

On behalf of the Environment Agency

Witness: David Bartlett

OBJECTION REFERENCE NUMBER: ENV/3378112

Dated: 14/07/2026

PROOF OF EVIDENCE OF DAVID BARTLETT

A. Personal statement

1. I am employed by the Environment Agency as a Fisheries Technical Specialist. My role is to provide technical fisheries expertise to my team (the Fisheries, Biodiversity and Geomorphology team for Devon, Cornwall and Isles of Scilly) and the wider organisation.
2. I hold a Rural Resource Management BSc from the University of Reading (2005) and have been a member of the Institute of Fisheries Management (MIFM) for nearly 20 years. I undertake my professional role, including providing this evidence, in accordance with the Code of Professional Conduct appended to the IFM's Rules of the Institute of Fisheries Management.
3. I have worked in the fisheries field since 2006. My employment history includes an initial 7 year period at the Agency engaged in fisheries monitoring before becoming a Fisheries Officer. Between 2010-2013, I became involved in the determination of hydropower abstraction licence applications and gained my first significant experience in this subject area. I left the Agency in 2013 and worked in ecological consultancy for 9 years, including at Turnpenny Horsfield Associates where I was directly involved in the design of, and applications for, a number of hydropower schemes and screening applications across the country. I rejoined the Agency in 2022 in my current capacity as a Fisheries Technical Specialist and a significant part of my role is providing technical fisheries input to new abstraction licence applications and renewals.
4. My role frequently involves the interpretation of relevant legislation (e.g. the Salmon and Freshwater Fisheries Act 1975) and I have developed a network of leading experts in National Fisheries and EA Legal who I consult if I have any queries.
5. I have been involved in the Restoring Sustainable Abstraction programme since 2024 where my role has been to provide technical expertise with regards to fisheries. Prior to my involvement, my predecessors provided technical fisheries input.
6. I am not the principal author of the Options Appraisal Report (OAR) or the Licence Change Proposal Report (LCPR) prepared for this site but I was consulted on both documents and provided technical fisheries input where appropriate. I have also provided technical fisheries expertise to the relevant elements of the EA's Statement of Case (SoC) and response to the licence holder's SoC.

7. This witness statement will cover the following:
- The Agency's approach to RSA from a Fisheries perspective.
 - Fisheries receptors and their status
 - Impacts on fish
 - Development of the Agency's proposal from a fisheries perspective
 - Feasibility
 - Response to additional points made by the licence holder
 - Further comments on the existing licence
8. In relation to each of these issues this proof of evidence will not repeat the relevant paragraphs in the Agency's SoC, which I was involved in drafting, nor the relevant underlying paragraphs in the LCPR and OAR, Instead I will summarise the thrust of relevant paragraphs where required, 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 licence holder. I endorse and rely on those relevant aspects of the SoC to which I contributed.
9. I refer to a number of documents in this proof of evidence, all of which are contained in the agreed bundle of documents or annexed and referenced at the end of this document. References to the documents in the core bundle below are prefixed by 'CD', (Core 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, information and belief and are derived from the sources identified herein and Environment Agency records. I confirm that the opinions provided herein are my true and professional opinions.

B. The Agency's approach to RSA from a fisheries perspective

12. I was asked in 2024 to join the virtual technical team tasked with reviewing the Old Walls licence and developing the OAR, LCPR and proposed licence.
13. The approach from a fisheries perspective was to consider how we would regulate the site if it were a new application using the available data and the Agency's 'Guidance for run-of-river hydropower development' published in 2017 [CD5] which I refer to henceforth as 'the Hydropower Guidance', a copy of which was provided to the licence holder as part of the RSA process. The licence holder states in point 27 of his Response to the EA's SoC [CD36] that '*The EA is not required to bring existing abstraction licences in line with its best practice guidance, and should consider the necessity and proportionality of any proposals to do so*'. The justification for the Agency's approach for relying on the Hydropower Guidance to deliver best practice, when Old Walls is an existing licence rather than an application for a new licence, is that:

- The purpose of the Hydropower Guidance is to ensure consistency across the country when applying standards for a range of elements (e.g. flow and fish screening) relevant to hydropower schemes in order to protect the environment. It was designed to be used during the determination of new licence applications and renewals. The use of the Hydropower Guidance was a decision made earlier in the RSA process for this site (and more widely). In the absence of any fisheries guidance specific to the RSA process, it was considered the most appropriate set of standards (and particularly pertinent in this instance given that Old Walls is a hydropower scheme).
- In discussion with EA Fisheries colleagues engaged in other RSA sites locally, it was agreed that the Agency's starting position must be a proposal which is fully compliant with best practice as set out in the Hydropower Guidance. The RSA process is an opportunity to bring licences into line with modern guidance, with licence holders compensated for those improvements. We would be heavily criticised for not pursuing improvements in this manner. This approach was agreed by the Old Walls project team, including colleagues with National RSA roles, and mirrored the opinion of my predecessor in the Fisheries Technical Specialist role. We considered that deviation from best practice would invite challenge around consistency, whether the Agency was fulfilling its statutory duties and, on a personal level, whether I had acted with professional integrity.
- For new licence applications, EA Fisheries Officers are encouraged to engage with applicants at an early stage to confirm general expectations around standard of protection, however, the detailed design of elements such as screening are the responsibility of the applicant. Any departure from best practice must be justified by the applicant and agreed by the Agency. I am advised that this same approach applies to Section 52 proposals. The opportunity to deviate from best practice is the 'counter offer' stage, where a licence holder is invited to provide an alternative solution, which can deviate from best practice, for example, to account for local constraints in terms of operating conditions. As stated in the EA's SoC, no such counter offer was made in this case. There has therefore been no occasion during the RSA process for Old Walls where it has been appropriate to consider a deviation from best practice.

14. My input to the OAR, LCPR and proposed licence was therefore made based on ensuring that the Agency's preferred option was fully compliant with the Hydropower Guidance.

15. The fact that the Agency's justification for the preferred option for Old Walls relies on compliance with the Hydropower Guidance and hydrological modelling, rather than physical proof of environmental harm directly attributable to the Old Walls abstraction, is a key point raised by the licence holder (for example 8.1, 10, 12 and 22-23 in his SoC [CD35]). Importantly, for new hydropower licences, the Agency is not required to provide direct evidence to support its decisions and the precautionary principle is expected to be used by those tasked with determining applications, based on the Hydropower Guidance in combination with the available data. The same is true of licence renewals – the precautionary principle is used rather than requiring direct evidence of harm. This is particularly the case in decisions which – as here – implement the requirements of the

Water Framework Directive: I am advised by the Agency's legal advisors that the precautionary principle is inherent in the implementation of that Directive. The accepted standard is that suspected presence of certain species and lifestages (based on data plus expert judgement) triggers certain requirements in the Hydropower Guidance. The key fact is that the Old Walls licence/operation currently falls well outside best practice as set out in the Hydropower Guidance, particularly with regard to flow, and the RSA programme offers a mechanism for change with the licence holder compensated for changes made.

16. The licence holder suggests that it would have been desirable to undertake additional monitoring to support the Agency's proposal, however, as stated in point 23 of our Response the licence holder's SoC [CD34], there were two reasons why the decision was made to proceed without additional data:

- (i) Firstly, the RSA project team (including National experts on the RSA process) considered that the hydrological modelling provided compelling enough evidence that the licence was unsustainable to remove any requirement for additional monitoring and I therefore provided technical fisheries inputs on this basis.
- (ii) Secondly, robust data proving harm would require in-depth monitoring - using, for example (and as suggested by the licence holder), a fish counter. This would require the installation of expensive equipment, monitoring and subsequent data analysis, which would be both labour intensive and expensive. Alternate options such as tagging and tracking (which would likely be the most appropriate monitoring approach in this instance), would be similarly intensive and costly. The Agency must consider the appropriate use of limited funding. Funding for additional monitoring would have had to come from local monitoring budgets which are already under significant strain and deploying them here would have involved removing monitoring required at other locations. The Agency must take a proportionate approach, bearing in mind the precautionary principle and the wide range of duties to which it is subject.

17. In an attempt to further illustrate the disproportionate cost of the sort of study required to prove harm at a hydropower scheme like Old Walls, I queried with National Fisheries colleagues and Fisheries Technical Specialists in other areas whether there were any known previous examples of tagging and tracking studies undertaken by the EA specifically investigating hydropower schemes in England where the costs were known. None were reported back to me. The only relevant example that I am aware of is a recently completed study in Devon which I was involved in (the EA were a project partner) and which concluded in 2025. This Bournemouth University study cost in the region of £130,000 according to the PhD supervisor, plus a significant amount of benefit in kind (e.g. equipment loan, volunteer time etc) and was only able to occur because of external funding. The EA were a minority funding partner (approximately 20% of the financial cost). This study focussed on downstream fish passage of salmon and sea trout smolts in the context of a hydropower scheme, as well as various barriers to migration, and so does not answer all the questions relevant to Old Walls (e.g. potential impacts on upstream migration of adult salmon and sea trout). However, I consider it to give a reasonable indication of likely cost for a study at Old Walls suitable to attempt to prove relevant potential impacts. This study is not referred to in our representations to date because the relevant parts of the study have yet to be reported.

An article is currently going through the peer review process but is not sufficiently advanced to be used as evidence.

18. The key point is that if the Agency were required to undertake such monitoring at every location where an adverse fisheries impact was suspected to be occurring prior to taking any action, it would not be possible for the Agency to carry out its statutory functions.
19. The Hydropower 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. I consider that basing our preferred solution on this best practice guidance is a justifiable approach.

C. Fisheries receptors and their status

20. Sections 5.13 to 5.17 of the EA's SoC [CD33] set out the protected fish species present in the West Webburn which are potentially impacted by the Old Walls abstraction (Atlantic salmon, brown/sea trout and European eel) and describe current population status. The salmon and sea trout stock assessments are provided in Annexes 11 and 12 of the EA's SoC [CD33]. These sections of the SoC particularly seek to highlight the current status of Atlantic salmon in the River Dart, the population of which is classified as At Risk in the latest annual stock assessment [CD11] and is considered to require urgent measures to avoid functional extinction in the catchment. Consideration of the potential impacts of the Old Walls abstraction must be viewed in this context.

D. Impacts on fish

21. Sections 5.18 to 5.31 of the EA's SoC set out the potential fisheries impacts associated with the Old Walls licence and associated infrastructure. These sections were based on my technical interpretation of the hydrological modelling, alongside the available fish survey data. The sections provide useful context, however, fundamentally, the Agency's case is based on hydrological modelling and the Hydropower Guidance as discussed in detail in sections 12 to 16 above.
22. Sections 5.18 to 5.31 of the EA's SoC are discussed in detail in the licence holder's response to the Agency's SoC, however, this is almost exclusively in the context of disagreeing with the principle of, in the licence holder's opinion, pursuing a case without evidence of harm directly attributable to Old Walls rather than disagreeing with the potential impacts per se. Any specific points of disagreement are dealt with in the following paragraphs.
23. The licence holder states that the available ecological evidence does not support the Agency's conclusion that the operation of Old Walls is responsible for environmental harm (e.g. points 25 – 29 of the licence holder's SoC, point 30 of the licence holder's response to the EA's SoC, and it is also a point raised in Gail Fursdon's objection [CD40]. Various data and reports are referred to including:

- Jordan's Leat (Old Walls Farm) Restoring Sustainable Abstraction Ecology Report 2018 [CD14]
- Smolt trial report [CD20]
- Restoring Sustainable Abstraction Fish Investigation for Old Walls Hydro Electric Scheme on the West Webburn [CD21]
- Fishtek 2011 report [CD29]
- EA Fish survey data

24. I consider that there is no available data which unequivocally confirms impacts directly attributable to the Old Walls abstraction, but neither does the data support the licence holder's case of 'no harm'. However, that cannot be the end of the analysis. As stated in paragraph 16 above, a monitoring programme to deliver suitable, robust data would be prohibitively expensive and was not considered justified. Where modelling, detailed guidance and expert judgement can be applied, I have been advised, and believe, that that can form a satisfactory justification for taking action, as in this case.

25. We have previously described why various of these reports are not adequate to assess the impacts of the Old Walls abstraction:

- The assessments described in the two EA reports from 2018 [CD14 & CD21] contained limitations which meant that they were not adequate to identify or quantify impacts attributable to Old Walls (as discussed in points 27 and 29 of the EA's response to the licence holder's SoC [CD34]). Critically, I consider that the reports do not provide evidence of 'no impact' as stated by the licence holder.
- The smolt trial report [CD20] was not signed off by the EA's Regional Director at the time (2011) because its informal nature was not considered sufficient to substantiate all the claims made (as discussed in point 26 of the EA's response to the licence holder's SoC).

26. We do not have the Westcountry Rivers Trust's data referred to in the Fishtek 2011 report (appended to the licence holder's response to the EA's SoC).

27. The Agency's fish survey data show a clear decline in juvenile Atlantic salmon densities as detailed in point 25 of the EA's response to the licence holder's SoC. The licence holder states that the fact that i) migratory salmonids (Atlantic salmon and sea trout) are still seen in the catchment (section B(ii) of the licence holder's SoC and 21.4 of their response to the EA's SoC) and ii) juvenile trout densities have remained relatively stable over time (section 21.5 of the licence holder's response to the EA's SoC), evidences the fact that the Old Walls abstraction has no impact on migratory salmonids. I consider that the available data is not robust enough to come to this conclusion. Regarding i), the presence of low numbers of adult salmon and sea trout does not provide evidence that Old Walls is not having an impact. This only shows that some fish are able to migrate past Old Walls. It provides no indication of the number of fish that should be present without the influence of Old Walls, whether that is fish delayed on their upstream migration or smolts entrained on their downstream migration. At no point in the Agency's submissions is it stated that we consider Old Walls to completely halt migration into the West Webburn, only that we consider it probable that it has an impact under certain conditions. Regarding ii), it is an interesting

point raised by the licence holder and it might seem logical that stable juvenile trout populations upstream must equate to a stable returning adult sea trout population. However, we know from the sea trout fishery performance [CD10] that adult sea trout returns in some recent years have been exceptionally poor. I have noted across the catchment that, where juvenile salmon densities have reduced (or where salmon spawning has been lost altogether), juvenile trout densities have sometimes increased, I assume due to a reduction in competition for optimal habitat and food, despite poor adult sea trout returns. A similar improvement is seen in the trout parr data at the Lower Cator site upstream of Old Walls (see Appendix 1). This suggests that juvenile trout densities alone are not necessarily a good measure of the sea trout population as a whole and should not be used as a basis for the impact of Old Walls.

28. As addressed in section 5.12 of the Agency's SoC, there is a clear deterioration in the WFD Fish element between High status in 2014/15 and Moderate status from 2016 to present. Separating the impact directly attributable to Old Walls from wider declines in the two species which drive the WFD deterioration (Atlantic salmon and European eel) is not possible with the available data, however, given the hydrological modelling results and the clear deviation from the Hydropower Guidance, I consider it reasonable to conclude that it is probable that Old Walls is contributing to that deterioration.

D. Development of the Agency's proposal from a fisheries perspective

29. The following sections describe in detail my involvement in, and approach to, the development of the Agency's proposal. As discussed in sections 12 – 16, my approach was based on assessing Old Walls as if it were a new hydropower licence application and determining the appropriate standard of protection required to meet best practice under the Hydropower Guidance.
30. The first step was for me to confirm the species present. It is not disputed by the licence holder that migratory salmonid fish (Atlantic salmon and sea trout) are present within the West Webburn and this a key point. It confirms that fish screening is required under the Salmon and Freshwater Fisheries Act 1975 and it means that there are a number of fixed requirements in order to meet best practice under the Hydropower Guidance. It is worth reiterating that, for a new licence application, the Agency would not be required to provide evidence of harm (e.g. through entrainment) in order to oblige the applicant to install screening. There is an accepted assumption that abstraction intakes such as Old Walls entrain salmonids.
31. I was involved in three different aspects of the proposal; flow, fish screening and the wording of conditions on the draft licence.

Aspect 1- Flow

32. For flow, I confirmed to the virtual team for Old Walls that:

- The standard Q95 Hands Off Flow (HOF) for ASB3 low base flow rivers in Table A (Page 12 of the Hydropower Guidance) would be appropriate (i.e. that there was no

known justification for a more or less restrictive figure in this instance). The HOF provides protection to the river under low flows and is particularly important for protecting resident ecology. An improved Q95 HOF would also aid in limiting entrainment of smolts into the leat. This is discussed further in paragraphs 5.25 and 5.29 of the EA SoC.

- The standard 35% take above HOF (also from Table A) was appropriate (i.e. there was no known justification for either a more or less restrictive figure). The percentage take ensures flow variability between the turbine start-up flow and the maximum instantaneous rate when, without it, the abstraction would take all of the river flow down to the HOF. This protects flow variability which is important for fish movement and migration and geomorphological processes. A percentage take would also aid in limiting entrainment of smolts into the leat. This is discussed further in paragraphs 5.22 and 5.25 of the EA SoC.
- The existing leat has ecological value and should be protected with a sweetening flow where possible, however, under exceptionally low flows, priority must be given to protecting the river. A nominal value of 20 l/s was agreed for the sweetening flow, however, this was agreed in the expectation that there would be a 'counter offer' from the licence holder and that a more specific value could subsequently be agreed if necessary.

Aspect 2- Fish screening

33. For fish screening, the first step for a new application would be to consider and discuss with the applicant the key requirements in terms of screening to allow them to design a suitable solution. This would be based on the Hydropower Guidance, proposed scheme design (e.g. proposed turbine type) and interpretation of the available fish survey data. For Old Walls, I followed the same process, however, communication with the licence holder was curtailed and effectively undertaken indirectly through the OAR and LCPR, because I was not able to communicate directly (my understanding is that the licence holder requested that I did not attend the site visit, for example).

34. At Old Walls there are two options which are acceptable under the Hydropower Guidance:

- Head of leat screening at river frontage
OR
- Set back screening (i.e. the screen located at some point within the leat upstream of the turbine) in combination with an appropriate bywash

This is reflected in the Agency's OAR and LCPR. While the licence holder has expressed a preference for head of leat screening (and this also reflects the Agency's preference), both options remain available.

35. I then confirmed screen aperture requirements which, for Old Walls, I based on the cross-flow turbine installed at the site, using Table S1 (Page 20) and Table S3 (Page 21) of the Hydropower Guidance. This confirms that, for migratory salmonids in Devon and Cornwall, a minimum standard of $\leq 10\text{mm}$ screen aperture is required to protect smolts. Salmon and

sea trout undertake a physiological change, generally in their second to third year in the South West, where they mature from parr into smolts and this allows them to migrate to sea for the marine phase of their lifecycle. It is during this downstream migration that smolts are particularly susceptible to entrainment. Where salmonid parr (juvenile salmon and brown/sea trout of one year plus but pre-smolt) are present, the default is 6 mm screen aperture from May to September. This is referred to and queried in the licence holder's SoC (Point 42). While the Agency has no direct evidence that salmonid parr are entrained at Old Walls, I considered that the available EA fish survey data provided sufficient evidence that the West Webburn is used as a spawning and nursery area for salmon and brown/sea trout and thus salmonid parr are likely to be present wherever suitable habitat is present. From direct observation, I am aware that there is good quality juvenile habitat present in the reach upstream of Old Walls. This decision is discussed in the EA's response to point 42 of the licence holder's SoC. While the raw fish survey data discussed is publicly available online, the analysed data was not presented as part of our response to the licence holder's SoC in error, it is therefore appended to this statement (see Appendix 1).

36. The need for a bywash would depend on whether the applicant chose river frontage or set back screening. In this instance, both options remain available. The Hydropower Guidance details the requirements for an appropriate bywash (Pages 31 and 32).
37. The Hydropower Guidance also gives requirements for screen approach velocity (Pages 30-31) and screen size allowance for debris blinding (Page 31) which would need to be followed.
38. I considered tailrace screening using Table S9 of the Hydropower Guidance (Page 29). This requires a physical bar screen of $\leq 30\text{mm}$ bar spacing for sea trout and '*exceptionally where many small sea trout are present 25mm screens may be required...determined on a site-by-site basis*'. I considered that 25mm tailrace screening was appropriate in this instance because it is a condition which EA Fisheries apply to new licences in Devon and Cornwall based on best available data. Regardless, the 35mm bar spacing on the existing tailrace screen is not considered to offer an adequate standard of protection as stated in the licence holder's SoC (Point 55).
39. I also included a requirement for a $\leq 0.5\text{ m/s}$ tailrace discharge velocity. While this was included in the draft licence [CD13] under condition 9.7, in error, this requirement was not transferred into the Section 52 Notice [CD23] when it was written. Including a maximum exit velocity is a standard condition for new hydropower licences (confirmed in recent communications with the EA's National Permitting Service) which seeks to limit the potential for upstream migrating adult salmon and sea trout to be attracted to tailrace discharge points. I considered that a $\leq 0.5\text{ m/s}$ exit velocity was appropriate in this instance given that it has been used on recent, similar licences in Devon and Cornwall with the same species present (e.g. the National Trust's HEP intake at their Castle Drogo estate on the River Teign). With apologies to the Inspector and the licence holder for failing to include it in the Section 52 Notice, I request that the Inspector direct its inclusion.
40. The bar spacing and exit velocity are the only instances during the specification of the Agency's proposed option for Old Walls where I have used expert judgement rather than relying strictly on the outputs provided from comparing turbine design and available fish survey data with the Hydropower Guidance. However, these decisions follow established process and are consistent with previous Agency decisions in Devon and Cornwall.

41. Point 35 of the licence holder's response to the EA's SoC refers to the existing kelt screen (after spawning, some salmon and sea trout survive and return to the sea – 'kelt' is the term for downstream migrating post-spawned adult salmon and sea trout) which is 'deployed seasonally' (although the Agency has not observed this screen as having been deployed). The current licence contains no relevant condition and so there is technically no guarantee that additional protection is provided. If the preferred head of leat solution is taken forward, this is a moot point because best practice screening will be installed at that location. However, if a set back solution were taken forward, potential provision of a kelt screen is something we would wish to discuss with the licence holder.

Aspect 3- Conditions

42. I took the outputs from the Hydropower Guidance and worked with the virtual team to produce relevant conditions in the draft licence [CD13]. This followed the process used for a new hydropower licence.

E. Feasibility

43. As well as on grounds of lack of evidence of harm directly attributable to the operation of Old Walls, the licence holder also questions the Agency's justification for requiring major changes to the Old Walls licence citing the technical feasibility of delivering a head of leat, river frontage fish screen, both in terms of construction and operation (e.g. SoC Point 43 and Point 50 of licence holder's comments on the Agency's SoC).
44. It is correct that the Agency must consider technical feasibility, however, I consider that there is no reason to automatically preclude a head of leat screening option on technical feasibility grounds (either in terms of construction or operability). This is because there are a number of examples of similar head of leat, river frontage schemes with ≤ 10 mm aperture screening on small spate rivers in Devon and Cornwall, and many more nationwide.
45. While regular maintenance is required at some locations, I am not aware of any significant issues with operability, even at sites which are unmanned. Potential issues with sediment and/or debris accumulation would generally be considered, and designed out, at design stage (e.g. through location, orientation or design of the intake). In summary, my conclusion is that head of leat, river frontage screen infrastructure is technically feasible to construct and operate under conditions similar to those found at Old Walls and so such a solution at old Walls should not be dismissed out of hand. Recent relevant fish screen installations in Devon and Cornwall include (but are not limited to):
- South West Water's (SWW) intake on the Swincombe, Dartmoor
Installed: 2020
Mesh size: 8 mm aperture
Screen type: Stainless steel passive wedge-wire
 - SWW's Trekeive Steps intake on the River Fowey
Installed: 2020
Mesh size: 2 mm aperture
Screen type: Stainless steel perforated plate drum screen

- SWW's Rialton intake on the Porth

Installed: 2024

Mesh size: 2 mm aperture

Screen type: Stainless steel passive wedge-wire

46. I therefore consider that head of leat, river frontage screening for this site is potentially technically feasible and this is why we offered it as our preferred option (with an alternative set back screen option) as one of two options to the licence holder. The river frontage option was preferred by the licence holder and so we included it in the licence change proposal. As an alternative, set back screening offers a sufficient level of protection to reduce the risk of entrainment provided it meets the design requirements set out in the Hydropower Guidance and this remains an option for the site.

F. Response to additional points made by the licence holder

47. The licence holder recognises the need for conservation of salmon and sea trout (point 22 response to EA's SoC) but asserts that, because the Agency has a lack of evidence of harm directly attributable to Old Walls, it is not appropriate to seek significant changes to the licence (e.g. point 19 in licence holder's SoC). However, for the reasons already explained, consistent with the Agency's overall approach under the RSA programme, the Agency is not duty-bound to rely exclusively on direct evidence of harm to reach the conclusion that the operation of Old Walls results in harm to the environment. Instead, when determining licence applications and variations, the Agency will take a precautionary approach and use a range of information available to it, crucially in this case modelling work, the Hydropower Guidance and the available data. This is the process we have followed for Old Walls.
48. We considered the need for additional monitoring, but, as discussed above, it was decided that the likely costs of such a programme were beyond what was available and were not proportionate. In addition, the hydrological modelling, alongside the fact that the current licence/operation falls well outside best practice as set out in the Hydropower Guidance, were considered to provide sufficient justification to require licence change.
49. The licence holder states in point 22 of his response to the EA's SoC that, while '*salmon conservation in the catchment is important...this in itself does not constitute a justification for the licence change proposals at Old Walls, considering that the EA has not provided evidence that Old Walls is contributing to these trends, which the EA states affect not just the West Webburn River but the wider catchment*'. As discussed in paragraphs 5.7 to 5.12 of the EA's SoC, the suspected issues affecting the West Webburn have been identified in the context of Water Framework Directive (WFD) waterbody element failures and linked Reasons for Not Achieving Good (RNAG) status. The Agency's role is to collate both proven *and suspected* issues, based on the judgement of subject experts. The operation of, and infrastructure linked to, Old Walls are identified as potential reasons contributing to the failure of the waterbody alongside a range of other issues. The Dart salmon population is declining at the catchment scale, and this appears to be occurring at a rate exceeding that of other local rivers. This highlights how critical the removal of remaining pressures is in practical terms, and it is the reason that the EA has been focussing on realising improvements on key spawning tributaries such as the West Webburn in recent years by focussing on work targeting these RNAGs and associated measures. Given the hydrological

assessment, we cannot conclude no impact. Failure to make improvements at Old Walls risks nullifying the benefits of any work undertaken elsewhere in the West Webburn catchment. Therefore, I do not consider this to be a valid reason not to pursue improvements at Old Walls.

50. It is raised in general terms in the licence holder's SoC (e.g. point 32.1) and specifically in Gail Fursdon's objection [CD40] that there are concerns regarding the potential for environmental harm relating to the construction of any new infrastructure as well as the proposed sweetening flow condition for the leat.
51. The construction of any new infrastructure would be required to go through relevant permitting procedures designed to limit harm to the environment. While such work will inevitably result in some disturbance to the environment, it is considered that, with the protections that permitting provides, any short-term impacts would be outweighed by longer-term benefits.
52. The issue of damage to leat habitats is raised in both the licence holder's SoC and Gail Fursdon's objection. As discussed in paragraph 8.8 of the EA's SoC, the existing leat has ecological value and should be protected with a sweetening flow where possible, however, under exceptionally low flows, priority must be given to protecting the river. The current situation, where the leat is effectively prioritised over ensuring the lowest flows support the deprived reach, is not considered sustainable.

G. Further comments on the existing licence

53. The abstraction licence, when it was granted in 1992, contained a condition stating '7. *Intake must be adequately screened against the ingress of fish*' [CD2]. I am advised by the Agency's legal advisors that in all likelihood the use of the word 'adequately' makes the condition too subjective and vague to enforce. The licence was accompanied by a document signed by the licence holder confirming his acceptance of the condition, which related to '*present arrangements*' [CD3]. I do not know the reason for the agreement, and what it adds. The covering letter from the Agency to the licence holder dated 30 July 1992 [CD3] which asked the licence holder to sign and return the agreement does not clarify matters, and the officer who sent it (Nick Prall) has left the Agency.
54. When the licence was varied in 2010 the condition was re-produced in the same form, in condition 10.7 [CD1]. I am advised that the Agency does not consider that the agreement impairs or restricts the Agency's ability to put forward proposals of the type specified in conditions 9.4 and 9.5 of the proposed licence [CD13] to change the condition into something more meaningful and enforceable.

H. Conclusion

55. Throughout the process, the input that I have provided is based on best practice guidance and established Agency process.
56. 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 rather than flowing into the leat. Flow within the 600 m deprived 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 prevent the entrainment of migratory salmonids within the leat. These changes

represent significant benefits for the West Webburn River compared to the protection afforded by the existing licence.

Signed:



Name: David Bartlett

Date: 14th July 2026

Appendices	
Appendix 1	Cator & Mistresses Piece Fish Survey Data 1993 - 2025

Salmonid densities (fish per 100m2) from EA surveys 1993 to 2025

SALMON FRY(0+)																												
SITE NAME	1993	1994	1996	1999	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Mistresses Piece	1.51	-	3.20	4.34	19.65	-	-	-	-	-	18.87	-	-	-	-	-	7.04	6.45	1.39	6.72	-	-	-	-	-	-	6.74	-
Cator Bridge	32.62	-	10.05	21.86	54.74	-	-	-	-	-	29.32	-	-	-	-	-	0.00	0.00	0.00	0.00	-	-	-	0.00	-	-	0.00	-
SALMON PARR (1+)																												
SITE NAME	1993	1994	1996	1999	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Mistresses Piece	10.83	-	12.10	5.44	19.86	-	-	-	-	-	7.99	-	-	-	-	-	13.14	4.30	9.27	0.00	-	-	-	-	-	-	3.37	-
Cator Bridge	17.15	-	20.54	13.74	4.24	-	-	-	-	-	7.44	-	-	-	-	-	2.97	0.00	0.00	0.00	-	-	-	0.00	-	-	0.00	-
TROUT FRY(0+)																												
SITE NAME	1993	1994	1996	1999	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Mistresses Piece	0.84	-	2.67	0.73	5.7	-	-	-	-	-	5.56	-	-	-	-	-	3.29	4.84	4.63	21.83	-	-	-	-	-	-	5.39	-
Cator Bridge	5.44	-	21.85	6.03	57.02	-	-	-	-	-	24.94	-	-	-	-	-	41.21	44.88	37.11	136.81	-	-	-	43.45	-	-	13.71	-
TROUT PARR AND OLDER(1+)																												
SITE NAME	1993	1994	1996	1999	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Mistresses Piece	8.03	-	8.62	7.11	11.41	-	-	-	-	-	8.22	-	-	-	-	-	13.14	5.38	13.67	3.57	-	-	-	-	-	-	18.19	-
Cator Bridge	18.37	-	19.47	15.50	13.36	-	-	-	-	-	12.25	-	-	-	-	-	19.12	17.48	29.20	53.3	-	-	-	21.40	-	-	11.17	-

Notes
Dash (-) signifies no survey undertaken
All salmon are parr (i.e. pre-smolt). Trout are a mixture of parr and older individuals as is it not possible to separate river resident trout from those that will smoltify because brown and sea trout are different morphs of the same species. However, the survey sites are located at known areas of juvenile habitat as the aim is to assess recruitment. The majority of >0+ trout are therefore parr (which may smoltify) rather than older river resident brown trout.

Fish densities per 100m2 are classified by colour according to the National Fisheries Classification grades. See table below for grade boundaries and colours.

Grade	Density of Fish per 100m ²			
	Salmon fry	Salmon parr	Trout fry	Trout parr
A - Excellent	>86	=>19	=>38	>21
B - Good	45-85.9	10.0-18.9	17.0-37.9	12.0-20.9
C - Fair	23-44.9	5.0-9.9	8.0-16.9	5.0-11.9
D - Fair	9-22.9	3.0-4.9	3.0-7.9	2.0-4.9
E – Poor	<9	<3.0	<3.0	<2.0
F - Fishless	None recorded	None recorded	None recorded	None recorded