisal was to identify the elements of the abstraction which are or have the potential to impact on migratory salmonids (Options Appraisal Report OAR page 2). These were:
    - The extremely low 'hands off flow' of 0.025 m3/s
    - The relatively high maximum instantaneous abstraction volume
    - No provision to adjust the instantaneous volume abstracted according to the flow in the river
    - Fish screening provided which does not meet best practice (location, mesh aperture and approach velocity)
    - Tail race screening, although provided by the licence holder on an ad hoc basis, is not currently conditioned on the licence
    - The control and subsequent measurement of the abstraction is not at the head of the leat and so excess water, not used by the turbine, can be abstracted from the river and is not part of the water volume recorded as abstracted by the licence holder.
    - There is an overflow a short distance down the leat which currently protects the site from flooding and as this transfers this excess water back to the river below the weir, contributes to reduced flow over the weir.

58. Based on the assessment of the impact of the abstraction, we developed the objectives which we are seeking to achieve. Prior to the site meeting with the

licence holder on 17 April 2025, the virtual team identified the following objectives (OAR) [CD12] page 15:

- An abstraction rate designed to protect the environment, including a more protective 'hands off flow' condition to protect low flows in the river.
- Appropriate fish screening to protect both resident and migratory fish species
- Flow measurement equipment to enable compliance monitoring of new licence conditions.

59. For the options appraisal, the virtual technical team made reference to the Agency guidance for run-of-river hydropower development (2017) [CD5]. This is the current guidance available for determining applications for HEP proposals. The guidance was published following extensive consultation with stakeholders in 2013, including Defra, Natural England and the British Hydropower Association via the Hydropower Working Group. This Group included key representatives from the hydropower sector, angling and fisheries interests to support the development of environmentally sustainable schemes across England.

60. The use of guidance such as this to inform our approach towards abstraction licensing ensures that we take into account regulatory requirements and that across England, those determining applications are taking a consistent approach.

61. To aid the options appraisal, we invited the licence holder to provide a proposal for our consideration. We provided the HEP run of river guidance (2017) following the site meeting on 17 April 2025 and directed him to the ability to put forwards proposals less protective than Table A as set out in the guidance (page 13). No proposal was received.

62. The options appraisal therefore had two main elements for consideration, firstly a change to the abstraction regime and, secondly, improved screening to prevent fish entrainment in the leat.

63. These two elements are to a certain extent, interdependent. The best practice for screening is to install a screen at the head of the leat so that migrating fish cannot access the leat. A well designed screen uses the natural river flow to act as a bywash to prevent fish impingement on, and entrainment through, the mesh of the screen and blockage by debris in the river. An alternative, which can provide sufficient protection if well designed, is for the screen to be positioned within the leat (referred to as 'set back'), with an effective bywash so that fish are not trapped at the screen and are safely returned to the river. If the second option is selected, then we would not allow additional abstraction volume from the river, above what is considered sustainable, to provide the flow for the bywash. The protection of a proportion of the flow for the bywash would be conditioned within the licence. Therefore, for a HEP scheme, the potential for

HEP generation is greater when the screen is at the head of leat as the full volume of water abstracted can pass through the turbine.

64. Screening in the leat with an effective bywash would provide a sufficient standard of protection against the risk of entrainment of migratory salmonids (as set out on page [19] in EA Guidance for run–of-river hydropower development [CD5]).

65. We sought a view from the licence holder as to the preferred option for screening and we were advised head of leat screening. We assumed that this was because this did not impact on the flow available for energy generation and would reduce the impact on the licence holder.

66. The virtual team assessed four scenarios for the abstraction regime (OAR page 19, section 3.3). These are summarised below below:

- No change to the licence – Not taken forwards as based on the evidence and expert judgement, this option does not deliver outcomes for the river.
- Revoke the licence – Not taken forwards as although this option would return the deprived reach to a natural state, it is unnecessary to deliver the desired environmental improvements. These can be achieved by changing the licence to provide a balance between the needs of the licence holder and environment.
- Change licence to meet EFI target – This option was discounted because the restriction on abstraction which would be required is beyond what we consider to be sustainable for a non-consumptive HEP abstraction as set out in the HEP run of river guidance. We considered that meeting the EFI in full would be unnecessarily onerous for the licence holder. As the percentage of allowable abstraction under the EFI varies at different river flows, it would require the licence holder to either install infrastructure capable of automatically changing the abstraction rate in response to changes in flow, or to monitor and continuously adjust the abstraction rate manually on site in accordance with the variable percentage and hence to achieve compliance with the licence conditions.
- Change in line with Table A in the HEP run of river guidance – This is the basis of the preferred option and proposed licence changes. It delivers the environmental improvements for the site, is consistent with our approach to new licences, and will allow the site to continue to operate and generate HEP. The inclusion of a Q95 HoF ensures that the EFI is achieved at low flows and therefore supports Good Ecological Status.

67. The HEP run of river guidance includes Table A as a starting point for designing flows for hydropower schemes. Tables B to D allow departures from, and are less protective than, Table A but these did not apply for Old Walls HEP. This is due to the river gradient, the location of the turbine down the leat rather than on the weir and the ecological sensitivity of the river.

68. Within Table A, the appropriate abstraction regime is based on the sensitivity of the watercourse to abstraction pressure and also the degree to which flows are supported by base flow from groundwater.

69. For the West Webburn River, as my colleague Harriet Ames explains in her Proof of Evidence paragraph 42, the waterbody is assigned the highest sensitivity to abstraction pressure (abstraction sensitivity band 3 / ASB3) and has a low to medium base flow. Therefore, the abstraction regime selected was a Q95 hands off flow and a maximum take above the hands off flow of 35%. The related conditions are 9.2(i) and (ii) in the proposed licence [CD13] respectively. (Condition 9.1 allows the existing HoF to remain in force for 18 months from the date of licence variation). In combination, this protects low flows in the river plus also maintains flow variability across the flow range. The virtual team agreed that this would deliver the relevant objectives for the site.

70. Based on a recommendation from our technical lead for hydrological modelling, the maximum annual licence quantity was reduced compared to the licence in its present form and this was included in the preferred option. Condition 6.1 of the proposed licence specifies this to be 10,502,497 cubic metres per year, whereas the existing condition specifies this to be 16,054,984. My colleague Harriet Ames explains this in her Proof of Evidence.

71. We did not reduce the maximum instantaneous abstraction volume (specified to be not exceeding 800 litres per second – condition 6.1) as the addition of the Q95 hands off flow and 35% take requirements were considered sufficient to improve flows.

72. With reference to point 47 in the licence holder's Response to the Agency's SoC [CD36] regarding a higher maximum instantaneous rate and the possibility of using this flow for a bywash, this could be implemented; with the caveat that this would only need to be progressed if the Inspector decides to require intake screening along the leat. Flow for a bywash is not required if the screen is at the head of leat (the Agency's preferred option, specified in condition 9.4 (i) of the proposed licence).

73. To prevent the leat from drying out during natural low flow periods, we have proposed a sweetening flow of 20 litres per second to be maintained into the leat when natural flows are below the hands off flow (proposed condition 9.2(iii)). This is a deviation from Table A but recognises that the leat already supports an ecological assemblage. At extremely low flows, we must prioritise flow in the river to protect this higher value ecosystem and so if natural river flows are below 40 litres per second, all abstraction into the leat must cease (proposed condition 9.2(iv).

74. The preferred option for intake screening was recommended by our technical lead for fisheries, informed by the preference of the licence holder for a screen at the head of leat. In summary, this was for 6 mm permanent screening at the

head of leat (proposed condition 9.4(i)). The tail race screen would also be included in the abstraction licence with a required aperture size of 25mm (proposed condition 9.4(ii)). My colleague David Bartlett explains this in his Proof of Evidence.

75. In line with table A, we are also proposing the control structure and measurement of the abstraction at the head of the leat (proposed condition 9.3(i). This has two purposes. Firstly, to prevent any additional water being abstracted in the leat which is in excess of the proposed licence conditions. Secondly, to enable the licence holder to comply with the hands off flow and percentage take condition in our preferred option. This would not be possible using the existing infrastructure at the site.

76. I have been advised by my colleague, Matthew Sleep, that at the most recent regulatory inspection in 2024, he observed that the quantity of water abstracted was calculated using a look up table which converts the opening setting of the turbine into a flow value. The quantity abstracted for a day is calculated by the licence holder once a week, on a Sunday. This is new information provided to me, after the Agency's Statement of Case (in which we refer to the abstraction returns provided by the licence holder as being based on energy generated). I do not consider this minor change in understanding makes a substantive difference to the analysis.

77. With reference to point 52 in the licence holder's Response to the Agency SoC, we disagree with the assertion that the current measurement is capable of accurately measuring the total volume of water abstraction from the river into the leat. This is because there is the overflow from the leat to the river a short distance down the leat and there is also the bywash which is opened by the licence holder which is before the turbine.

78. Development of, and final selection of, the preferred option by the virtual team is independent of considerations of the potential value of any compensation claim under section 61 WRA 1991.

79. With reference to point 45.2 in the licence holder's comments on the Agency's SoC, regarding whether environmental improvements will be delivered by the changes to the licence, we selected the preferred option based on the evidence available and in line with the Agency's run of river guidance. Ultimately, the preferred option was mostly consistent with our approach for new licences, with the slight deviation being the sweetening flow requirement. When formulating the proposal I was confident that this would deliver the outcomes we are seeking as it was based on Agency guidance.

80. With reference to point 46 in the licence holder's Response to the Agency's SoC, we used the HEP run of river guidance as our starting point and we were willing to deviate from Table A if we had received a proposal from the licence holder. This is in line with the approach set out in the HEP run of river guidance in that it

is for an applicant/licence holder to propose an alternative to Table A with the submission of appropriate justification. Unfortunately, this was not submitted.

81. The options considered and the preferred option selected is presented in the OAR which I approved on 8 October 2025. The information contained within the report is based on the application of Agency guidance and the technical expertise and judgement of the virtual technical team and I am confident that the preferred option would deliver the objectives for the site.

F. The licence change proposal report

82. In order to progress licence change via a section 52 notice, we prepared a licence change proposal report (LCPR) [CD15]. As this document supports a notice under legislation, approval of the document is at a much higher level of responsibility within the Agency than the OAR. I therefore was one of the reviewers of the document but I did not approve it. The LCPR was signed off by Richard Thompson, the Deputy Director for Water Resources in the Environment and Business section of our Head Office.

83. The LCPR includes a summary on pages 2 to 5. The summary pages were available to the public for the duration of the advertisement from 8 January 2026, of the section 52 notice via email and was also placed on deposit at our office in Exeter.

84. Pages 2 to 5 of the LCPR were not provided with the section 52 notice to the licence holder in error as stated by the licence holder in points 56 to 58 of his response to the Agency's SoC. To remedy this, the LCPR was provided on 22 January, which included these pages.

85. The LCPR is similar in structure to the OAR but with additional sections detailing our communications with the licence holder, a copy of the proposed licence, reference to cost benefit / cost effective analysis and a serious damage assessment (this being a standard section to include in any LCPR for a section 52 notice, regardless of whether serious damage applies).

86. We decided to include a time limit on the draft licence in line with Agency policy. The licence holder objected to this in point 56 in their Statement of Case, but this was in line with Agency policy for variation proposed under section 52 of WRA 1991.

87. Under changes made by the Water Act 2003, section 46 of the WRA 1991 was changed to require all new licences to specify a time limit for expiry. Since then we have therefore include a common end date (CED) for all new licences issued and the CED is based on the WFD management area within which the licence is located. This allows for the periodic review and changes to abstraction licences where circumstances have changed since the licence was granted.

88. The normal duration of a CED is 12 years but if we are issuing a new licence when there is less than 6 years left until the CED, we would normally skip this end date and apply the next. Therefore, this means that the initial CED on a licence may be between 6 and 18 years duration. On renewal, it would be 12 years.

89. The West Webburn River is within the South Devon WFD management area. When we drafted the licence, the CED in force was 31 March 2026 and this was therefore skipped as there was less than 6 years remaining. The CED of 31 March 2038 was instead included in the proposed licence.

90. The translation of the proposed changes in the abstraction into legally enforceable conditions for the abstraction licence was undertaken by the abstraction licensing technical lead in the virtual technical team. These changes were based on Agency standard conditions and adapted to reflect the site specific requirements for OId Walls HEP. I have pointed out the proposed new conditions in the previous section above.

91. With regards to the holder's objection to these proposed conditions, we responded to these fully in the Agency's SoC at paragraphs 8.9 to 8.19; and also in our Response to the licence holder's statement of case, points 30 and 31. I consider that these proposed conditions are necessary to ensure that the abstraction regime, management of that regime and the associated infrastructure, deliver sustainable abstraction. The conditions do require changes to the site, such as the relocation of the screen to the head of leat and control of the abstraction in this location, but these changes contribute to delivering the outcomes we are seeking.

92. With reference to point 55 in the licence Response to the Agency SoC, condition 9.8 (which requires approval in writing from the Agency before any major work, alterations or replacement of the hydropower system) is a standard condition. We include this condition in abstraction licences which are complex and where changes to the intake arrangements and control structures could have a material effect on the HEP operation and therefore the impact as has been assessed by the Agency. Without this condition in the licence, changes could be made which have the potential to reduce the level of environmental protection provided.

93. Where changes to infrastructure are required, the proposed licence included an 18-month period for this to be designed, agreed with the Agency as necessary, and implemented. As stated in the Agency's Response (8.14 etc), this is a typical timescale included in an abstraction licence when infrastructure improvements are required for an existing abstraction.

94. The wording on the section 52 notice is taken directly from the LCPR and therefore there is a clear line of sight from the options appraisal report, via the LCPR to the section 52 notice.

G. Cost benefit assessment

95. Section 7 of the LCPR comprises a statement that we have taken account of the financial and environmental costs and benefits of our licence change proposals. This statement was supported by the cost benefit assessment which has been explained further in the Agency's SoC at paragraph 8.7. I undertook the cost benefit assessment, following a standard approach used by the Agency for River Basin Management planning. In preparation for the inquiry, I have had the cost benefit for Old Walls HEP reviewed. It has been verified as a reasonable assessment by my colleague, Anthony Hurford. who has expertise in undertaking cost benefit analysis within the Agency.

96. The cost benefit assessment was completed on the preferred option as a final step in the options appraisal process. The cost benefit assessment included a consideration of the benefits, with a focus on the fish and hydrological regime elements for WFD classification. In lieu of site-specific cost estimates being available, the costs were generic, based on standard costs used in the Agency and were extended to a 40-year period. Using the methodology, the benefit to cost ratio was 7:2. It was therefore concluded that the proposal was cost beneficial and should proceed.

97. That said, I am advised by the Agency's legal advisors that the duty on the Agency to consider costs and benefits when exercising any power (contained in section 39 Environment Act 2995) does not apply where other legislation imposes strict legal duties. The Water Framework Directive does impose such duties so, as explained in paragraphs 8.3 and 8.7 of the Agency's SoC, the costs/benefits duty does not apply if the Inspector accepts that as a justification for proceeding with the proposals.

98. The cost benefit assessment would have been more accurate if site specific cost estimates for infrastructure improvements had been available. Regardless, the benefits were estimated to have a value of £700,000 and it was considered that it was unlikely that the actual costs would exceed this value.

99. The cost benefit assessment is separate to consideration of any compensation claim under section 61 WRA 1991.

100. The cost benefit assessment did not include the value of the reduction in power generation as a result in the change to the abstraction regime. I did not include this as it was considered that this was a matter for any compensation claim under section 61 WRA 1991 and not for the LCPR (Agency's SoC 8.7).

H. Striking the balance between the environment and the existing operation

101. Throughout the development of options, the appraisal and final preferred option selection, the virtual technical team has considered the potential impact and feasibility of the proposed changes on the operation of the site.

102. The site visit on 17 April 2025 was attended by the Environment Planning and Engagement Manager, Steve Marks, and Water Resources Technical Specialist, Carole Brennan. At the site visit, I am told by my colleague Carole that the outcomes we are seeking for the site were discussed with the licence holder, as was our willingness to work with the licence holder to develop a more sustainable abstraction regime.

103. The licence holder was invited to submit a proposal, based on the HEP run of river guidance, for a less protective proposal than is set out in Table A. Initially, we were advised that this invitation would be taken up but at a later stage we were advised this would not be progressed. Therefore, in lieu of an alternative option, we have applied Table A with the additional sweetening flow to provide some protection to the leat ecology.

104. As there were two options for screening at the intake which provided sufficient protection for entrainment, but which would be practically different for the licence holder to manage, we decided to approach the licence holder to ask for a preference to be given. A preference for head of leat screening was indicated by the licence holder and this therefore was taken forwards into our preferred option.

105. In point 50 licence holder's Response to the Agency SoC, he refers to concerns regarding debris accumulating on a head of leat screen and the significant practical issues. We recommended an automated 6mm screen at the head of leat as the most practical option to manage this risk (see Agency's SoC at paragraph 6.18). If the licence holder wants to pursue a different option we therefore invite him to indicate what he considers a practicable solution to be, considering that the head of leat screening was included in our preferred option based on his preference.

106. Based on the combination of the hydrological modelling of the licence and our expert judgement regarding the impact on fisheries, we were unable to progress with the licence holder's preference for no changes to the abstraction regime or screening.

107. To recognise that the proposed changes would impact on the power generation potential at the site, we undertook an assessment. Section 5 and table 6 of the Hydrology report [CD6] (summarised in point 107) includes an assessment of the impact of the proposed licence conditions on potential abstraction volumes

and the number of days that there would be sufficient water available for power generation.

108. With reference to table 6 in the Hydrology report, there would be approximately a 50% reduction in the number of days power can be generated (based on the 30 year time period of 1991 to 2020). The data shows that power generation will be possible from autumn to spring (September to March). We considered that the proposed licence changes were a reasonable approach as energy generation would still be possible for 7 months of the year (although this would vary depending on the natural flows available).

109. In terms of the need to consider the potential reduction in renewable energy generation from the proposed licence changes against the Agency's more general legal requirement for sustainable development in section 4 of the Environment Act 1995, this is outlined in the Agency's SoC paragraph 8.3. In summary, the Agency's proposal is underpinned by legal drivers of section 40 of WRA 1991, section 13 of SAFFA 1975 and the WFD Regulations. We do not consider it appropriate for these to be over-ridden by the more general legal requirements for sustainable development in the Environment Act 1995 and Natural Environment and Communities Act 2006.

110. A significant potential reduction in renewable energy was raised by in a third party objection to the section 52 notice submitted by Ms Jenkinson. I would respond to this as set out in points 107 and 108 of my statement.

111. I consider that our preferred option is reasonable and proportionate, as it is based on Agency guidance and is consistent with our approach towards other HEP abstractions.

112. With reference to the licence holder's objection points 16, 31 and 38 with regards to the engineering/infrastructure changes to the site, in order to comply with the proposed licence conditions and the feasibility of doing so, I have nothing to add to what is stated on page 9 of in the Agency's Response to the licence holder's Statement of Case.

I. Summary and conclusion

113. I consider that the decisions and recommendations made by myself and the virtual technical team for the options appraisal and development of the proposed changes to the abstraction licence are sound and based on Agency guidance and policy. This guidance and policy is in turn based on regulatory requirements, evidence and expert judgement which enables me to be confident in the use of it.

114. The proposed changes to the licence would ensure that during naturally low flow periods, the majority of the water will be retained in the river instead of flowing

into the leat. Flow within the 600 m reach will no longer ‘flatline’, with 65% of the flow remaining in the river when natural flows are below the maximum abstraction rate. The improved screening will reduce entrainment of migratory salmonids within the leat, stopping the fish which are migrating downstream swimming into the dead-end leat with the only exit via the manually opened bywash. These changes represent significant benefits for the West Webburn River compared to the protection afforded by the existing licence.

Signed: 

Name: Emma Townsend

Date: 14/07/26