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Thursday, 17 February 2011

CC: Lord Smith of Finsbury, Richard Benyon MP, Greg Barker MP, John Aldrick, Mat Crocker, Pam Gilder

Dear Paul,

Hydropower

Firstly thanks to you and your colleagues for meeting us last week and making so much time available out of your busy schedule. We feel that you understood the concerns that led to us requesting the meeting and that there is now a way forward to ensure our full involvement in the development of Agency policy and practice on hydropower. We welcome your acknowledgement that water and wildlife have not received sufficient weighting in the Agency's regulation of hydropower to date and hope that you will make this message clear to your colleagues.

What follows is our understanding of what will now happen, and we would appreciate your confirmation that this is accurate.

The Agency will conduct an evidence-based review of the Good Practice Guidelines, including an open public consultation. The drafting of the consultation document will be carried out in conjunction with ourselves and other interested parties. This review will be completed by the autumn (i.e. October 31st 2011) and you will let us know the full timetable and the name of the Project Manager as soon as possible.

In reviewing the Guidelines, proper consideration will be given to the potential cumulative impacts of several hydropower developments in a catchment. This will also impact on the Permitting Process which is currently 'first come, first served' rather than a strategic catchment based approach consistent with modern river management and the Water Framework Directive. The study into a catchment-based approach which was promised two years ago has not materialised. We would like confirmation of when it will and an opportunity to comment on the specification.

All evidence and other information available to the Agency will from now on be made readily available free of charge to interested parties on request. As new evidence or information becomes known to the Agency it will be rapidly disseminated.

The Agency will make every effort to remove the in-built bias towards the applicant in the permitting process. In particular it will revisit the current practice of not involving properly interested parties in the pre-

application discussions/negotiations. We feel it is unreasonable to protect the commercial and private interests of developers/applicants whilst denying potentially affected commercial, private, fishery and environmental interests equal involvement. If there is an unequivocal legal basis for the current practice we wish to see it. If not then the current practice of negotiating with applicants and only allowing interested parties three weeks to respond to advertised *faits accompli* is unreasonable and will inevitably lead to more objections. We wish to see the Agency regulate applications by laying down the law, rather than negotiating with developers. We summed up the correct approach as “No, unless...” rather than the current “Yes, if...”.

We welcome your acknowledgement that the language used by the Agency in the past was ‘unfortunate’ and that there should have been greater qualification of the opportunities. We look forward to seeing all future Agency announcements and publications on hydropower give a balanced view of the potential for hydropower and the need to protect the environment and fisheries it supports. The recent spate of Press Releases on the streamlined Permitting Process is a continuation of the unbalanced approach which amounts to biased promotion of an activity which the latest DECC figures suggest has maximum potential to deliver only 0.2% of the country’s electricity needs.

Tony Grayling indicated his intention to establish a Working Group on Hydropower and that we would be guaranteed representation on the group. We look forward to the details of this group and its proposed Terms of Reference.

Mat Crocker offered to send us a summary of the evidence base already available within the Agency and we look forward to receiving this promptly.

David Jordan offered a meeting to discuss in detail our concerns on the Permitting Process and any interim measures which might be put in place to prevent inadequate applications being progressed while the review of the Good Practice Guidelines is underway. Again we welcome this and look forward to an early invitation.

Thank you once again for the attention you are giving to this very important issue which is of great concern to all of our organisations and members. I look forward to receiving early confirmation that our understanding of what was agreed is accurate and to prompt responses to the specific points.

With kind regards

Yours sincerely



Mark Lloyd

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Also on behalf of : Huw Evans, Chairman, Afonydd Cymru
 Arlin Rickard, Executive Director, Association of Rivers Trusts
 Ivor Llewellyn, Director (England and Wales), Atlantic Salmon Trust
 Roger Furniss, Chairman, Fish Legal
 Paul Knight, Chief Executive, Salmon and Trout Association
 Shaun Leonard, Director, Wild Trout Trust