



**CORRESPONDENCE WITH ANGLIAN WATER
BETWEEN 22 JUNE 2022 AND 20 JULY 2022**

PINS project reference: WS010005

PINS document reference: 16.2.1

July 2022



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Summary table of the correspondence with Anglian Water (AW) from 22 June 2022 to 20 July 2022

Item number in bundle	Date	Type of correspondence	Comments
1	22 June 2022	Email from Kate Ashworth (WBD) to Darrell Crittenden (AW)	Confirming that the revised proposed Protective Provisions were submitted with Deadline 6 and asking for a response on the proposed drafting by 6 July 2022.
2	23 June 2022	Email from Claire Trolove (AW) to Kate Ashworth (WBD)	Asking whether Kate is referring to the responses received on 16 June 2022 from AW and asking for clarification.
3	24 June 2022	Email from Kate Ashworth (WBD) to Claire Trolove (AW)	Confirming that the 16 June 2022 response was not what Kate was referring to and requesting a review of the suggested amendments by 6 July 2022.
4	28 June 2022	Email from Gene Wilson (Augean) to Claire Trolove (AW)	Comments and queries regarding the GIS information provided to Augean on 21 June 2022 (the GIS fields queries are not included in this bundle).
5	5 July 2022	Email from Mark Froggatt (AW) to Gene Wilson (Augean)	Attached responses to the comments and queries on the GIS fields queries (Attachments not included in this bundle).
6	5 July 2022	Email from Gene Wilson (Augean) to Mark Froggatt (AW)	Confirming that the responses to the comments and queries have been received.
7	6 July 2022	Email from Kate Ashworth (WBD) to Claire Trolove (AW)	Reminder that the comments on the draft protective provisions are due 6 July 2022.
8	7 July 2022	Email from Darrell Crittenden (AW) to Kate Ashworth (WBD)	Attached amendments to the draft protective provisions
9	7 July 2022	Email from Gene Wilson (Augean) to Mark Froggatt (AW)	Drawing to AW attention that the three pipeline diversion options are the same and asking if the protective provisions will be provided by 8 July 2022.
10	8 July 2022	Email from Claire Trolove (AW) to Gene Wilson (Augean)	AW response to the Non Material Change consultation.

Item number in bundle	Date	Type of correspondence	Comments
11	13 July 2022	Email from Elizabeth Tones (WBD) to Claire Trolove (AW)	Listed key points to clarify before reverting to updated drafting and asking for confirmation that AW are not intending to make any further comments on the Non Material Change submission.
12	15 July 2022	Email from Darrell Crittenden (AW) to Elizabeth Tones (WBD)	Listed responses to the key points listed in email dated 13 July 2022 from Elizabeth Tones.
13	18 July 2022	Email from Claire Brook (WBD) to Darrell Crittenden (AW)	Asking ahead of the call at 2:00pm whether AW have any other specific comments on the draft Requirement 19 that would sit alongside the Protective Provisions.
14	18 July 2022	Email from Claire Brook (WBD) to Darrell Crittenden (AW)	Attached a tracked changes version of the Protective Provisions.
15	19 July 2022	Email from Darrell Crittenden (AW) to Claire Brook (WBD)	Confirming a fixed stand off distance of 20m would be acceptable.
16	19 July 2022	Email from Claire Brook (WBD) to Darrell Crittenden (AW)	Confirming that Requirement 19 will be removed and an updated DCO Environmental Commitments document will be submitted with Deadline 7.
17	19 July 2022	Email from Claire Brook (WBD) to Darrell Crittenden (AW)	Attached Appendix DEC B for assistance.
18	19 July 2022	Email from Darrell Crittenden (AW) to Claire Brook (WBD)	Agreeing to the amendments to the Protective Provisions and discussing the distances between the diverted electricity cable and the water pipeline. AW proposed a minimum distance of 19m between the water pipeline and the electricity cable.
19	19 July 2022	Email from Claire Brook (WBD) to Darrell Crittenden (AW)	Confirming that Augean would be happy to extend the minimum standoff between the water pipe and electricity cable from 3.5m to 16.5m.
20	20 July 2022	Email from Darrell Crittenden (AW) to Claire Brook (WBD)	Confirming Anglian Water do not accept the extension of the minimum standoff suggested.

Item number in bundle	Date	Type of correspondence	Comments
21	20 July 2022	Email from Gene Wilson (Augean) to Mark Froggatt (AW)	Confirming the specific distance of the electricity cable from the water pipe will be excluded from this submission.

From: [Kate Ashworth](#)
To: [Darrell Crittenden](#)
Cc: [Peter Oldfield](#); [Darl Sweetland](#); [Rachel Sykes](#); [Sophie Serdetschniy](#)
Subject: RE: ENRMF DCO [WBDUK-AC.FID103545882]
Date: 22 June 2022 20:46:32
Attachments: [image001.png](#)
[SignatureLogo_63cdb581-13c2-4631-94ea-9b042c8190fd.png](#)
[innovative_lawyers_shortlisted_2021_3_2f18440d-528d-416d-844e-8f4f07ea11f9.png](#)
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[WBD_Email_KeyLine_TwitterLogo_2019_e134f302-9015-4bcf-a9cf-1a39dd1d618f.png](#)
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[DOC_174404006\(1\)_DL6-Applicant_s_Proposed_PPs_for_AW.DOCX](#)

Afternoon Darrell

Further to my email below, as we have not had any comments back from Anglian Water and in light of discussions that took place during ISH3, we have submitted revised proposed protective provisions to the ExA at Deadline 6 with commentary to explain our proposed amendments. The document submitted is attached to this email for your review.

We would still like to try and agree a set of protective provisions before Deadline 7 if possible. Therefore, if you could respond on our proposed drafting by **6 July 2022**, that would be much appreciated.

Kind regards

Kate

Kate Ashworth

Managing Associate

Womble Bond Dickinson (UK) LLP

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From: Kate Ashworth

Sent: 31 May 2022 13:51

To: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>

Cc: [REDACTED]@augeanplc.com; Darl Sweetland <[REDACTED]@anglianwater.co.uk>; Rachel Sykes <[REDACTED]@wbd-uk.com>; Sophie Serdetschniy <[REDACTED]@mjca.co.uk>

Subject: RE: ENRMF DCO [WBDUK-AC.FID103545882]

Afternoon Darrell

Apologies for the delay in responding on these protective provisions.

We have reviewed these in light of the current ongoing discussions between our clients and in general are content the drafting works regardless of the standoffs which are still to be agreed. We have therefore made comments and amendments where necessary.

I look forward to hearing from you with your comments.

Kind regards

Kate

From: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>

Sent: 16 February 2022 18:03

To: Rachel Sykes <[REDACTED]@wbd-uk.com>; Kate Ashworth <[REDACTED]@wbd-uk.com>;

Sophie Serdetschniy <[REDACTED]@mjca.co.uk>

Cc: [REDACTED]@augeanplc.com; Darl Sweetland <[REDACTED]@anglianwater.co.uk>

Subject: ENRMF DCO

Hi,

As agreed at our meeting, I'm sending over what we will now be using as our new standard for protective provisions, derived from what we had discussed in connection with the A428 DCO. My suggestion is that you look at the terms and if it is your opinion that there are no powers in the DCO for the particular sections of this to protect Anglian Water against, then let me know which, and why, and we'll see what we can do about slimming these down to suit.

The other thing for you to consider is how you'd like to approach the issue of operational work plans that may affect the water mains on the site. The statutory back-stop, as I mentioned, is [section 174 of the Water Industry Act 1991](#). If you'd like to use the protective provisions as a means of gaining the consent of Anglian Water (within the meaning of section 174(1)), then I'm sure we would be open to your suggestions as to how you would like to frame an appropriate amendment.

I've thought again about paragraph 87(1) and your challenge that there is no certainty as to whether a particular activity is caught, and I don't think it *can* be prescribed in that way. The main point is whether the works will "affect" the apparatus, and that depends on what the works are. Some works are really minor and can happily go right over an underground pipe (light traffic at right angles for example); other works are so damaging that even the maximum measurable width that I have heard of – 15 metres either side – would not serve well in authorising works beyond that distance. I can't see any other way than leaving it up to the developer to ask if in doubt.

Kind regards,

Darrell Crittenden

Regulation Solicitor

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon PE29 6XU



Feedback welcome.

Please let us know what you think: what we are doing well; what we could do more of; or what we could do better. All feedback is welcome! Please send us an email at [Legal Team](#)

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ENRMF WESTERN EXTENSION DCO: DEADLINE 6 SUBMISSION

APPLICANT'S PROPOSED DRAFTING FOR THE PROTECTION OF ANGLIAN WATER

INTRODUCTION

- 1.1 The Applicant has included standard protective provisions for the benefit of water undertakers in its dDCO [**REP4-005**], but Anglian Water (**AW**) have requested bespoke provisions. Drafting was issued to the Applicant for consideration in March 2022.
- 1.2 The Applicant reverted to AW with comments on their bespoke Protective Provisions on 31 May 2022. AW made submissions at ISH3 that they were not content with the protective provisions as drafted, but provided no further details. The Applicant has not yet had a substantive response on the proposed drafting.
- 1.3 The purpose of Table 1 is to set out the Applicant's proposed changes to the bespoke set of Protective Provisions requested by AW and the explanation for each change to assist the ExA.
- 1.4 Unless agreement can be reached with AW before Deadline 7, the Applicant's proposed drafting will be incorporated into the dDCO at Deadline 7.

Table 1: Summary of proposed changes to the Protective Provisions in favor of Anglian Water Services Limited

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
1. Application	<p>Application</p> <p>For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.</p>	N/A
2. Interpretation	<p>Interpretation</p> <p>In this Part of this Schedule—</p> <p>“1991 Act” means the New Roads and Street Works Act 1991;</p> <p>“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;</p> <p>“Anglian Water” means Anglian Water Services Limited;</p> <p>“apparatus” means:</p> <p>(a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;</p> <p>(b) any drain or works vested in Anglian Water under the Water Industry Act 1991;</p> <p>(c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,</p> <p>(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water,</p> <p>and</p> <p>(e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;</p> <p>and for the purpose of this definition, where words are defined by section 219 of that Act, they shall be taken to have the same meaning</p> <p>“functions” includes powers and duties;</p>	All redundant definitions have been removed

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
	<p>“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land; “plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;</p>	
3. On Street Apparatus	<p>On-street apparatus</p> <p>This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act. [only for use where the undertaker has powers under part 3 of the New Roads and Street Works Act 1991]</p>	The relevant powers are not included in dDCO, so this drafting has been removed.
4. Apparatus in stopped up streets	<p>Apparatus in stopped-up streets</p> <p>(1) Where any street is stopped up under article 18 (permanent stopping up and restriction of use of streets and private means of access), where Anglian Water has apparatus in the street or accessed by virtue of that street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to Anglian Water legal easements reasonably satisfactory to Anglian Water in respect of such apparatus and access to it, but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 85 or the power of the undertaker to carry out works under paragraph 87.</p> <p>(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by article 17 (temporary alteration, diversion, prohibition and restriction of the use of streets), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway.</p>	No streets are being stopped up as part of the Proposed Development, so the Applicant does not consider this provision to be relevant to the Proposed Development.

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
5. Protective works to buildings	<p>Protective works to buildings</p> <p>The undertaker, in the case of the powers conferred by article 22 (protective work to buildings), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.</p>	<p>This power is not included in the dDCO, so the Applicant does not consider this provision to be relevant to the Proposed Development.</p>
6. Acquisition of land	<p>Acquisition of land</p> <p>Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.</p>	<p>As there are no compulsory acquisition powers included in the dDCO, the land plan does not link to any powers and is not a certified document, so is solely informative. It is therefore not appropriate to refer to this plan in these PPs.</p>
7. Removal of apparatus	<p>Removal of apparatus</p> <p>(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until</p> <p>(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and</p> <p>(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 86.</p> <p>(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.</p> <p>(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford</p>	<p>As discussed at ISH3, the Applicant has not applied for the powers to relocate the apparatus within the Order limits, so the Applicant does not consider this provision to be relevant to the Proposed Development.</p>

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
	<p>such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.</p> <p>(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 54 (arbitration).</p> <p>(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 54, and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.</p> <p>(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.</p> <p>(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such “deemed consent” does not extend to the actual undertaking of the removal works, which shall remain the sole responsibility of Anglian Water or its contractors.</p> <p>(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such</p>	

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
	<p>substitution works, use best endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time to enable Anglian Water to:</p> <p>(a) make network contingency arrangements; or</p> <p>(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.</p>	
8. Facilities and rights for alternative apparatus	<p>Facilities and rights for alternative apparatus</p> <p>(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to a utility undertaker facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 54 (arbitration).</p> <p>(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.</p> <p>(3) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.</p>	As above, the dDCO includes no powers to remove apparatus, so the Applicant does not consider this provision to be relevant to the Proposed Development.
9. Retained apparatus	<p>Retained apparatus</p> <p>(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 85</p>	The paragraph referred to has been removed, so the cross reference has also been removed.

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
	(2) , the undertaker must submit to Anglian Water a plan of the works to be executed.	
	(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.	The Applicant is of the view that this provision would apply to any crossing points and would allow AW to impose reasonable conditions in relation to those crossing points.
	(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 3 and 6 to 8 apply as if the removal of the apparatus had been required by the undertaker under paragraph 8.5(2).	As above, the dDCO includes no powers to remove apparatus, so the Applicant does not consider this provision to be relevant to the Proposed Development.
	(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the <u>water pipeline standoff distance approved pursuant to Schedule 2 Requirement 19. following distances measured from the medial line of such apparatus:</u> (a) 2.25 metres where the diameter of the pipe is less than 150 millimetres; (b) 3 metres where the diameter of the pipe is between 150 and 450 millimetres (c) 4.5 metres where the diameter of the pipe is between 451 and 750 millimetres; and (d) 6 metres where the diameter of the pipe exceeds 750 millimetres.	The definition of "near" has been updated to align with the water pipeline standoff which is to be approved pursuant to requirement 19. This will be a greater distance than the distances set out in AW's template PPs and therefore is felt to provide adequate protection for AW.
10. Expenses and costs	Expenses and costs (1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any	N/A

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
	<p>apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.</p> <p>(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.</p> <p>(3) If in accordance with the provisions of this Part of this Schedule—</p> <p style="padding-left: 40px;">(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or</p> <p style="padding-left: 40px;">(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 20 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of subparagraph (1) must be reduced by the amount of that excess.</p> <p>(4) For the purposes of sub-paragraph (3)—</p> <p style="padding-left: 40px;">(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and</p> <p style="padding-left: 40px;">(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.</p>	

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
11. Indemnity	<p>Indemnity</p> <p>(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 83 or 85(2), or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—</p> <ul style="list-style-type: none"> (a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and (b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption. 	The paragraph referred to has been removed, so the cross reference has also been removed.
	(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.	N/A
	<p>(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to:</p> <ul style="list-style-type: none"> (a) any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents. <u>(b) any part of the authorised development carried out by Anglian Water in the exercise of any functions conferred by this Order pursuant to a transfer of benefit under article 7; or</u> <u>(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working) arising from any such damage or interruption, which is not reasonably foreseeable.</u> 	The Applicant has sought to impose reasonable limitations on its liability.

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
	(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.	N/A
	<u>(5) Anglian Water must act reasonably in relation to any claim or demand served under subparagraph (1) and use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands and penalties to which a claim or demand under subparagraph (1) applies.</u>	On the basis an indemnity is being provided, the Applicant has included a reasonable requirement for AW to mitigate its losses.
12. Cooperation	<p>(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 85(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.</p> <p>(2) Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.</p> <p>(3) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.</p> <p>(4) The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.</p>	The paragraph referred to has been removed, so the cross reference has also been removed.

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
13. Monitoring	<p><u>Monitoring</u></p> <p><u>Where in relation to the proposed construction of any of the authorised development, Anglian Water reasonably require leak detection monitoring and/or monitoring of the water level in the pipe bedding material to be installed ("pipe bedding monitoring"), and give written notice to the undertaker of that requirement, the following provisions apply:</u></p> <p><u>(a) Any leak detection monitoring and pipe bedding monitoring to be installed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 20 (arbitration).</u></p> <p><u>(b) Anglian Water must, after the leak detection monitoring and pipe bedding monitoring to be installed has been agreed or settled by arbitration in accordance with article 20, and after the grant to Anglian Water of any such necessary facilities and rights over the land, proceed without unnecessary delay to construct and bring into operation the agreed leak detection monitoring and pipe bedding monitoring.</u></p> <p><u>(c) The undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the installation of any leak detection and pipe bedding monitoring apparatus.</u></p> <p><u>(d) If Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the installation of leak detection or pipe bedding monitoring apparatus or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water at the cost of the undertaker.</u></p> <p><u>(e) Anglian Water must share all monitoring data arising from the installation of the leak detection monitoring and pipe bedding monitoring with the undertaker on a quarterly basis.</u></p>	<p>The Applicant has included a provision to deal with the installation of additional monitoring apparatus if deemed necessary by AW.</p> <p>This apparatus is not considered to be mitigation necessary to make the development acceptable in planning terms, but it has been identified as an additional measure which could be installed to further reduce any risks.</p> <p>The Applicant is willing to install the necessary apparatus at its own cost if Anglian Water makes such a request, provided the monitoring data is shared with Augean.</p>
14. Arbitration	<p><u>Expert determination</u></p>	<p>The Applicant has inserted a provision to clarify how any disputes arising under the protective provisions should be dealt with. This is required to ensure any</p>

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
	<p><u>(1) Article 20 (arbitration) shall apply to any difference as to the legal interpretation of this Schedule and as provided for in sub-paragraph (6).</u></p> <p><u>(2) Save as provided for in sub-paragraph (1) or sub-paragraph (6) any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between Anglian Water and the undertaker, both acting reasonably and without delay).</u></p> <p><u>(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.</u></p> <p><u>(4) The costs and fees of the expert and the costs of Anglian Water and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.</u></p> <p><u>(5) The expert must—</u></p> <ul style="list-style-type: none"> <u>(a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;</u> <u>(b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;</u> <u>(c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and</u> <u>(d) give reasons for the decision.</u> <p><u>(5) The expert must consider where relevant—</u></p> <ul style="list-style-type: none"> <u>(a) the development outcome sought by the undertaker;</u> <u>(b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;</u> <u>(c) the nature of the power sought to be exercised by the undertaker;</u> 	<p>disputes do not cause undue delay to the delivery of a nationally significant infrastructure project.</p>

Paragraph number	Protective Provision wording with proposed changes shown in tracks	Applicant's explanation for change
	<p><u>(d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;</u> <u>(e) Anglian Water's service obligations and licence conditions; and</u> <u>(f) any other important and relevant consideration.</u></p> <p><u>(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article 20.</u></p>	

Robyn Northall

From: Claire Trolove <[REDACTED]@anglianwater.co.uk>
Sent: 23 June 2022 22:29
To: Kate Ashworth <[REDACTED]@wbd-uk.com>
Cc: Steve Leader <[REDACTED]@anglianwater.co.uk>; Darl Sweetland <[REDACTED]@anglianwater.co.uk>
Subject: FW: ENRMF DCO 1 of 2

Dear Kate

I have been referred your email below.

My understanding is that you may be referring to Anglian Water's responses to the various risk assessments etc further to our Mark Froggatt's last meeting with your client. Mark initial sent follow up information on that meeting on 1 June however it appears that was not received. Further to Gene Wilson requesting the information again I sent it on 16 June and Gene confirmed receipt.

If the attached is not the comments you refer to please can you clarify and I will seek to have those sent over. Please note the information has been sent over two emails due to the size of the attachments.

Kind regards

Claire Trolove

Solicitor

Mobile: [REDACTED]

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire, PE29 6XU



From: Kate Ashworth <[REDACTED]@wbd-uk.com>
Sent: 22 June 2022 20:46
To: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>
Cc: [REDACTED]@augeanplc.com; Darl Sweetland <[REDACTED]@anglianwater.co.uk>; Rachel Sykes <[REDACTED]@wbd-uk.com>; Sophie Serdetschniy <[REDACTED]@mica.co.uk>
Subject: RE: ENRMF DCO [WBDUK-AC.FID103545882]

EXTERNAL MAIL - Please be aware this mail is from an external sender - **THINK BEFORE YOU CLICK**

Afternoon Darrell

Further to my email below, as we have not had any comments back from Anglian Water and in light of discussions that took place during ISH3, we have submitted revised proposed protective provisions to the ExA at Deadline 6 with commentary to explain our proposed amendments. The document submitted is attached to this email for your review.

We would still like to try and agree a set of protective provisions before Deadline 7 if possible. Therefore, if you could respond on our proposed drafting by **6 July 2022**, that would be much appreciated.

Kind regards

Kate

Kate Ashworth
Managing Associate
Womble Bond Dickinson (UK) LLP

d: [REDACTED]
m: [REDACTED]
t: +44 345 415 0000
e: [REDACTED]@wbd-uk.com

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From: Kate Ashworth
Sent: 31 May 2022 13:51
To: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>
Cc: [REDACTED]@augeanplc.com; Darl Sweetland <[REDACTED]@anglianwater.co.uk>; Rachel Sykes <[REDACTED]@wbd-uk.com>; Sophie Serdetschniy <[REDACTED]@mjca.co.uk>
Subject: RE: ENRMF DCO [WBDUK-AC.FID103545882]

Afternoon Darrell

Apologies for the delay in responding on these protective provisions.

We have reviewed these in light of the current ongoing discussions between our clients and in general are content the drafting works regardless of the standoffs which are still to be agreed. We have therefore made comments and amendments where necessary.

I look forward to hearing from you with your comments.

Kind regards

Kate

From: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>
Sent: 16 February 2022 18:03
To: Rachel Sykes <[REDACTED]@wbd-uk.com>; Kate Ashworth <[REDACTED]@wbd-uk.com>; Sophie Serdetschniy <[REDACTED]@mjca.co.uk>
Cc: [REDACTED]@augeanplc.com; Darl Sweetland <[REDACTED]@anglianwater.co.uk>
Subject: ENRMF DCO

Hi,

As agreed at our meeting, I'm sending over what we will now be using as our new standard for protective provisions, derived from what we had discussed in connection with the A428 DCO. My suggestion is that you look at the terms and if it is your opinion that there are no powers in the DCO for the particular sections of this to protect Anglian Water against, then let me know which, and why, and we'll see what we can do about slimming these down to suit.

The other thing for you to consider is how you'd like to approach the issue of operational work plans that may affect the water mains on the site. The statutory back-stop, as I mentioned, is [section 174 of the Water Industry Act 1991](#). If you'd like to use the protective provisions as a means of gaining the consent of Anglian Water (within the meaning of section 174(1)), then I'm sure we would be open to your suggestions as to how you would like to frame an appropriate amendment.

I've thought again about paragraph 87(1) and your challenge that there is no certainty as to whether a particular activity is caught, and I don't think it *can* be prescribed in that way. The main point is whether the works will "affect" the apparatus, and that depends on what the works are. Some works are really minor and can happily go right over an underground pipe (light traffic at right angles for example); other works are so damaging that even the maximum measurable width that I have heard of – 15 metres either side – would not serve well in authorising works beyond that distance. I can't see any other way than leaving it up to the developer to ask if in doubt.

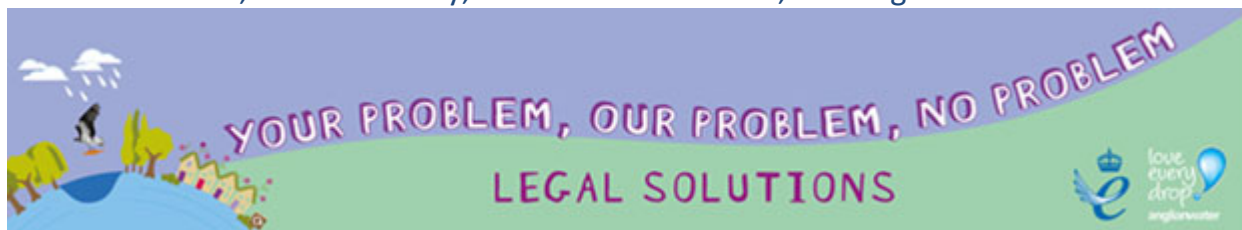
Kind regards,

~~Gordon Fulwider~~

Regulation Solicitor

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon PE29 6XU



Feedback welcome.

Please let us know what you think: what we are doing well; what we could do more of; or what we could do better. All feedback is welcome! Please send us an email at [Legal Team](#)

The information contained in this message is likely to be confidential and may be legally privileged. The dissemination, distribution, copying or disclosure of this message, or its contents, is strictly prohibited unless authorised by Anglian Water. It is intended only for the person named as addressee.

From: [REDACTED]
Subject: RE: ENRMF DCO 1 of 2 [WBBDUK-AC.FID103545882]
Date: 24 June 2022 09:29:37
Attachments: [image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[SignatureLogo_63cdb581-13c2-4631-94ea-9b042c8190fd.png](#)
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[planningawards_shortlist22_72dpi_34982c1a-3597-43e1-ae44-8039013378ab.png](#)
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[WBD_Email_KeyLine_LinkedInLogo_2019_ed441b28-0746-48f0-a9ec-756646ded617.png](#)

Morning Claire

I am referring to my email of 31 May to Darrell which attached amended protective provisions for Anglin Water's review (see email chain below).

These have now been superseded by our submissions made at Deadline 6 on the protective provisions (see Appendix A of ISH3 summary and the attachment on my last email).

Please may you review our suggested amendments and let me have any comments on the proposed changes by **6 July 2022**.

Kind regards

Kate

Kate Ashworth
Managing Associate
Womble Bond Dickinson (UK) LLP

d: [REDACTED]
m: [REDACTED]
t: +44 345 415 0000
e: [REDACTED]@wbd-uk.com

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AWARDS 2022
SHORTLIST**

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From: Claire Trolove <[REDACTED]@anglianwater.co.uk>
Sent: 23 June 2022 22:29
To: Kate Ashworth <[REDACTED]@wbd-uk.com>
Cc: Steve Leader <[REDACTED]@anglianwater.co.uk>; Darl Sweetland <[REDACTED]@anglianwater.co.uk>
Subject: FW: ENRMF DCO 1 of 2

Dear Kate

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If the attached is not the comments you refer to please can you clarify and I will seek to have those sent over. Please note the information has been sent over two emails due to the size of the attachments.

Kind regards

Claire Trolove

Solicitor

Mobile: [REDACTED]

Robyn Northall

Subject: FW: DCO - Action Point - Provision of "as built" information
Attachments: aukcw23216.pdf; US_71219_UtilitySearchMap_1.pdf; TG_KCP191_Uilities_UG.pdf; AU_KCWe28121 AWS GIS fields queries.xlsx

From: Gene Wilson
Sent: 28 June 2022 16:57
To: Claire Trolove <[REDACTED]@anglianwater.co.uk>
Cc: [REDACTED]@anglianwater.co.uk; [REDACTED]@anglianwater.co.uk
Subject: RE: DCO - Action Point - Provision of "as built" information

Dear Claire

We have now had time to review the GIS information provided on the 21st June. We have the following comments and queries which we would be grateful for for urgent clarification:

Location of Pipeline

We attach drawing reference AU/KCW/06-22/23216 which shows the location information for the water pipeline at the proposed western extension to ENRMF.

The locations of the water pipeline shown in blue are those provided in the GIS files provided on 21 June 2022. These are the same locations as those shown on drawing reference "US_71219_UtilitySearchMap_1" (attached) which were obtained as part of a utilities search carried out on behalf of MJCA by Atkins on 3 December 2018.

The locations of the water pipeline shown in pink on the attached drawing reference AU/KCW/06-22/23216 are those on which the site design is based and are determined based on site topographical data obtained by MJCA in October and November 2019 and resistivity survey data obtained during the geophysical investigation of the field undertaken by Tigergeo Limited in 2020. The information provided by Anglian Water is not consistent with either the surveyed locations of the water pipeline markers on site and the geophysical investigation of the proposed western extension which picked up the water pipeline. The result of the geophysics investigation for this area of the site is attached for reference (TG_KCP191_Uilities_UG.pdf). As the line of the water pipelines recorded during the geophysical investigation does not extend to the existing field boundary pipeline markers located at the western extent of the site, the western extent of the pipeline has been extrapolated from the surveyed marker posts to the route shown on the Anglian Water services plan and therefore still may be inaccurate.

We would be grateful if Anglian Water could confirm their view on the most reliable data which should be used to delineate the location of the pipeline. Please could Anglian Water also confirm the method that they would use to identify the precise location of the pipelines prior to the finalisation of the designs in this location of the proposed development.

Elevation of Pipeline

The GIS files contain data recorded as "HEIGHT_AOD" of the pipeline at pipe joints. We have compared the ground level at a number of these locations, based on survey and LiDAR data, in the table below. Based on this comparison we conclude that the HEIGHT AOD data refers to approximate ground level rather than the elevation of the pipe itself, particularly as most of the recorded height data is slightly above the recorded ground level.

Location	Easting from GIS data	Northing from GIS data	HEIGHT_AOD from GIS data	Ground level (m)	Difference (m)
----------	-----------------------	------------------------	--------------------------	------------------	----------------

1	500207.07	300022.93	85.4	85.62	-0.22
2	500926.42	299772.63	79.8	79.67	0.13
3	500000.46	299980.46	89.2	88.37	0.83
4	500000.05	300013.74	88.6	87.96	0.64
5	500926.24	299769.49	79.7	79.60	0.10
6	500452.91	299778.10	87.2	87.02	0.18
7	500193.22	299980.28	86.6	86.19	0.41

Please could Anglian Water confirm precisely what data is provided in the entry 'HEIGHT_AOD' with the GIS files and which entry provides the information on the burial depth of the pipe crown at each location.

Clarification of other data

Please could Anglian Water provide information to clarify the meaning hence interpretation of all the information provided in all the attribute tables, in particular the tables headed 'Mainpipe' and 'water joint'. We attach a file (AU_KCWe28121 AWS GIS fields queries) showing examples of the extracted attribute data and acronyms and would be grateful if the clarification of the meanings of the information could be provided as a matter of urgency.

Hopefully in Mark's absence you will be able to identify someone in your technical team who can respond on these matters as soon as possible.

If you have any queries regarding any of these matters, please do not hesitate to contact us.
Kind regards
Gene

From: Gene Wilson
Sent: 21 June 2022 13:29
To: Claire Trolove <[REDACTED]@anglianwater.co.uk>
Subject: RE: DCO - Action Point - Provision of "as built" information

Dear Claire
Received with thanks.
Best regards
Gene

From: Claire Trolove <[REDACTED]@anglianwater.co.uk>
Sent: 21 June 2022 12:52
To: Gene Wilson <[REDACTED]@augean.co.uk>
Subject: DCO - Action Point - Provision of "as built" information

Dear Gene

Pursuant to action point 6a as set out in ISH3, please find attached documents containing information on Anglian Water's main which cross your site.

Please note that this information is provided as shape files (and others) which can be used by third parties (such as yourselves) to load onto your GIS platform. My understanding is that they can also be opened through Google Earth/ESRI etc.

Please accept our apologies for these not being submitted on Friday.

Kind regards



anglianwater

Claire Trolove

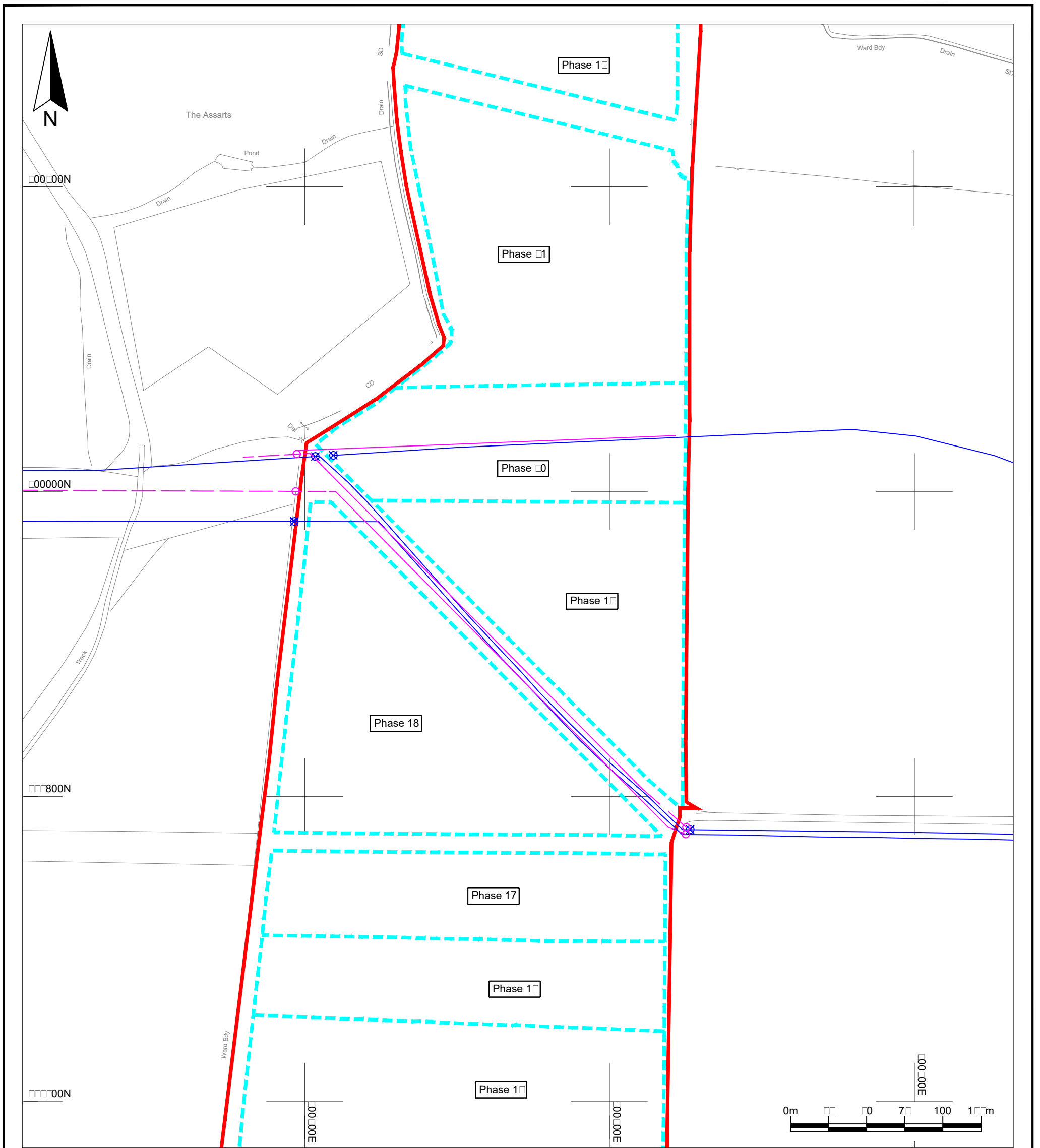
Solicitor

Mobile: [REDACTED]

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon, Cambridgeshire, PE29 6XU

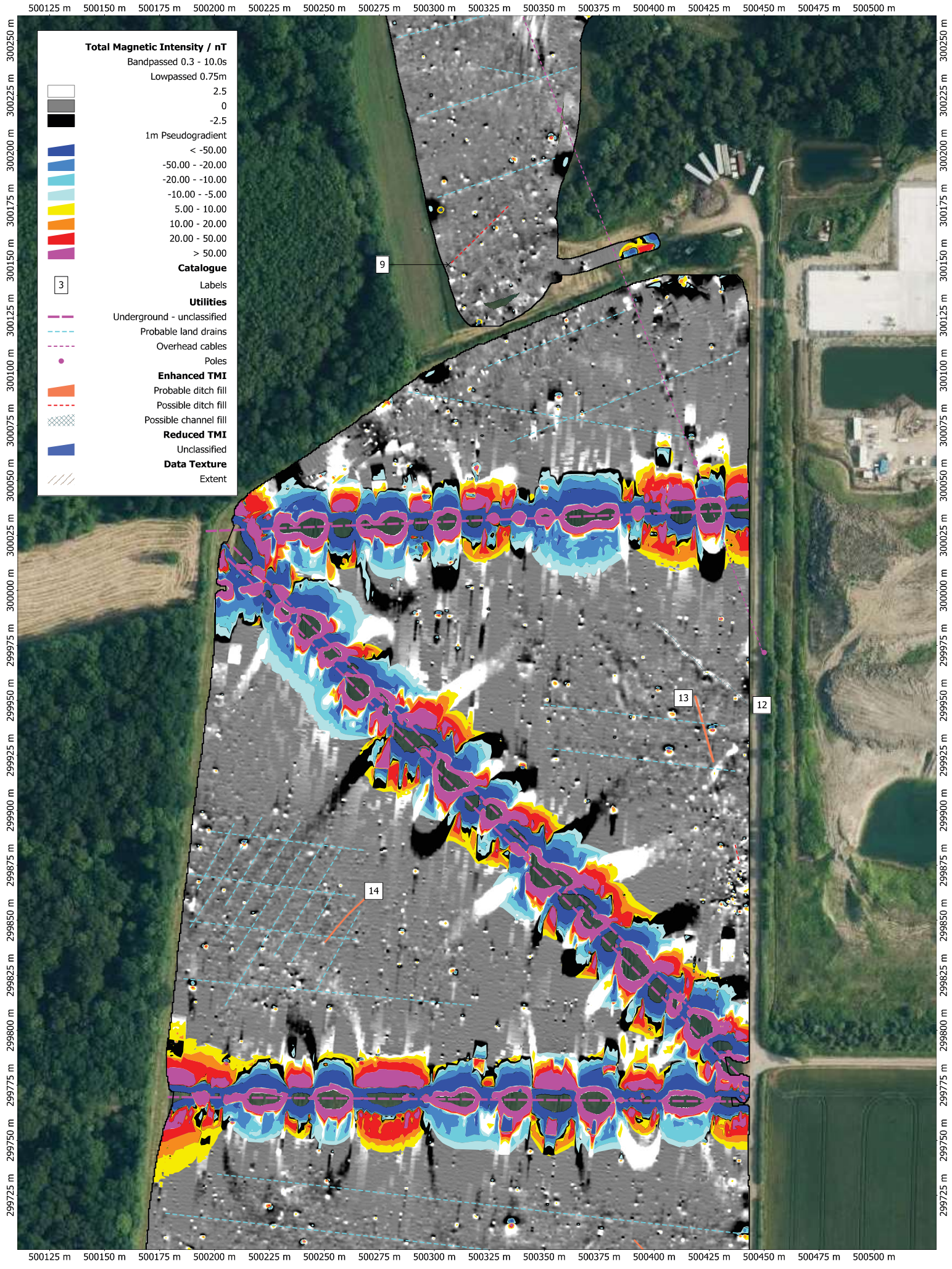
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Key / Notes

- Proposed western extension to the ENRMF hazardous waste landfill Environmental Permit
- Approximate phase boundary in the Western Extension
- Water pipeline location provided in the GIS files provided by Anglian Water on 02 June 2018 and on drawing reference US7111 UtilitySearchMap.dwg provided as part of a utilities search carried out on behalf of MCA by Atkins on 01 December 2018
- X Water point location provided in the GIS files provided by Anglian Water on 02 June 2018
- Water pipeline location based on the results of the topographical survey and geophysical investigation carried out at the site
- Approximate location of the water pipeline identified by the pipeline marker posts and the services plan
- Surveyed water marker posts

Rev	Final	KR	HL	DFR	18/06/18
	Status	Drn	App	Chk	Date
Site EAST NORTHANTS RESOURCE MANAGEMENT FACILITY					
Client 					
Title Plan showing the location of the water pipeline provided by Anglian Water and the location of the pipelines based on the topographical and geophysical survey information					
Figure 1				Scale 1:1000 A1	
Drawing Ref AU.KCW.0000001					
Reproduced scale mapping by permission of Ordnance Survey on behalf of The Controller of Her Majesty's Stationery Office. © Crown copyright 2017. All rights reserved. Licence number 100017818.					



Total Magnetic Intensity / nT

Bandpassed 0.3 - 10.0s

Lowpassed 0.75m

2.5

0

-2.5

1m Pseudogradient

< -50.00

-50.00 - -20.00

-20.00 - -10.00

-10.00 - -5.00

5.00 - 10.00

10.00 - 20.00

20.00 - 50.00

> 50.00

Catalogue

3

Labels

Underground - unclassified

Probable land drains

Overhead cables

Poles

Enhanced TMI

Probable ditch fill

Possible ditch fill

Possible channel fill

Reduced TMI

Unclassified

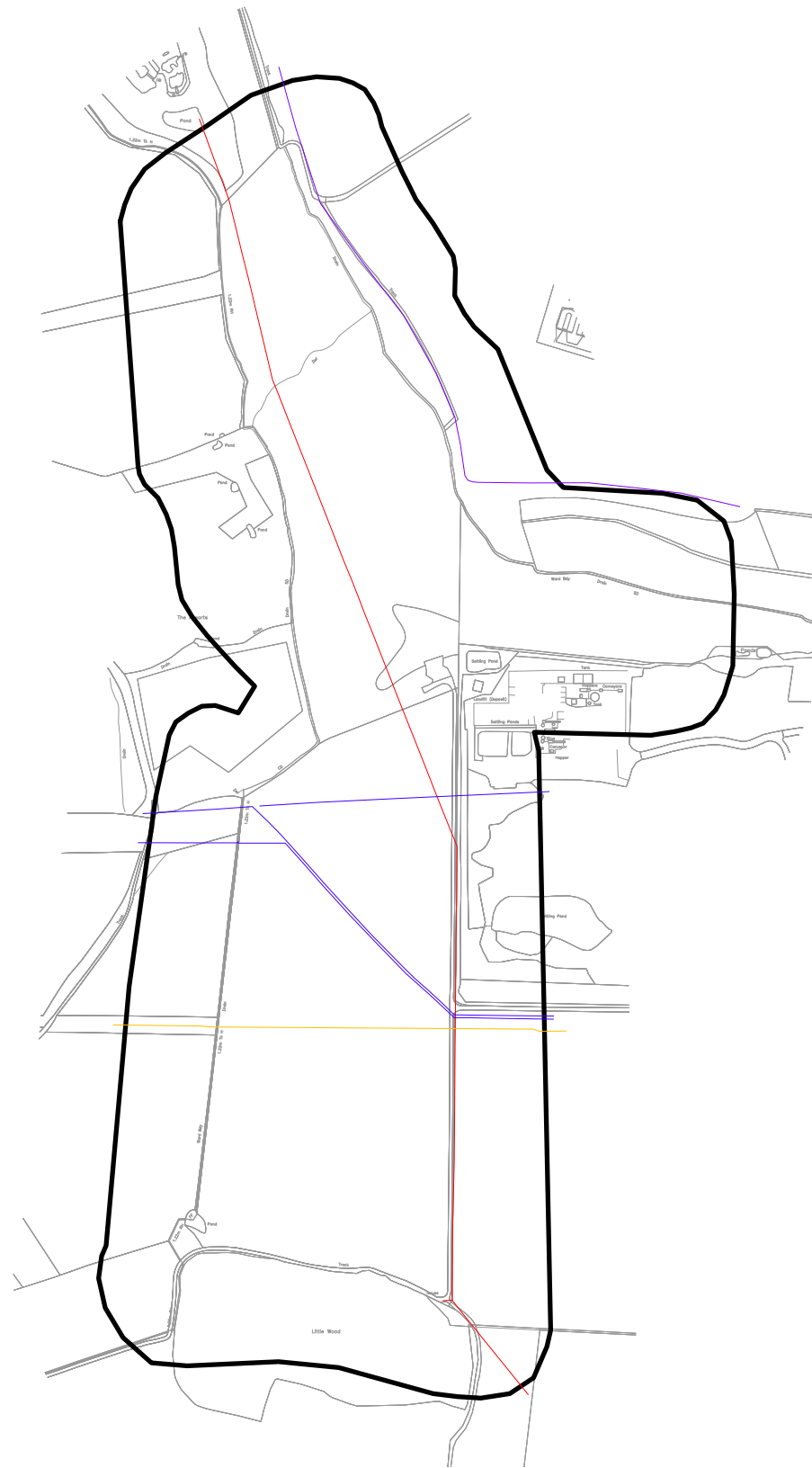
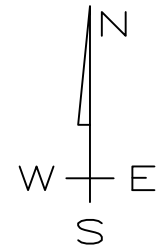
Data Texture

Extent

KCP191 Kings Cliffe, Northamptonshire
DWG 04c Interpretation - C

Orthographic Scale: 1:1500 @ A3 Spatial Units: Meter. Do not scale off this drawing
File: KCP191.map Copyright TigerGeo Limited 2020





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NOTE:
 No liability of any kind whatsoever is accepted by Atkins Limited, its servant or agents, for any error or omission in respect of information contained on the plans provided. This plan is a compilation of a number of plans provided at different scales and is intended to provide a graphical representation of services within the area and it is impossible to guarantee accuracy. In addition it is a compilation of information supplied by utility companies who do not guarantee the accuracy of the information. The underground services must be verified and established on site before any excavation is carried out.

ISSUE:	DESCRIPTION:		BY:	DATE:
1	Land off A43 and A47, Collyweston		ACE	03/12/18
SCALE: Not to Scale	DRAWN: ShN	CHECKED: GrS	APPROVED: ACE	
	DATE: 23/11/2018	DATE: 26/11/2018	DATE: 03/12/2018	

- Anglian Water – Water
- Cadent Gas (Above 7 bar and 2 bar) and National Grid Electricity Transmission
- CLH Pipeline System Ltd
- Western Power Distribution

TITLE:
 Utility Search Map

ATKINS
 Member of the SNC-Lavalin Group

Reference No:
 71219

Client:
 M J Carter Associates Limited

Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]
Date: 06 July 2022 18:55:48
Attachments: [image002.jpg](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image001.jpg](#)
[SignatureLogo_63cdb581-13c2-4631-94ea-9b042c8190fd.png](#)
[innovative_lawyers_shortlisted_2021_3_2f18440d-528d-416d-844e-8f4f07ea11f9.png](#)
[planningawards_shortlist22_72dpi_34982c1a-3597-43e1-ae44-8039013378ab.png](#)
[WBD_Email_KeyLine_TwitterLogo_2019_e134f302-9015-4bcf-a9cf-1a39dd1d618f.png](#)
[WBD_Email_KeyLine_LinkedInLogo_2019_ed441b28-0746-48f0-a9ec-756646ded617.png](#)
[DOC_174404006\(1\)_DL6-Applicant_s Proposed PPs for AW.DOCX](#)

Afternoon Claire
I just wanted to send a polite reminder about the draft protective provisions attached and to make you aware that I am going on maternity leave on **8 July**. Therefore, please may you ensure my colleagues [@Elizabeth Tones](#) and [@Claire Brook](#) are copied into all future correspondence regarding this matter.
Many thanks
Kate

Kate Ashworth
Managing Associate
Womble Bond Dickinson (UK) LLP

d: [redacted]
t: +44 345 415 0000
e: [redacted]@wbd-uk.com

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From: Kate Ashworth
Sent: 24 June 2022 09:29
To: Claire Trolove <[redacted]@anglianwater.co.uk>
Cc: Steve Leader <[redacted]@anglianwater.co.uk>; Darl Sweetland <[redacted]@anglianwater.co.uk>; Rachel Sykes <[redacted]@wbd-uk.com> <[redacted]@wbd-uk.com>; Sophie Serdetschniy <[redacted]@mjca.co.uk>; Peter Oldfield <[redacted]@augean.co.uk>
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To: Kate Ashworth <[redacted]@wbd-uk.com>
Cc: Steve Leader <[redacted]@anglianwater.co.uk>; Darl Sweetland <[redacted]@anglianwater.co.uk>
Subject: FW: ENRMF DCO 1 of 2

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If the attached is not the comments you refer to please can you clarify and I will seek to have those sent over. Please note the information has been sent over two emails due to the size of the attachments.
Kind regards

Robyn Northall

Subject: FW: ENRMF DCO 1 of 2 [WBDDUK-AC.FID103545882]

From: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>

Sent: 07 July 2022 14:58

To: Kate Ashworth <[REDACTED]@wbd-uk.com>

Cc: Claire Trolove <[REDACTED]@anglianwater.co.uk>; Steve Leader <[REDACTED]@anglianwater.co.uk>; Mark Froggatt <[REDACTED]@anglianwater.co.uk>; Darl Sweetland <[REDACTED]@anglianwater.co.uk>; Elizabeth Tones <[REDACTED]@wbd-uk.com>; Claire Brook <[REDACTED]@wbd-uk.com>

Subject: RE: ENRMF DCO 1 of 2 [WBDDUK-AC.FID103545882]

Hi Kate,

I've updated the draft protective provisions to reflect the conversations that our respective clients had this week, whilst still approving and incorporating the alterations you had previously sent. Have a look and see what you think, and then perhaps you and I can have a discussion. I've tried to resolve the issue of what happens where Anglian Water imposes a reasonable condition on a "work-near" that the undertaker is unable to work with – normally that would be a diversion under the CPO powers, but as the DCO won't include them, I have made reference to section 185 of the Water Industry Act 1991.

Kind regards,

~~G duho# Fulwogho#~~

Regulation Solicitor

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon PE29 6XU



Feedback welcome.

Please let us know what you think: what we are doing well; what we could do more of; or what we could do better. All feedback is welcome! Please send us an email at [Legal Team](mailto:LegalTeam@anglianwater.co.uk)

From: Kate Ashworth <[REDACTED]@wbd-uk.com>

Sent: 06 July 2022 18:55

To: Claire Trolove <[REDACTED]@anglianwater.co.uk>

Cc: Steve Leader <[REDACTED]@anglianwater.co.uk>; Darl Sweetland <[REDACTED]@anglianwater.co.uk>; Rachel Sykes <[REDACTED]@wbd-uk.com>; Sophie Serdetschniy <[REDACTED]@mjca.co.uk>; Elizabeth Tones <[REDACTED]@wbd-uk.com>; Peter Oldfield <[REDACTED]@augean.co.uk>; Claire Brook <[REDACTED]@wbd-uk.com>

Subject: RE: ENRMF DCO 1 of 2 [WBDDUK-AC.FID103545882]

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-*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*-----*

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Robyn Northall

Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

From: Elizabeth Tones <[REDACTED]@wbd-uk.com>
Sent: 13 July 2022 19:00
To: Claire Trolove <[REDACTED]@anglianwater.co.uk>
Cc: Claire Brook <[REDACTED]@wbd-uk.com>
Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

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Claire

Further to the updated draft protective provisions shared by Darrell, there are a few key points it would be useful to clarify before we revert with updated drafting.

1. We note that the definition for 'Apparatus' has been modified and a new definition for 'Alternative Apparatus' added. The Grid References provided in this definition exceed the Order limits for the proposed development and go beyond Augean's landholding. It is not considered appropriate or proportionate for Augean's commitments regarding Anglian Water's apparatus to extend beyond the Order limits of the proposed development. Additionally, without the requisite land interests, Augean would not be able to make the associated commitments required.
2. At paragraph [39](4) you have introduced wording on section 185 of the Act, which could require Augean to make and maintain a corresponding application to Anglian Water under section 185 of the Act at the request of Anglian Water. Please could you confirm why this is considered necessary, particularly in light of the clarification you have added at sub-paragraph (1)?
3. At paragraph [39](7) you have removed reference to Requirement 19 and fixed the standoff distance to 30 metres. Please could I check whether you have any comments on our proposed wording for Requirement 19. If this is agreed, we suggest it might be simplest to retain the cross-reference here, the point being that the precise stand-off distance will be agreed at a later date pursuant to requirement 19 and the intention is not to fix it at this stage. Additionally, by way of clarification, the proposed maximum stand off of 30m includes the electricity cable too. The amended table at DEC Annex DEC B submitted with the NMC makes this clear. At the meeting of the 5th July with Mark Frogatt I understand that the position of the electricity cable was specifically discussed and agreed that if up to a 30m standoff was applied it would include the electricity cable in a position to be agreed with Anglian. Perhaps you could follow up with Mark to check this position is agreed.

Please can I also clarify that Anglian Water are not intending to make any further response on the NMC proposed in addition to your email dated 8 July 2022 that was copied to the ExA?

Do let me know if it would help to discuss any of this in further detail.

Kind regards

Lizzie

Elizabeth Tones
Solicitor
Womble Bond Dickinson (UK) LLP

d: [REDACTED]
m: [REDACTED]

t: +44 345 415 0000
e: [REDACTED]@wbd-uk.com

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From: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>
Sent: 07 July 2022 14:58
To: Kate Ashworth <[REDACTED]@wbd-uk.com>
Cc: Claire Trolove <[REDACTED]@anglianwater.co.uk>; Steve Leader <[REDACTED]@anglianwater.co.uk>; Mark Froggatt <[REDACTED]@anglianwater.co.uk>; Darl Sweetland <[REDACTED]@anglianwater.co.uk>; Elizabeth Tones <[REDACTED]@wbd-uk.com>; Claire Brook <[REDACTED]@wbd-uk.com>
Subject: RE: ENRMF DCO 1 of 2 [WBUDK-AC.FID103545882]

Hi Kate,

I've updated the draft protective provisions to reflect the conversations that our respective clients had this week, whilst still approving and incorporating the alterations you had previously sent. Have a look and see what you think, and then perhaps you and I can have a discussion. I've tried to resolve the issue of what happens where Anglian Water imposes a reasonable condition on a "work-near" that the undertaker is unable to work with – normally that would be a diversion under the CPO powers, but as the DCO won't include them, I have made reference to section 185 of the Water Industry Act 1991.

Kind regards,

~~Gordon F. Trotter~~

Regulation Solicitor

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon PE29 6XU



Feedback welcome.

Please let us know what you think: what we are doing well; what we could do more of; or what we could do better. All feedback is welcome! Please send us an email at [Legal Team](#)

Robyn Northall

Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

From: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>
Sent: 15 July 2022 16:27
To: Elizabeth Tones <[REDACTED]@wbd-uk.com>
Cc: Claire Brook <[REDACTED]@wbd-uk.com>; Claire Trolove <[REDACTED]@anglianwater.co.uk>
Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Hi Lizzie,

Thanks for the comments sent through to Claire. Can I address them and hopefully allay your concerns?

1. I honestly don't think the definition in this way has the effect you fear. The grid references are simply there to *identify* the asset so we all know which water main we are all talking about: I have just taken the grid references at each end of the twin main. I can't see that there are any commitments of the type you are worried about. The commitment is in [39](1) – not to do anything on the land *acquired under the Order* so as to adversely affect it. It doesn't require your client to do anything beyond that – quite the reverse, it requires your client *not* to do anything (in the nature described) within the Order's limits. If there's something else in terms of obligations in the protective provisions that I haven't thought about, let me know specifically what it is, and I'll try and address it.
2. Yes, this is to give your client the choice about how to proceed if it wants to carry out works within the 30 metre stand-off, which Anglian Water can't reconcile (acting reasonably) with the continued integrity of and access to the twin water main in its position at that time. It provides that if your client really wants to insist, it can be required to pay to have the pipe moved further away to accommodate that (which is its right under section 185). It is intended to operate perfectly well even if your client's proposed works are inside the Order land, but will affect a part of the water main that is outside the Order land (but less than 30 metres away). The clarification in sub-paragraph (1) is intended to benefit your client by saying that if your client is already committed to relocating part of either of the water mains, it doesn't have to worry about works it intends to carry out within 30 metres of that part (that won't be there after the diversion).
3. My understanding is that the stand-off would be fixed at 30 metres, and given the greater flexibility afforded by the protective provisions that I have outlined, I wonder if you would like to give that some further thought and let me know if you think any difficulties remain with proceeding in the way I am suggesting.

Kind regards,



Regulation Solicitor

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon PE29 6XU



Feedback welcome.

Please let us know what you think: what we are doing well; what we could do more of; or what we could do better. All feedback is welcome! Please send us an email at [Legal Team](#)

From: Elizabeth Tones <[REDACTED]@wbd-uk.com>
Sent: 13 July 2022 19:00
To: Claire Trolove <[REDACTED]@anglianwater.co.uk>
Cc: Claire Brook <[REDACTED]@wbd-uk.com>
Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

EXTERNAL MAIL - Please be aware this mail is from an external sender - **THINK BEFORE YOU CLICK**

Claire

Further to the updated draft protective provisions shared by Darrell, there are a few key points it would be useful to clarify before we revert with updated drafting.

1. We note that the definition for 'Apparatus' has been modified and a new definition for 'Alternative Apparatus' added. The Grid References provided in this definition exceed the Order limits for the proposed development and go beyond Augean's landholding. It is not considered appropriate or proportionate for Augean's commitments regarding Anglian Water's apparatus to extend beyond the Order limits of the proposed development. Additionally, without the requisite land interests, Augean would not be able to make the associated commitments required.
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Please can I also clarify that Anglian Water are not intending to make any further response on the NMC proposed in addition to your email dated 8 July 2022 that was copied to the ExA?

Do let me know if it would help to discuss any of this in further detail.

Robyn Northall

Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

From: Claire Brook

Sent: 18 July 2022 12:56

To: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>; Elizabeth Tones <[REDACTED]@wbd-uk.com>

Cc: Claire Trolove <[REDACTED]@anglianwater.co.uk>

Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Hi Darrell

Many thanks for coming back to us so quickly on this and explaining your position – it's very helpful.

I understand we are going to all speak at 2pm with our clients which is great.

Just in advance of the call, I wondered if you had any specific comments on the draft requirement 19 that we provided that would sit alongside the PPs? I have cut and paste it below for ease. I appreciate from your email that you refer to a fixed 30m stand off being required by AW and we can discuss on the call the respective positions on this. I thought it might assist to explain our client's position in advance of our call. Their position is that the risk assessment work carried out to date on their behalf has demonstrated that in all scenarios (including need for access in the unlikely event of catastrophic failure) a lesser stand off than 30m would be appropriate. We have though drafted the below requirement to give AW further opportunity before the development of the relevant phases of the landfill take place to agree a precise stand off that is acceptable. I understand that it is likely to be 10 years approximately before these phases are developed and so this gives plenty of time for any additional risk assessment work etc. to be done if AW need any further reassurances in addition to what has been provided so far.

Water pipe standoff 19.—(1) Subject to sub-paragraphs (2) and (3), no part of phases 18, 19 and 20 of the authorised development must commence until the water pipe standoff has been agreed in writing by the relevant planning authority in consultation with Anglian Water acting reasonably. (2) The water pipe standoff as approved in sub-paragraph (1) must be between 7 and 30 metres. (3) In default of agreement regarding the water pipe standoff in sub-paragraph (1) between the undertaker, relevant planning authority and Anglian Water, the water pipe standoff will be settled by arbitration in accordance with article 20 (arbitration)

It will be helpful to understand how you see the PPs operating as you describe as I think the fear is that AW could potentially 'force' Augean to make an application under section 185 to divert the pipes which clearly Augean do not wish to do in this case.

Anyway, look forward to speaking shortly to see where we can get to.

Kind regards
Claire

From: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>

Sent: 15 July 2022 16:27

To: Elizabeth Tones <[REDACTED]@wbd-uk.com>

Cc: Claire Brook <[REDACTED]@wbd-uk.com>; Claire Trolove <[REDACTED]@anglianwater.co.uk>

Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

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Thanks for the comments sent through to Claire. Can I address them and hopefully allay your concerns?

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Sent: 19 July 2022 10:39
Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]
Attachments: _DOC_174861447(1)_2022 07 07 DCO Protective Provisions v2WBD amends 18 07 2022.DOCX

From: Claire Brook
Sent: 18 July 2022 16:09
To: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>
Cc: Claire Trolove <[REDACTED]@anglianwater.co.uk>; Elizabeth Tones <[REDACTED]@wbd-uk.com>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Hi Darrell

Thank you for your time earlier.

I have attached a tracked changed version of the PPs using the version you shared with us on 7th July and again on 15th July. As you will see I have accepted the majority of your proposed changes and simply deleted paragraph 39(4) and reverted to our original drafting in paragraph 42.

As discussed in our meeting, it would be helpful if in addition to agreeing the PPs you could also confirm that you are content for requirement 19 to be included in the dDCO. The PPs as drafted will give you the control in terms of needing to consent to any works that can take place within 30m of the pipes as described in paragraph 39(7). We also need requirement 19 as a mechanism to agree the precise form of the development with the relevant planning authority.

If you have any queries do not hesitate to contact me.

Kind regards
Claire

From: Claire Brook
Sent: 18 July 2022 12:56
To: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>; Elizabeth Tones <[REDACTED]@wbd-uk.com>
Cc: Claire Trolove <[REDACTED]@anglianwater.co.uk>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

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ENRMF DCO PROTECTIVE PROVISIONS – [SCHEDULE 9 PART 4]: FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

[34]. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

[35]. In this Part of this Schedule—

“Act” means the Water Industry Act 1991

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

“Anglian Water” means Anglian Water Services Limited;

“apparatus” means Anglian Water’s twin water mains running between Stamford Road, King’s Cliffe (at grid references TL0130899796 and TL0131499784 or thereabouts) and A43, Duddington (at grid references SK9888300433 and SK9888000429 or thereabouts, respectively) and includes:

- any accessories (as defined by section 219 of the Act) forming part of it,
- any structure in which apparatus is or is to be lodged or which gives or will give access to it, and
- alternative apparatus

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

Acquisition of land

[36]. Regardless of any provision in this Order, the undertaker must not acquire any apparatus otherwise than by agreement.

Retained apparatus

[39].—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker in accordance with section 185 of the Act, the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

~~(4) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.~~

~~(5) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.~~

~~(6) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph:~~

- the establishment of an access way or haul road and underground works are both deemed to be "works" for the purposes of this paragraph; and
- works are deemed to be in land near Anglian Water's apparatus if those works fall within 30 metres measured from the medial line of the closer of the two water mains forming such apparatus to the works in question.

Expenses and costs

[40].—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article [20] (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this subparagraph would be payable to Anglian Water by virtue of subparagraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

Deleted: (4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and its replacement by alternative apparatus and gives written notice to the undertaker of that requirement, the undertaker shall make and maintain a corresponding application to Anglian Water under section 185 of the Act.¶

Deleted: 5

Deleted: 6

Deleted: 7

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

[41].—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of:

- the construction of any works of authorised development for which development consent is granted by this Order,
- any subsidence resulting from such works or development, or
- any leakage, leachate or radiation resulting from such works or development,

any contamination or damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), any medium conveyed by such apparatus or any property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty (whether legal, regulatory or in relation to regulatory funding) or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to:

(a) any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents;

(b) any part of the authorised development carried out by Anglian Water in the exercise of any functions conferred by this Order pursuant to a transfer of benefit under article 7; or

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Anglian Water must act reasonably in relation to any claim or demand served under subparagraph (1) and use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands and penalties to which a claim or demand under subparagraph (1) applies.

Cooperation

[42]. Where in consequence of the proposed construction of any of the authorised development, Anglian Water makes requirements for the protection or alteration of apparatus under paragraph [39], the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

Deleted: the undertaker or Anglian Water requires the removal of apparatus under section 185 of the Act or

Deleted: section 185

Deleted: of the Act

[43]. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

[44]. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

[45]. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

Monitoring

[46]. Where in relation to the proposed construction of any of the authorised development, Anglian Water reasonably requires leak detection monitoring and/or monitoring of the water level in the pipe bedding material to be installed ("pipe bedding monitoring"), and gives written notice to the undertaker of that requirement, the following provisions of this paragraph apply:

(1) Any leak detection monitoring and pipe bedding monitoring to be installed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article [20] (arbitration).

(2) Anglian Water must, after the leak detection monitoring and pipe bedding monitoring to be installed has been agreed or settled by arbitration in accordance with article [20], and after the grant to Anglian Water of any such necessary facilities and rights over the land, proceed without unnecessary delay to construct and bring into operation the agreed leak detection monitoring and pipe bedding monitoring.

(3) The undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the installation of any leak detection and pipe bedding monitoring apparatus.

(4) If Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the installation of leak detection or pipe bedding monitoring apparatus or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without

unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water at the cost of the undertaker.

(5) Anglian Water must share all monitoring data arising from the installation of the leak detection monitoring and pipe bedding monitoring with the undertaker on a quarterly basis.

Expert Determination

[47].—(1) Article [20] (arbitration) shall apply to any difference as to the legal interpretation of this Schedule and as provided for in paragraph (6).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (6), any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between Anglian Water and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of Anglian Water and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;
- (c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.

(6) The expert must consider where relevant—

- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;
- (e) Anglian Water's service obligations and licence conditions; and
- (f) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article [20].

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Robyn Northall

Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]
Attachments: 2022 07 19 DCO Protective Provisions v2 (DC WBD amends).docx

From: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>
Sent: 19 July 2022 08:15
To: Claire Brook <[REDACTED]@wbd-uk.com>
Cc: Elizabeth Tones <[REDACTED]@wbd-uk.com>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Thank you Claire.

I am grateful to you and to Leslie for explaining how requirement 19 and the PPs interact, but are in fact different things. Having had a good look afterwards at schedule 2, I think the penny has *finally* dropped: apologies for that. I can see now how a “water pipe standoff” distance is intended to form part of the parameters needed to drive a design scheme that must be largely approved. Let’s look at those two items.

Requirement 19

After the meeting yesterday, the Anglian Water team discussed the issue of agreeing the standoff distance at a later date generally. The strong view was that it is not really appropriate to “kick the can down the road” in this way. We think that once Augean has DCO powers, the temptation will be to litigate the issue strongly in arbitration, given the potential profits to be made. This prospect is naturally an unattractive imposition on Anglian Water, given that it would be a distraction to our job of providing best quality drinking water. Furthermore, we don’t believe that anything is likely to change, even over ten years, not that would be relevant to the extent of the standoff distance. Arguments can be made this way and that about the best distance to mitigate contamination risk, but essentially it is driven almost wholly by the size of machinery needed to excavate either (or both) of the water mains. The size of the machinery we need to do that is really not likely to alter.

What we are proposing is that we fix this standoff distance now at 20 metres from the outside edge of the nearest of the two water mains. We have learned recently from our project to build a [strategic pipeline right across our region](#) that this distance will be a struggle for us, but Mark believes that we ought to be able to achieve it with special measures and special working practices. We saw that Leslie had plans produced to accommodate this standoff distance, so we hope that it is viable from your client’s point of view.

On the particular issue of the drafting, clearly there will need to be some adjustment, including the removal of the agreement machinery in requirement 19. I felt too that the way the “water pipe standoff” is defined seemed a little disconnected from the other requirement provisions. Perhaps it would be better dealt with in paragraph 3(1) of that schedule? If the issue is agreed in principle, would you like to let me have some updated drafting? As I have said before, I’m not terribly precious about the way the intent is achieved, as long as it does the job.

The protective provisions

As I said to you yesterday, I'm not sure just deleting the Anglian Water led requirement to divert really works on its own, as it was really Anglian Water's sole protection if the proposed works were reasonably considered to be entirely incompatible with the running of the water mains. I think there needs to be the ability to withhold approval to the works on any terms, acting reasonably of course, and then Augean can choose whether to (i) not proceed, (ii) divert the water mains or (iii) if it thinks the disapproval is unreasonable, refer it to the expert.

I've made some suggestions as to the appropriate drafting in the attached. As I say, I'm not wedded to their exact form, but they should do the job.

I'll look forward to hearing from you, I presume later today?

Kind regards,

~~G duho# Fulwogho#~~

Regulation Solicitor

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon PE29 6XU



Feedback welcome.

Please let us know what you think: what we are doing well; what we could do more of; or what we could do better. All feedback is welcome! Please send us an email at [Legal Team](#)

From: Claire Brook <[REDACTED]@wbd-uk.com>

Sent: 18 July 2022 16:09

To: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>

Cc: Claire Trolove <[REDACTED]@anglianwater.co.uk>; Elizabeth Tones <[REDACTED]@wbd-uk.com>

Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

EXTERNAL MAIL - Please be aware this mail is from an external sender - THINK BEFORE YOU CLICK

Hi Darrell

Thank you for your time earlier.

ENRMF DCO PROTECTIVE PROVISIONS – [SCHEDULE 9 PART 4]: FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

[34]. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

[35]. In this Part of this Schedule—

“Act” means the Water Industry Act 1991

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

“Anglian Water” means Anglian Water Services Limited;

“apparatus” means Anglian Water’s twin water mains running between Stamford Road, King’s Cliffe (at grid references TL0130899796 and TL0131499784 or thereabouts) and A43, Duddington (at grid references SK9888300433 and SK9888000429 or thereabouts, respectively) and includes:

- any accessories (as defined by section 219 of the Act) forming part of it,
- any structure in which apparatus is or is to be lodged or which gives or will give access to it, and
- alternative apparatus

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

Acquisition of land

[36]. Regardless of any provision in this Order, the undertaker must not acquire any apparatus otherwise than by agreement.

Retained apparatus

[39].—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker in accordance with section 185 of the Act, the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only [\(i\) if approved in writing by Anglian Water](#), [\(ii\)](#) in accordance with the plan submitted under sub-paragraph (1), and [\(iii\)](#) in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it. The approval that may be given under that sub-paragraph must not be unreasonably withheld (although may be subject to the said requirements) and shall be assumed to have been given unless Anglian Water gives written notice to the undertaker that it is being withheld entirely or given subject to the said requirements within the same time period.

(4) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(5) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(6) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph:

- the establishment of an access way or haul road and underground works are both deemed to be "works" for the purposes of this paragraph; and
- works are deemed to be in land near Anglian Water's apparatus if those works fall within 30 metres measured from the medial line of the closer of the two water mains forming such apparatus to the works in question.

Expenses and costs

[40].—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article [20] (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or

Deleted: (4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and its replacement by alternative apparatus and gives written notice to the undertaker of that requirement, the undertaker shall make and maintain a corresponding application to Anglian Water under section 185 of the Act.¶

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dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of subparagraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

[41].—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of:

- the construction of any works of authorised development for which development consent is granted by this Order,
- any subsidence resulting from such works or development, or
- any leakage, leachate or radiation resulting from such works or development,

any contamination or damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), any medium conveyed by such apparatus or any property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty (whether legal, regulatory or in relation to regulatory funding) or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to:

(a) any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents;

(b) any part of the authorised development carried out by Anglian Water in the exercise of any functions conferred by this Order pursuant to a transfer of benefit under article 7; or

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Anglian Water must act reasonably in relation to any claim or demand served under subparagraph (1) and use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands and penalties to which a claim or demand under subparagraph (1) applies.

Cooperation

[42]. Where in consequence of the proposed construction of any of the authorised development, Anglian Water makes requirements for the protection or alteration of apparatus under paragraph [39], the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

[43]. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

[44]. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

[45]. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

Monitoring

[46]. Where in relation to the proposed construction of any of the authorised development, Anglian Water reasonably requires leak detection monitoring and/or monitoring of the water level in the pipe bedding material to be installed ("pipe bedding monitoring"), and gives written notice to the undertaker of that requirement, the following provisions of this paragraph apply:

(1) Any leak detection monitoring and pipe bedding monitoring to be installed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article [20] (arbitration).

(2) Anglian Water must, after the leak detection monitoring and pipe bedding monitoring to be installed has been agreed or settled by arbitration in accordance with article [20], and after the grant to Anglian Water of any such necessary facilities and rights over the land, proceed without unnecessary delay to construct and bring into operation the agreed leak detection monitoring and pipe bedding monitoring.

(3) The undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the installation of any leak detection and pipe bedding monitoring apparatus.

Deleted: the undertaker or Anglian Water requires the removal of apparatus under section 185 of the Act or

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Deleted: of the Act

(4) If Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the installation of leak detection or pipe bedding monitoring apparatus or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water at the cost of the undertaker.

(5) Anglian Water must share all monitoring data arising from the installation of the leak detection monitoring and pipe bedding monitoring with the undertaker on a quarterly basis.

Expert Determination

[47].—(1) Article [20] (arbitration) shall apply to any difference as to the legal interpretation of this Schedule and as provided for in paragraph (6).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (6), any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between Anglian Water and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of Anglian Water and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;
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(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article [20].

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Robyn Northall

From: Mailbox Incoming
Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

From: Claire Brook [REDACTED] <[REDACTED]@wbd-uk.com>
Sent: 19 July 2022 13:50
To: Darrell Crittenden [REDACTED] <[REDACTED]@anglianwater.co.uk>
Cc: Elizabeth Tones [REDACTED] <[REDACTED]@wbd-uk.com>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

EXTERNAL MAIL - Please be aware this mail is from an external sender - THINK BEFORE YOU CLICK

Darrell

I now have my client's instructions.

I have just made a couple of amends to the PPs in the attached.

They are content to fix the standoff from the water pipes at 20m. I agree with you that it then makes sense to delete requirement 19 which becomes redundant for fixing a standoff and instead we use requirement 3(1) on detailed design and the reference in that requirement to the boundary design principles which are set out in Appendix B, Table B1 of the DEC 9 by reference to figure DECB1 attached above. We will amend these principles in Table B1 as per the below tracked changes and submit the updated DEC tomorrow with our other deadline 7 documents and explain the position we have reached with AW in our covering letter to the ExA. Boundary H and I represent the fence line and the excavation for the landfill will be beyond this fence line i.e. further away than 20m from the respective pipelines.

If you are able to confirm if this overall approach is acceptable and we can agree the PP wording we will include this version in our submitted dDCO for tomorrow's deadline. We can then aim to get an SoCG finalised to reflect this agreed position.

I look forward to hearing from you as soon as you are able to respond.

Kind regards
Claire

Boundary H

~~Between a 7m and 30m~~ A 20m standoff from the water pipeline.

~~A minimum 3.5m stand off from the diverted electricity cable (which will be located within the 7m to 30m standoff for the water pipeline).~~

A minimum 3.5m distance between the water pipeline and the diverted electricity cable

Protection fencing will be erected on the edge of the agreed stand off line and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.

The restoration soils will not extend beyond the pipeline standoff.

Boundary I

~~Between a 7m and 30m~~ A 20m standoff from the water pipeline.

Protection fencing will be erected on the edge of the agreed stand off line and will comprise deer exclusion fencing.

The restoration soils will not extend beyond the pipeline standoff.

Claire Brook

Partner

Womble Bond Dickinson (UK) LLP



[Sign up for legal updates, e-newsletters and event invitations](#)



From: Darrell Crittenden [redacted] [@anglianwater.co.uk](mailto:[redacted]@anglianwater.co.uk)>

Sent: 19 July 2022 08:15

To: Claire Brook [redacted] [@wbd-uk.com](mailto:[redacted]@wbd-uk.com)>

Cc: Elizabeth Tones [redacted] [@wbd-uk.com](mailto:[redacted]@wbd-uk.com)>

Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

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Requirement 19

After the meeting yesterday, the Anglian Water team discussed the issue of agreeing the standoff distance at a later date generally. The strong view was that it is not really appropriate to “kick the can down the road” in this way. We think that once Augean has DCO powers, the temptation will be to litigate the issue strongly in arbitration, given the potential profits to be made. This prospect is naturally an unattractive imposition on Anglian Water, given that it would be a distraction to our job of providing best quality drinking water. Furthermore, we don’t believe that anything is likely

ENRMF DCO PROTECTIVE PROVISIONS – [SCHEDULE 9 PART 4]: FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

[34]. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

[35]. In this Part of this Schedule—

“Act” means the Water Industry Act 1991

“alternative apparatus” means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

“Anglian Water” means Anglian Water Services Limited;

“apparatus” means Anglian Water’s twin water mains running between Stamford Road, King’s Cliffe (at grid references TL0130899796 and TL0131499784 or thereabouts) and A43, Duddington (at grid references SK9888300433 and SK9888000429 or thereabouts, respectively) and includes:

- any accessories (as defined by section 219 of the Act) forming part of it,
- any structure in which apparatus is or is to be lodged or which gives or will give access to it, and
- alternative apparatus

“functions” includes powers and duties;

“in”, in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

“plan” includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

Acquisition of land

[36]. Regardless of any provision in this Order, the undertaker must not acquire any apparatus otherwise than by agreement.

Retained apparatus

[39].—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker in accordance with section 185 of the Act, the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only [\(i\) if approved by Anglian Water pursuant to sub paragraph \(3\) below](#), [\(ii\)](#) in accordance with the plan submitted under sub-paragraph (1), and [\(iii\)](#) in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works.

Deleted: in writing

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it. The approval that may be given under that sub-paragraph must not be unreasonably withheld (although may be subject to the said requirements) and shall be assumed to have been given unless Anglian Water gives written notice to the undertaker that it is being withheld entirely or given subject to the said requirements within the same time period.

(4) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(5) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (3) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum.

(6) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph:

- the establishment of an access way or haul road and underground works are both deemed to be "works" for the purposes of this paragraph; and
- works are deemed to be in land near Anglian Water's apparatus if those works fall within 20 metres measured from the medial line of the closer of the two water mains forming such apparatus to the works in question.

Expenses and costs

[40].—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under subparagraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article [20] (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or

Deleted: (4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and its replacement by alternative apparatus and gives written notice to the undertaker of that requirement, the undertaker shall make and maintain a corresponding application to Anglian Water under section 185 of the Act.¶

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dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of subparagraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

[41].—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of:

- the construction of any works of authorised development for which development consent is granted by this Order,
- any subsidence resulting from such works or development, or
- any leakage, leachate or radiation resulting from such works or development,

any contamination or damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works), any medium conveyed by such apparatus or any property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty (whether legal, regulatory or in relation to regulatory funding) or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption.

(2) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (3), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to:

(a) any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents;

(b) any part of the authorised development carried out by Anglian Water in the exercise of any functions conferred by this Order pursuant to a transfer of benefit under article 7; or

(c) any indirect or consequential loss of any third party (including but not limited to loss of use, revenue, profit, contract, production, increased cost of working) arising from any such damage or interruption, which is not reasonably foreseeable.

(4) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

(5) Anglian Water must act reasonably in relation to any claim or demand served under subparagraph (1) and use its reasonable endeavours to mitigate and to minimise any costs, expenses, loss, demands and penalties to which a claim or demand under subparagraph (1) applies.

Cooperation

[42]. Where in consequence of the proposed construction of any of the authorised development, Anglian Water makes requirements for the protection or alteration of apparatus under paragraph [39], the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

[43]. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

[44]. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

[45]. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

Monitoring

[46]. Where in relation to the proposed construction of any of the authorised development, Anglian Water reasonably requires leak detection monitoring and/or monitoring of the water level in the pipe bedding material to be installed ("pipe bedding monitoring"), and gives written notice to the undertaker of that requirement, the following provisions of this paragraph apply:

(1) Any leak detection monitoring and pipe bedding monitoring to be installed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article [20] (arbitration).

(2) Anglian Water must, after the leak detection monitoring and pipe bedding monitoring to be installed has been agreed or settled by arbitration in accordance with article [20], and after the grant to Anglian Water of any such necessary facilities and rights over the land, proceed without unnecessary delay to construct and bring into operation the agreed leak detection monitoring and pipe bedding monitoring.

(3) The undertaker must repay to Anglian Water all expenses reasonably incurred by Anglian Water in, or in connection with, the installation of any leak detection and pipe bedding monitoring apparatus.

Deleted: the undertaker or Anglian Water requires the removal of apparatus under section 185 of the Act or

Deleted: section 185

Deleted: of the Act

(4) If Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the installation of leak detection or pipe bedding monitoring apparatus or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water at the cost of the undertaker.

(5) Anglian Water must share all monitoring data arising from the installation of the leak detection monitoring and pipe bedding monitoring with the undertaker on a quarterly basis.

Expert Determination

[47].—(1) Article [20] (arbitration) shall apply to any difference as to the legal interpretation of this Schedule and as provided for in paragraph (6).

(2) Save as provided for in sub-paragraph (1) or sub-paragraph (6), any difference under this Part of this Schedule must be referred to and settled by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the differing parties or, in the absence of agreement, identified by the President of the Institution of Civil Engineers or the President of the Institution of RICS or the President of the Institution of Engineering and Technology (as relevant and agreed between Anglian Water and the undertaker, both acting reasonably and without delay).

(3) All parties involved in settling any difference must use best endeavours to do so within 14 days from the date of a dispute first being notified in writing by one party to the other and in the absence of the difference being settled within that period the expert must be appointed within 21 days of the notification of the dispute.

(4) The costs and fees of the expert and the costs of Anglian Water and the undertaker are payable by the parties in such proportions as the expert may determine. In the absence of such determination the costs and fees of the expert are payable equally by the parties who shall each bear their own costs.

(5) The expert must—

- (a) invite the parties to make submission to the expert in writing and copied to the other party to be received by the expert within 14 days of the expert's appointment;
- (b) permit a party to comment on the submissions made by the other party within 7 days of receipt of the submission;
- (c) issue a decision within 14 days of receipt of the submissions under sub-paragraph (b); and
- (d) give reasons for the decision.








(6) The expert must consider where relevant—

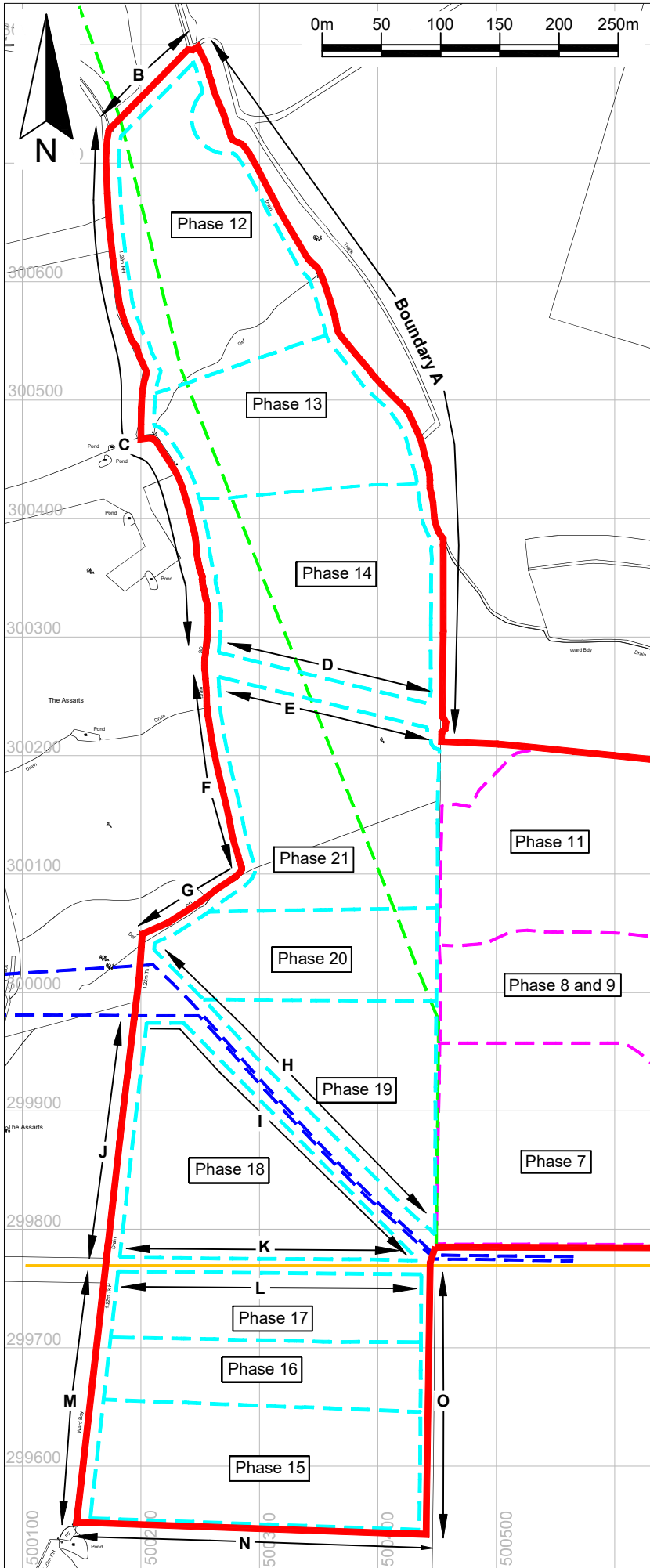
- (a) the development outcome sought by the undertaker;
- (b) the ability of the undertaker to achieve its outcome in a timely and cost-effective manner;
- (c) the nature of the power sought to be exercised by the undertaker;
- (d) the effectiveness, cost and reasonableness of proposals for mitigation arising from any party;
- (e) Anglian Water's service obligations and licence conditions; and
- (f) any other important and relevant consideration.

(7) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference that has been subject to expert determination may be referred to and settled by arbitration under article [20].

Deleted: 6

Key / Notes

-  Boundary of the area the subject of the application for the Development Consent Order
-  Approximate phase boundaries to be constructed in the proposed western extension
-  Approximate phase boundaries for the existing ENRMF
-  Approximate route of water pipelines
-  Approximate route of an overhead electricity cable (to be diverted)
-  Approximate location of a high pressure gas pipeline
-  Boundary identification label used for reference



	Final	KR	SPS	LH	26/07/21
Rev	Status	Drn	App	Chk	Date

Site
EAST NORTHANTS RESOURCE MANAGEMENT FACILITY

Client


Title
Boundaries of the proposed western extension

Figure DEC B1 Scale
1:5,000@A4

Drawing Ref
AU/KCW/07-21/22690

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 Baddesley Colliery Offices,
Main Road, Baxterley, Atherstone,
Warwickshire, CV9 2LE.
Telephone : 01827 717891
Technical advisers on environmental issues Fax : 01827 718507

Robyn Northall

From: Claire Brook
Sent: 19 July 2022 14:31
To: Darrell Crittenden
Cc: Elizabeth Tones
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]
Attachments: Appendix DECB.pdf

Darrell

For ease, I have attached the whole of DEC Appendix B. At the top of the DEC B1 table you will see that it states, "the excavation limit will be at a minimum 2.5m standoff from the protection fencing in all operational areas to provide access for operations."

I hope that assists.

Kind regards
Claire

From: Claire Brook
Sent: 19 July 2022 13:50
To: Darrell Crittenden <[REDACTED]@anglianwater.co.uk>
Cc: Elizabeth Tones <[REDACTED]@wbd-uk.com>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Darrell

I now have my client's instructions.

I have just made a couple of amends to the PPs in the attached.

They are content to fix the standoff from the water pipes at 20m. I agree with you that it then makes sense to delete requirement 19 which becomes redundant for fixing a standoff and instead we use requirement 3(1) on detailed design and the reference in that requirement to the boundary design principles which are set out in Appendix B, Table B1 of the DEC 9 by reference to figure DECB1 attached above. We will amend these principles in Table B1 as per the below tracked changes and submit the updated DEC tomorrow with our other deadline 7 documents and explain the position we have reached with AW in our covering letter to the ExA. Boundary H and I represent the fence line and the excavation for the landfill will be beyond this fence line i.e. further away than 20m from the respective pipelines.

If you are able to confirm if this overall approach is acceptable and we can agree the PP wording we will include this version in our submitted dDCO for tomorrow's deadline. We can then aim to get an SoCG finalised to reflect this agreed position.

I look forward to hearing from you as soon as you are able to respond.

Kind regards
Claire

Boundary H

~~Between a 7m and 30m~~ A 20m standoff from the water pipeline.

~~A minimum 3.5m stand off from the diverted electricity cable (which will be located within the 7m to 30m standoff for the water pipeline)..~~

A minimum 3.5m distance between the water pipeline and the diverted electricity cable



**DCO ENVIRONMENTAL COMMITMENTS
V1**

PINS project reference: WS010005

PINS document reference: 6.5

Report Reference: AU/KCWLZH/1724/01/DEC/V1

June 2022



**Baddesley Colliery Offices, Main Road, Baxterley, Atherstone,
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APPENDIX DEC B








**BOUNDARY DESIGN PRINCIPLES FOR THE PROPOSED WESTERN
EXTENSION
FIGURE DEC B1 BOUNDARIES OF THE WESTERN EXTENSION (DRAWING
REFERENCE AU/KCW/07-21/22690)
TABLE DEC B1 BOUNDARY STANDOFF DESIGN PARAMETERS**

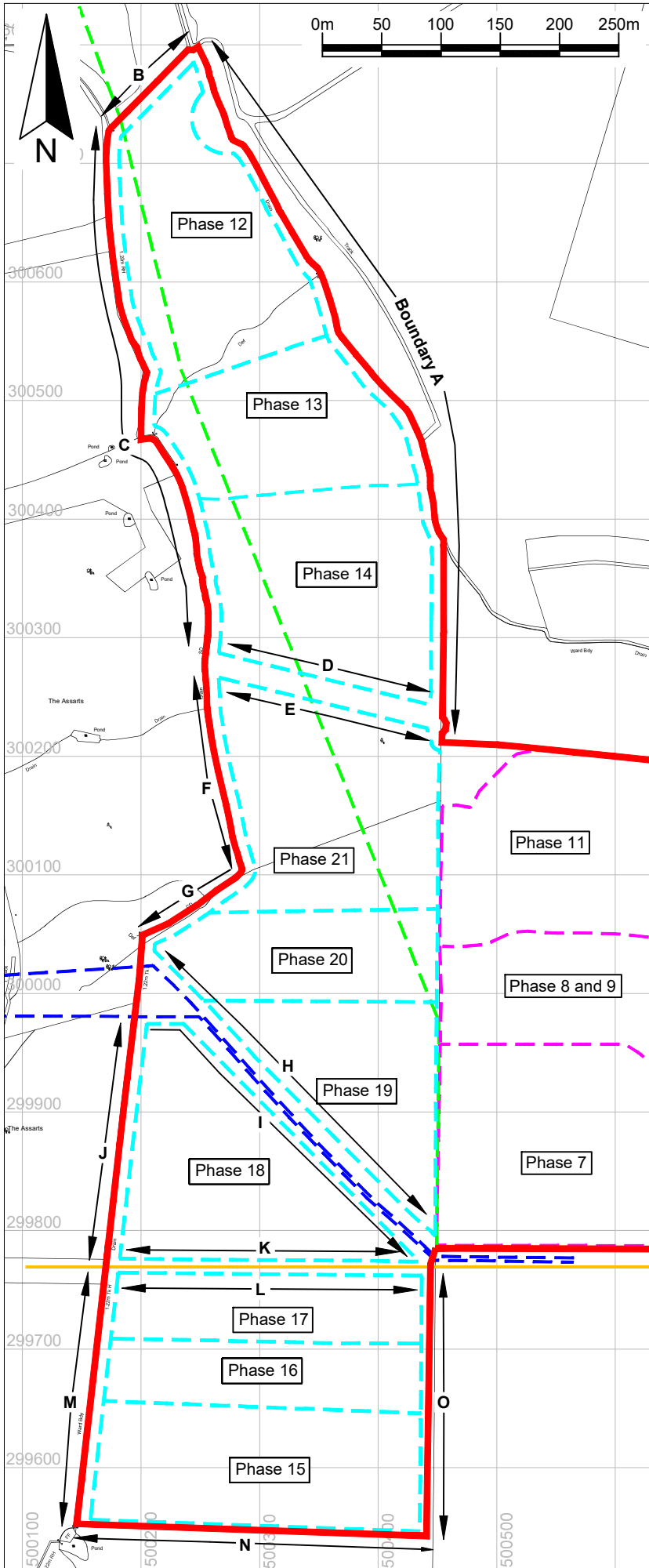
Appendix DEC B

Boundary Design Principles for the proposed western extension

- B1 This document presents the principles for the boundary standoff design for the western extension at ENRMF. The standoffs from the DCO application boundary that will be protected and retained outside the operational area and the protection fencing principles are set out. Each of the boundaries referred to in Table DEC B1 below together with the locations of the approximate phase boundaries are shown on Figure DEC B1 (drawing reference AU/KCW/07-21/22690).
- B2. As explained in Section 5 of the Environmental Statement (PINS document reference 5.2) the derivation of the width of the boundary standoff distance used in the design for each area is based on a combination of:
- Tree root protection area (RPA) distance.
 - Width of the ecological margin to be retained at the edge of the site.
 - Installation of animal exclusion fencing.
 - Standoff from buried services.
 - Working margin inside the animal exclusion fence between the fence and the extraction boundary.
- B3. The exact design including the boundary of each of the phases of the landfill will be determined at the detailed design stage. The design and the construction proposals for each phase will be agreed with the Environment Agency under the Environmental Permit prior to the commencement of construction.

Key / Notes

-  Boundary of the area the subject of the application for the Development Consent Order
-  Approximate phase boundaries to be constructed in the proposed western extension
-  Approximate phase boundaries for the existing ENRMF
-  Approximate route of water pipelines
-  Approximate route of an overhead electricity cable (to be diverted)
-  Approximate location of a high pressure gas pipeline
-  Boundary identification label used for reference



	Final	KR	SPS	LH	26/07/21
Rev	Status	Drn	App	Chk	Date

Site
EAST NORTHANTS RESOURCE MANAGEMENT FACILITY

Client


Title
Boundaries of the proposed western extension

Figure DEC B1 Scale
1:5,000@A4

Drawing Ref
AU/KCW/07-21/22690

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 Baddesley Colliery Offices,
Main Road, Baxterley, Atherstone,
Warwickshire, CV9 2LE.
Telephone : 01827 717891
Technical advisers on environmental issues Fax : 01827 718507

Table DEC B1
Boundary standoff design parameters

Boundary (as shown on Figure DEC B1)	Boundary standoff design parameters <i>The excavation limit will be at a minimum 2.5m standoff from the protection fencing in all operational areas to provide access for operations.</i>
Boundary A	<p>Root Protection Area of 7.5m.</p> <p>10m ecological protection standoff from the western bank of the boundary ditch apart from one area in the north east (Phase 12) where the stand off is extended to 30m.</p> <p>Protection fencing will be erected on the 10m stand off line and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary B	<p>Root Protection Area of 4.2m.</p> <p>10m ecological protection standoff from the site boundary.</p> <p>Protection fencing will be erected on the 10m stand off line and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary C	<p>Root Protection Area of 7.8m.</p> <p>10m ecological protection standoff from the site boundary.</p>

Boundary (as shown on Figure DEC B1)	Boundary standoff design parameters <i>The excavation limit will be at a minimum 2.5m standoff from the protection fencing in all operational areas to provide access for operations.</i>
	<p>Protection fencing will be erected on the 10m stand off line and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary D	<p>The boundary will follow the 20m stand off for the doline area.</p> <p>Protection fencing will be erected on the 20m stand off line to the north of the proposed double hedgerow (as shown on the Restoration Concept Scheme, PINS document reference 2.8) and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary E	<p>The boundary will follow the 20m stand off for the doline area.</p> <p>Protection fencing will be erected on the 20m stand off line to the south of the proposed double hedgerow and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary F	<p>Root Protection Area of 5.4m.</p> <p>10m ecological protection standoff from the eastern bank of the boundary ditch.</p>

Boundary (as shown on Figure DEC B1)	Boundary standoff design parameters <i>The excavation limit will be at a minimum 2.5m standoff from the protection fencing in all operational areas to provide access for operations.</i>
	<p>Protection fencing will be erected on the 10m stand off line and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary G	<p>Root Protection Area of 5.4m.</p> <p>10m ecological protection standoff from the eastern bank of the boundary ditch.</p> <p>Protection fencing will be erected on the 10m stand off line and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary H	<p>Between a 7m and 30m standoff from the water pipeline.</p> <p>A minimum 3.5m stand off from the diverted electricity cable (which will be located within the 7m to 30m standoff for the water pipeline).</p> <p>Protection fencing will be erected on the edge of the agreed stand off line and will comprise amphibian exclusion fencing, deer exclusion fencing and/or badger exclusion fencing.</p> <p>The restoration soils will not extend beyond the pipeline standoff.</p>

Boundary (as shown on Figure DEC B1)	Boundary standoff design parameters <i>The excavation limit will be at a minimum 2.5m standoff from the protection fencing in all operational areas to provide access for operations.</i>
Boundary I	<p>Between a 7m and 30m standoff from the water pipeline.</p> <p>Protection fencing will be erected on the edge of the agreed stand off line and will comprise deer exclusion fencing.</p> <p>The restoration soils will not extend beyond the pipeline standoff.</p>
Boundary J	<p>Root Protection Area of 6.9m.</p> <p>10m ecological protection standoff from the eastern bank of the boundary ditch.</p> <p>Protection fencing will be erected on the 10m stand off line and will comprise deer exclusion fencing.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary K	<p>6m standoff from the gas pipeline.</p> <p>Protection fencing will be erected on the 6m stand off line and will comprise deer exclusion fencing.</p> <p>The restoration soils will not extend beyond the pipeline standoff.</p>
Boundary L	<p>6m standoff from the gas pipeline.</p> <p>The fencing will be erected on the 6m stand off line and will comprise deer exclusion fencing.</p>

Boundary (as shown on Figure DEC B1)	Boundary standoff design parameters <i>The excavation limit will be at a minimum 2.5m standoff from the protection fencing in all operational areas to provide access for operations.</i>
	The restoration soils will not extend beyond the pipeline standoff.
Boundary M	<p>Root Protection Area of 6.9m.</p> <p>10m ecological protection standoff from the eastern bank of the boundary ditch.</p> <p>The fencing will be erected on the 10m stand off line and will comprise amphibian exclusion fence and/or deer exclusion fence.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>
Boundary N	<p>The fencing will be erected on the site boundary and will comprise amphibian exclusion fence and/or deer exclusion fence.</p> <p>The restoration soils will extend to the site boundary.</p>
Boundary O	<p>Root Protection Area of 5m (for the hedge which will be planted here along the site boundary).</p> <p>The fencing will be erected 2.5m from the site boundary and will comprise amphibian exclusion fence and/or deer exclusion fence.</p> <p>The restoration soil placement will not extend beyond the line of the fencing.</p>

B4. This scheme will be reviewed and updated as necessary as a result of further agreements between the statutory undertakers and Augean. The need for different types of protection fencing will be informed and adapted based on ongoing site monitoring. The exact details of the fencing will be agreed with the

relevant planning authority following consultation with Natural England and/or other relevant bodies and set out in the phasing, landscaping and restoration scheme secured by Requirement 4(2).

Robyn Northall

From: Mailbox Incoming
Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

From: Darrell Crittenden [REDACTED] <[\[REDACTED\]@anglianwater.co.uk](mailto:[REDACTED]@anglianwater.co.uk)>
Sent: 19 July 2022 16:00
To: Claire Brook [REDACTED] <[\[REDACTED\]@wbd-uk.com](mailto:[REDACTED]@wbd-uk.com)>
Cc: Elizabeth Tones [REDACTED] <[\[REDACTED\]@wbd-uk.com](mailto:[REDACTED]@wbd-uk.com)>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Thank you Claire,

I am pleased that Augean is able to agree the 20 metre stand-off. Consequently I am able to agree on Anglian Water's behalf:

- 1) The form of the protective provisions – your minor amendments are fine, and I like the neatness of the drafting;
- 2) With the exception of what I say below, the method by which you are putting the 20 metre stand-off into effect (by way of requirement 3(1), the boundary design principles (as defined) and Appendix B).

I am not able to agree "A minimum 3.5m distance between the water pipeline and the diverted electricity cable". I am instructed that the diverted electricity cable should be tucked as far away as possible from the water pipeline, within one metre of the fence line. This section should therefore read "A minimum 19m distance between the water pipeline and the diverted electricity cable".

Would you like to take instructions?

Kind regards,

~~Gordon Fulwider~~

Regulation Solicitor

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon PE29 6XU



Feedback welcome.

Please let us know what you think: what we are doing well; what we could do more of; or what we could do better. All feedback is welcome! Please send us an email at Legal Team

Robyn Northall

Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Importance: High

From: Claire Brook [REDACTED] <[\[REDACTED\]@wbd-uk.com](mailto:[REDACTED]@wbd-uk.com)>
Sent: 19 July 2022 16:38
To: Darrell Crittenden [REDACTED] <[\[REDACTED\]@anglianwater.co.uk](mailto:[REDACTED]@anglianwater.co.uk)>
Cc: Elizabeth Tones [REDACTED] <[\[REDACTED\]@wbd-uk.com](mailto:[REDACTED]@wbd-uk.com)>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

EXTERNAL MAIL - Please be aware this mail is from an external sender - THINK BEFORE YOU CLICK

Hi Darrell

Many thanks for coming back so promptly to us. I have taken instructions and in terms of the minimum standoff between the water pipe and the cable, Augean would be happy to extend this to 16.5m rather than 3.5m. As Augean also need to agree with WPD a stand off for the cable from the fence line this would give us what we need to agree that with WPD too and hopefully provides more than adequate distance between the cable and the water pipe to satisfy AW's concerns.

If you are able to come back to me that would be great.

Kind regards
Claire

Claire Brook
Partner
Womble Bond Dickinson (UK) LLP



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From: Darrell Crittenden [REDACTED] <[\[REDACTED\]@anglianwater.co.uk](mailto:[REDACTED]@anglianwater.co.uk)>
Sent: 19 July 2022 16:00

Robyn Northall

From: Mailbox Incoming
Subject: FW: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]
Importance: High

From: Darrell Crittenden [REDACTED] <[\[REDACTED\]@anglianwater.co.uk](mailto:[REDACTED]@anglianwater.co.uk)>
Sent: 20 July 2022 10:44
To: Claire Brook [REDACTED] <[\[REDACTED\]@wbd-uk.com](mailto:[REDACTED]@wbd-uk.com)>
Cc: Elizabeth Tones [REDACTED] <[\[REDACTED\]@wbd-uk.com](mailto:[REDACTED]@wbd-uk.com)>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Hi Claire,

Anglian Water's view is that that is unlikely to be sufficient, and after all the fence is only a temporary measure as we understand it.

But I can't really see that you and I are adding any value to this debate – the drafting is agreed and it's just about what figure goes in sentence 3 of "Boundary H" in Appendix B, Table B1 as I see it; so rather than you and I acting as post-boxes on this issue, do you think we should leave it to Gene and Mark to thrash out between them and see if agreement can be reached?

Kind regards,

~~Gordon Fulwider~~

Regulation Solicitor

Anglian Water Services Limited

Lancaster House, Lancaster Way, Ermine Business Park, Huntingdon PE29 6XU



Feedback welcome.

Please let us know what you think: what we are doing well; what we could do more of; or what we could do better. All feedback is welcome! Please send us an email at Legal Team

From: Claire Brook [REDACTED] <[\[REDACTED\]@wbd-uk.com](mailto:[REDACTED]@wbd-uk.com)>
Sent: 19 July 2022 16:38
To: Darrell Crittenden [REDACTED] <[\[REDACTED\]@anglianwater.co.uk](mailto:[REDACTED]@anglianwater.co.uk)>
Cc: Elizabeth Tones [REDACTED] <[\[REDACTED\]@wbd-uk.com](mailto:[REDACTED]@wbd-uk.com)>
Subject: RE: ENRMF DCO 1 of 2 [WBDUK-AC.FID103545882]

Robyn Northall

Subject: FW: Anglian Water Pipeline and Western Power Cable

From: Gene Wilson

Sent: 20 July 2022 17:20

To: [REDACTED]@anglianwater.co.uk

Subject: Anglian Water Pipeline and Western Power Cable

Dear Mark

Thank you for sparing time earlier to discuss the position of the power cable which Anglian has indicated should be at 19m distance from the water pipeline and Augean consider 16.5m should be acceptable. You requested that if we provided some design cross sections you could be available to discuss further this evening.

Having discussed the matter with my colleagues it is evident that we have insufficient detail of the power line installation at this time to enable the discussion. We therefore will exclude reference to a specific distance of the powerline from the water pipe in the DCO documentation and indicate that the precise location will be determined through the Protective Provisions requirements.

I hope that this is acceptable to you.

Best regards

Gene