

Department of Communities and Local Government

Further changes to statutory consultee arrangements for the planning application process

January 2015

Background to CIWEM

1. The Chartered Institution of Water and Environmental Management (CIWEM) is the leading professional and qualifying body for those who are responsible for the management of environmental assets. The Institution provides independent comment on a wide range of issues related to water and environmental management, environmental resilience and sustainable development.
2. CIWEM welcomes the opportunity to submit written evidence to the Department of Communities and Local Government on further changes to statutory consultee arrangement for the planning application process. This response answers only Part C on the proposal to make water companies statutory consultees in respect to planning applications for shale oil and gas development. This is to coincide with the timing of the Infrastructure Bill. CIWEM will respond separately to parts A and B.

Summary

3. In 2014 CIWEM published a report *Shale Gas and Water* analysing the potential impacts of shale gas development on the water environment and concluded that water and water and sewerage companies should become statutory consultees within the shale gas planning process. This report is available from www.ciwem.org/shalegas.
4. Water and water and sewerage companies should be statutory consultees in the shale gas planning process so that they are involved with enough time to satisfy their regulatory duties and are able to plan effectively for future water demand ensuring that there is enough for consumers, other industries and the environment.
5. Water companies have a statutory duty to assess current and future risks to water quality so as a statutory consultee they could ensure that any impacts on drinking water and drinking water sources would be fully taken into account.
6. Water and sewerage companies may also be asked to treat the returned waters to remove harmful chemicals and Naturally Occurring Radioactive Materials (NORM) so would need to ensure that their facilities have the requisite permits.
7. The Memorandum of Understanding between the trade bodies Water UK and UK Onshore Operators Group (UKOOG) is welcome, however it does not have any legal status so there are no safeguards that any action would be taken if it were not complied with.

Part C Increased Role for Water Companies

Do you have views on whether water companies should be made statutory consultees in respect to shale oil and gas development?

8. Shale gas operators have the option to source water directly from the environment via abstraction, purchase it from a water company and receive it via the mains or from tankers or they may recycle a proportion of their own water. The consultation document does not mention that many shale gas companies will source their water by purchasing it from water companies, and that many may be asked to treat the returned waters.
9. The exploration that has already taken place in the UK such as at Cuadrilla's sites in the North West utilised water from the mains supplied by the water and sewerage company United Utilities and has not yet found a suitable treatment facility locally due to permit requirements.
10. Under the Water Industries Act 1991 a water company has a duty to provide water for non-domestic purposes but this is subject to certain exceptions. Usage of mains supplies requires the agreement of the water company, and that such supplies are available. Therefore it would be wise for water companies to be statutory consultees in the planning process.
11. With shale gas production not expected until further into the 2020s it is worth looking at the future water resource availability. Water stress, particularly in the South East, is a major concern for many UK water companies and they need to be able to plan accordingly. Early engagement will be important to ascertain any additional headroom and available volumes for the industry.
12. Water availability is due to decline in the future due to the demands of a growing population and the permitted quantity that will be able to be taken from the environment will also decrease from the impacts of climate change, sustainability reductions required under the Water Framework Directive and the Government's intention to reform the abstraction regime to correct historical over-abstraction.
13. Water companies have a statutory duty to assess current and future risks to water quality and water resources in Drinking Water Safety Plans and Water Resource Management Plans. These plans are typically reviewed every 5 years, and link to company investment strategies. They must also plan for water resources for the next 25 years through their Strategic Direction Statement.
14. Many of the locations of onshore licences on the Weald in the south east coincide with areas that are already over-abstracted and where fewer resources will be available in the future. Recent estimates based on Environmental Flow Indicators for each water company in the south east suggested that the total target of sustainability reductions could be as much as 50 per cent higher than original estimates from the Environment Agency. This is a considerable challenge to the companies who must also deal with increased demand and the pressures of climate change. CIWEM considers that shale gas operators should provide a profile of water use and flowback over life of the shale well to help establish if there will be any pinchpoints in supply.
15. Drinking water quality regulators in the UK have noted that hydraulic fracturing poses a potential emerging hazard for drinking water and require water companies to consider the impacts in regulatory risk assessments. Water companies need to receive information about proposed shale gas sites to ensure that development plans are fully understood, the associated risks are addressed and that the protection of water resources and the environment are considered as a priority.

16. The memorandum of understanding between the trade bodies Water UK and UKOOG is welcome but it does not have a statutory footing and has no real consequences if it were not applied. It also currently only applies to existing members of UKOOG.
17. CIWEM believes alongside Water UK that with water companies as a statutory consultee in the process it would enhance the confidence of regulators and the public by demonstrating that impacts on drinking water and drinking water sources will be fully taken into account. This is already the case in Scotland, where the regulator expects Scottish Water to be aware of all activity in its catchments and being involved in the planning process provides regulators with assurances of proactive engagement in the planning process. It would also lead to water companies working with operators to develop solutions that will work for all stakeholders.