

8<sup>th</sup> October 2015



Our Reference: M4 Smart Motorway TR010019 - South East Water Written Representation to Planning Inspectorate - 081015

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Dear Richard,

**M4 (Junctions 3 to 12) Smart Motorway Development Consent Order Application – Written Representation – South East Water**

**Application Reference: TR010019**

South East Water would like to thank the Planning Inspectorate for giving us the opportunity to make a written representation with regard to the M4 (Junctions 3 to 12) Smart Motorway Development Consent Order Application, reference TR010019.

**Summary**

**This letter is a written representation for submission to the Planning Inspectorate of South East Water’s outstanding concerns with regard to the M4 (Junctions 3 to 12) Smart Motorway Development Consent Order Application following a dialogue from 2014 to 2015 (referred to in this letter as the Scheme) between South East Water and both the Planning Inspectorate and Highways England (formerly the Highways Agency).**

**Four key points are stated on which South East Water have had previous correspondence and within which South East Water require and request further information within this Examination phase:**

**Point 1: The addition of ‘the impacts of the proposal on water resources’ to the list of Primary Issues**

**Point 2: The Examining Authority’s first written questions and requests for information – Issued 11 September 2015 as referenced in the Rule 8 letter**

- **South East Water respond to questions 4.5.2 and 9.20 (i), (ii) and (iii) posed by the Planning Inspectorate and identify sections of South East Water’s written representation that respond to these questions and attach maps identifying both**

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groundwater source protection zones and the location of South East Water's sites in the vicinity of the Scheme as part of this response

**Point 3: The letter sent through to South East Water 28th September 2015 from Highways England responding to South East Water's letter dated 18 December 2014 (South East Water Ref: 514451-PIN-00-ZZ-DB-C0-323999)**

- South East Water will not be in a position to comment on whether not we are satisfied that the Scheme has considered all potential risks to groundwater and surface water and mitigated against them accordingly or to make a statement regarding whether our outstanding concerns have been addressed until we have received the Hydrogeological Risk Assessment and drainage scheme method statements including pollution protection measures for groundwater and surface water respectively from Highways England.

**Point 4: The draft protective provisions sent through to South East Water for consideration from DLA Piper on behalf of Highways England**

- The draft protective provisions are currently under review by South East Water's legal team. Once our legal team have assessed if we consider the existing draft protective provisions to be sufficient a response will be submitted to DLA Piper asking for these to be adapted as appropriate.

South East Water would like to further take this opportunity to bring to the Planning Inspectorate's attention a scheme that is planned to expand our Keleher Water Treatment Works Site which may give rise to access issues if coincident with the onset of the Scheme. DLA Piper on behalf of Highways England have agreed to send through the construction traffic management plan inclusive of contact details to facilitate dialogue between South East Water and the Highways Agency in the case that construction works coincide.

South East Water reiterate that our primary concern is the protection of surface and groundwater resources that we abstract and subsequently treat for public water supply. Whilst South East Water support the overall objectives of the scheme to relieve congestion and improve journey times between junctions 3 to 12 of the M4, we remain concerned about the impacts the proposals could have on water resources which we rely on in order to supply public drinking water.

### Dialogue to Date

South East Water would like to begin by outlining our dialogue to date between both the Planning Inspectorate and Highways England.

### South East Water and the Planning Inspectorate:

- South East Water sent a letter to Karen Jones (EIA and Land Rights Advisor on behalf of the Secretary of State) dated 8<sup>th</sup> August 2014 (South East Water Ref: 140808\_TR010019\_2649167) responding to notification of the scoping consultation for an application by the Highways Agency for an order granting Development Consent for M4 Junctions 3 to 12: Smart Motorway and raising our initial concerns with regard to the impact the proposals could have on water resources that we rely upon in order to supply drinking water

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- South East Water submitted a Relevant Representation (reference 149) on the Planning Inspectorate website 24<sup>th</sup> June 2015 which stated “The development impinges on source protection zones for public water supply. South East Water provided a letter (18<sup>th</sup> Dec 2014) outlining our main concerns. South East Water may wish to attend at the examination process, or speak. Our concerns require a direct response in the first instance. Which South East Water have yet to receive. South East Water would like the opportunity to re-submit our concerns as soon as possible.”
- South East Water received the Rule 6 letter - Notification of Preliminary Meeting
- South East Water attended the preliminary Meeting held on Thursday 3<sup>rd</sup> September 2015 at the Desborough Suite, Maidenhead Town Hall and expressed the opinion that impacts on water resources should be added to the list of Preliminary Issues listed in Annex B of the Rule 6 letter. Wendy Burden (Examining Officer) confirmed that ‘all relevant and important matters would be examined, and reiterated that the list of principal issues was neither comprehensive nor exclusive. Written Representations suggesting an expansion of the list of principal issues would be considered.’
- South East Water received the Rule 8 letter - Infrastructure Planning Examination Procedure - Rules 2010 from Wendy Burden (Examining Authority) via email 11<sup>th</sup> September 2015 referencing the first round of written questions, including questions directed at South East Water, and stating a deadline of 8th October for written representations from interested parties including evidence on any matters concerning the application and answers to the first round of written questions. South East Water herewith include the requested written representation, evidence on matters concerning the application that are relevant to South East Water’s interests and answers to the first round of written questions within the ‘Written Representation’ section of this letter.

South East Water and Highways England (formerly the Highways Agency):

- South East Water sent a letter to (Lynne Stinson – Project Manager MP Smart Motorways Programme) 18<sup>th</sup> December 2014 (South East Water Ref: 514451-PIN-00-ZZ-DB-C0-323999) commenting on the scoping consultation and outlining outstanding concerns with regard to the impact the proposals could have on some of our water resources that we rely upon in order to supply drinking water.
- 28<sup>th</sup> May 2015 Highways England sent Section 56 Notice of acceptance of a planning application for a development consent order for the M4 Junctions 3 to 12 Smart Motorway (notification that the application for M4 Smart Motorway development consent order submitted to the Secretary of State 27 April 2015 had been accepted for examination by the Planning Inspectorate) and included with the notification letter a map showing a location of the proposed development and a copy of the Environmental Statement.
- DLA Piper representing Highways England wrote to South East Water 16<sup>th</sup> June 2015 in order to request that the two parties enter into a dialogue to discuss “particular matters in respect of the Scheme, which may affect in its capacity as a statutory undertaker in relation to water and sewerage pipelines and the provision of related utility services, and which may or will require agreement in advance of the close of the examination of the Application” and proposed to “enter into an interface agreement/protective provisions for the benefit of South East Water Limited within the development consent order (“DCO”) for the Scheme to ensure the protection of South East Water Limited’s undertaking during the

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construction and operation of the scheme” and attached draft protective provisions for review and comment.

- DLA Piper representing Highways England wrote to South East Water again 28<sup>th</sup> July 2015 ‘to progress negotiations and resolve any objections in relation to the proposed protective provisions’
- South East Water met with Emma Harling-Phillips from DLA Piper representing Highways England 16<sup>th</sup> September 2015 to request a direct response to the letter sent to Lynne Stinson 18<sup>th</sup> December 2014, to discuss the M4 Junctions 3 to 12 Smart Motorway Development Consent Order Application and the potential impacts/risks of the application to water resources and South East Water’s adjacent sites in addition to the draft protective provisions and any outstanding areas of concern
- South East Water emailed through to Emma Harling-Phillips at DLA Piper plans detailing the location of South East Water’s abstraction boreholes in the vicinity of the Scheme, noting that our Bray Gravels Site and Beenhams Heath Site correspond to Map 19 and Map 14 in the Environmental Statement respectively, and groundwater level data from Borehole 1 at our Bray Gravels site (the only long term groundwater level data set held by South East Water in the vicinity of Monkey Island Lane as specifically requested by DLA Piper’s environmental team to support their response to our 18<sup>th</sup> December 2014 letter).
- South East Water received a direct response to their letter sent 18<sup>th</sup> December 2014 from Lynne Stinson at the Highways England 28<sup>th</sup> September 2015. This letter responded to South East Water’s concerns via reference to the Environmental Statement for the scheme, by providing additional information with regard to the progress of the design phase of the scheme and ongoing investigations supporting the application for the Scheme as well as providing direct responses to South East Water’s specific concerns.

## Written Representation

This written representation will address South East Water’s outstanding concerns on four key points as listed below:

- **Point 1: The addition of ‘the impacts of the proposal on water resources’ to the list of primary issues**
- **Point 2: The Examining Authority’s first written questions and requests for information – Issued 11<sup>th</sup> September 2015 as referenced in the Rule 8 letter**
- **Point 3: The letter sent through to South East Water 28<sup>th</sup> September 2015 from Highways England responding to South East Water’s letter dated 18<sup>th</sup> December 2014 (South East Water Ref: 514451-PIN-00-ZZ-DB-C0-323999)**
- **Point 4: The draft protective provisions sent through to South East Water for consideration from DLA Piper on behalf of Highways England**

South East Water’s written representation is as below:

### Point 1: The addition of ‘the impacts on water resources’ to the list of Primary Issues

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South East Water would like to request that the Planning Inspectorate add 'the impacts on water resources' to the list of Principle Issues given our specific interest in the protection of surface and groundwater resources at, and adjacent to, the site of the proposed development which we abstract and treat for public water supply.

**Point 2: The Examining Authority's first written questions and requests for information – Issued 11 September 2015 as referenced in the Rule 8 letter**

Planning Inspectorate Question 4.5.2

Classified under Section 4 Environment and sub-section Section 4.5 Geology and Soils, this question is not directed at South East Water but as the question is relevant to our interests an answer is here provided.

***Planning Inspectorate Question 4.5.2 - Chapter 10 APP-150 identifies no significant residual impact from the project on groundwater resources during either construction or operation. Are the conclusions agreed with statutory consultees?***

**South East Water Response to Question 4.5.2** - See Point 3 within the 'Written Representation' section of this letter

Planning Inspectorate Question 9.20 (i), (ii) and (iii)

This question is directed at South East Water specifically.

***Planning Inspectorate Question 9.20 - SEW express concern that the development impinges on source protection zones (SPZ) for public water supply RR-149.***

***Planning Inspectorate Question 9.20 (i) - Can SEW provide an update on any progress in terms of the applicant's engagement in response to the concerns raised in SEW's letter dated 18 December 2014?***

**South East Water Response to Question 9.20 (i)** - See 'Dialogue To Date' section between South East Water and the Highways Agency and Point 3 within the 'Written Representation' section of this letter.

***Planning Inspectorate Question 9.20 (ii) - Can SEW provide a map(s) identifying the SPZs referred to in its RR?***

**South East Water Response to Question 9.20 (ii)** – Maps are attached (PDF File 'South East Water's Response to Planning Inspectorate Question 9.20 (ii) - EA SPZ Maps and SEW Site Locations') with Figure 1 locating South East Water's Water Treatment Works (note that the location of South East Water's abstraction boreholes are not identified and these locations can be provided on request) and Figure 2 identifying the groundwater source protection zones (SPZs) as identified by the Environment Agency and as retrieved from the Environment Agency's 'What's in your backyard?' website available via the following link:

<http://apps.environment-agency.gov.uk/wiyby/37833.aspx>

***Planning Inspectorate Question 9.20 (iii) Are any changes to the dDCO sought by SEW in order to protect the SPZs referred to in its RR?***

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**South East Water Response to Question 9.20 (iii)** - As per Point 3 – South East Water is not currently in the position to comment on whether changes to the Development Consent Order are required.

**Point 3: The letter sent through to South East Water 28<sup>th</sup> September 2015 from Highways England responding to South East Water's letter dated 18<sup>th</sup> December 2014 (South East Water Ref: 514451-PIN-00-ZZ-DB-C0-323999)**

With regard to groundwater:

South East Water acknowledge that our concerns to date have been qualitatively considered within the Scheme's Environmental Statement although until appropriate data with respect to the ground and groundwater conditions has been collected and analysed to support a quantitative Hydrogeological Risk Assessment (HRA) South East Water's position has not changed since our letter dated 18<sup>th</sup> December 2014 (South East Water Ref: 514451-PIN-00-ZZ-DB-C0-323999). Our outstanding concerns and request for information to date, outside of the receipt of the Environmental Statement, as stated within this letter are:

- The proposal includes construction activities in a designated Groundwater Protection Zone and has significant potential risk to public water supplies from our Bray Gravels site, and potentially our nearby Beenhams Heath site. These risks needs to be properly considered and adequately addressed both within the environmental impact assessment and wider project planning. We would welcome a separate Hydrogeological Impact Assessment to be made available for consultation prior to granting of the work.
- There is a high risk that the proposed construction works would increase turbidity in the groundwater at the Bray Gravels site to the point it falls outside the tolerances of our water treatment works and so fails the standards set for drinking water by our regulators, the Drinking Water Inspectorate. This could prevent us from supplying customer's drinking water from this key site, one of our largest groundwater sources.

South East Water are pleased to learn that Highways England Appointed are now arranging for a targeted ground investigation to be undertaken in key areas to determine the ground and groundwater conditions and that the work and HRA will be completed by December 2015.

At this stage South East Water request that Highways England notify them of the dates when the ground investigations will commence and that the HRA is sent through for review once complete. Only on receipt of the HRA will South East Water will be in a position to comment on whether or not we are satisfied that the Scheme has considered all potential risks to groundwater and mitigated against them accordingly and that our outstanding concerns as stated above have been addressed.

With regard to surface water:

South East Water are pleased to learn that method statements will be prepared including details of pollution protection measures and that discharge consents will be requested from all relevant water authorities before commencement of drainage works where required when drainage systems are to be relocated.

South East Water would like to reiterate our concerns that:

- Relocation of surface water drainage from the M4 at this location could potentially increase the risk of water quality contamination at the site.

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- Our abstractions at Beenhams Heath between Junction 9 and 10 may also be impacted if surface water drainage is modified.

South East Water request sight of the method statements relating to the Drainage Strategy and details of discharge consent applications as they progress in order to satisfy us prior to the onset of construction that there will be no detrimental effect on adjacent surface water courses.

South East Water will prepare a response to Highways England over the coming weeks outlining South East Water's current position with regard to our concerns relating to the impact of the Scheme on groundwater and surface water in advance of the receipt of the HRA in December 2015 following intrusive ground investigation work and in advance of the receipt of method statements detailing pollution protection measures and details of discharge consent applications.

#### **Point 4: The draft protective provisions sent through to South East Water for consideration from DLA Piper on behalf of Highways England**

The draft protective provisions sent through to South East Water by DLA Piper on behalf of Highways England are currently under review by South East Water's legal team. Once our legal team have assessed if we consider the existing draft protective provisions to be sufficient a response will be submitted to DLA Piper on behalf of Highways England asking for these to be adapted as appropriate.

South East Water would like to further take this opportunity to bring to the Planning Inspectorate's attention a scheme that is planned to expand our Keleher Water Treatment Works Site and increase output from 45 MI/d to 68MI/d by 2020 (the location of this site is identified in Figure 2 within the attached maps (PDF File 'South East Water's Response to Planning Inspectorate Question 9.20 (ii) - EA SPZ Maps and SEW Site Locations'). The construction phase of this project is programmed from 2017 to 2019 and if coincident with the onset of the M4 Smart Motorway scheme may give rise to access issues resulting from increased construction traffic, in particular along Monkey Lane. DLA Piper on behalf of Highways England during their meeting on the 16<sup>th</sup> September 2016 agreed to send through the construction traffic management plan inclusive of contact details to facilitate dialogue between South East Water and the Highways Agency in the case that construction works coincide.

South East Water reiterate that our primary concern is the protection of surface and groundwater resources that we abstract and subsequently treat for public water supply. Whilst South East Water support the overall objectives of the scheme to relieve congestion and improve journey times between junctions 3 to 12 of the M4, we remain concerned about the impacts the proposals could have on water resources which we rely on in order to supply public drinking water.

South East Water looks forward to an ongoing dialogue with both the Planning Inspectorate and Highways England through this Examination phase of the application and working together with yourselves and the Environment Agency to protect water resources, both groundwater and surface water, to ensure that the public water supply is safe-guarded in the future.

Yours sincerely,

  
**Katie Woollard**

**Water Resource Planner, South East Water**

**cc: Helen Chapman, Supply Demand Manager, South East Water**

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