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**RESPONSE TO THE CONSULTATION ON IMPLEMENTING THE ABSTRACTION
ELEMENTS OF THE WATER ACT 2003**

BY EMAIL

To: waterresources.consultations@defra.gsi.gov.uk
water@wales.gsi.gov.uk

From: guy.linleyadams@fishlegal.net

The Angling Trust is the unified body for angling in England. Fish Legal, the legal arm of the Angling Trust, also operates within Wales.

Both the Angling Trust and Fish Legal welcome the opportunity to respond to the consultation concerning the Water Act 2003.

Our comments will be limited to those aspects of the Water Act 2003 dealing with the problems of trickle irrigation and the loophole that exists in relation to the requirement for an abstraction licence.

Introduction

We are very supportive indeed of the move to bring trickle irrigation under proper abstraction licensing control.

Particularly during the summer months, certain rivers are subject to considerable agricultural abstraction for trickle irrigation. Currently, this is without limit and can have a serious detrimental effect on the ecology of the affected rivers. It is clear that agricultural interests, for example soft fruit growers, have used the loophole to abstract excessive quantities, quite legally, leading to detrimental impacts on fisheries.

Delay

We refer to the Environment Agency briefing dated 28th November 2003 on trickle irrigation.

We attach a copy.

In 2003, it was made clear to all interested parties that the loophole for trickle irrigation would be closed. That it has yet to be closed is a matter of great regret and concern.

We do not believe that there should be any further delay or that any extended transitional period for the ending of this particular loophole is required and would support bringing in the new licensing system for trickle irrigation immediately.

Proposed five year determination period

In relation to Question 6, we do not believe that a five-year period for the determination of all applications is required or is reasonable. Indeed, this appears to be unambitious in the extreme. We would expect the Agency to determine the 900 or so applications for abstractions (as predicted in the 2003 briefing) in a much shorter time frame.

We note that the Agency stated in its briefing of November 2003 that it would have three years to determine all applications and would attach priority to the most significant abstractions. While we welcome that the Agency now believes that applicants no longer need two years but can do with one year to apply for abstraction licences, we note that the Agency has decided to give itself five years (ie a further two years more than it anticipated in 2003 would be needed).

We also note that the Agency argues that affected abstractors have had time to prepare for this change. This could equally well be applied to the Agency itself which understood for at least seven years (from the time the Bill was going through its Committee stages) that they would face a number of applications from those currently unlicensed.

The overall effect is potentially to give the trickle irrigation loophole a further year to run, on top of the six years since the 2003 Act was passed.

Prioritising trickle irrigation

We strongly oppose the suggestion no longer to determine applications for trickle irrigation earlier than those in other categories. In other areas, the Agency makes a great deal of fuss about how well it applies risk-based regulation. Under those circumstances, clearly the trickle irrigation problem is one that it must deal with as a priority.

We have no objection to the publication of this response.

Yours faithfully

Angling Trust / Fish Legal