Hampshire Water Transfer and Water Recycling Project Development Consent Order 202[ ]

Summary of written representation on behalf of

The Environment Agency



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1.1 This document summarises the written representation submitted on behalf of the Environment Agency (the **Agency**) in respect of the application by Southern Water Services Limited (the **Applicant**) for development consent for the Hampshire Water Transfer and Water Recycling Project (the **Project**).

1.2 The Agency is an executive non-departmental public body responsible for protecting and improving the environment in England. It acts as an environmental regulator, operator and adviser. Of particular relevance to this application, the Agency is responsible for the abstraction and impoundment licensing regime under the Water Resources Act 1991 and the environmental permitting regime under the Environmental Permitting (England and Wales) Regulations 2016. The Agency also plays a central role in water resource management planning and is a statutory consultee in relation to Water Resource Management Plans.

1.3 Within the Planning Act 2008 (**PA2008**) regime, the Agency was consulted as a statutory consultee during the Applicant's pre-application consultation and has become an interested party. The PA2008 regime and the Agency's licensing and permitting regimes serve different but complementary purposes. Development consent addresses the land use planning merits of the proposal, whilst the Agency's regimes regulate the environmental effects of specific activities carried out as part of, or in connection with, the development. The Applicant has confirmed that an abstraction licence and an environmental permit for water discharge activity are to be sought from the Agency separately from the DCO.

1.4 Applications for the necessary abstraction licence and environmental permits for water discharge activities have not yet been made by the Applicant, although pre-application discussions are underway and no issues have been identified to date that would indicate those consents cannot be granted.

1.5 The Agency strongly supports the Project in principle and recognises the strategic need for new water supply infrastructure in the south-east of England. Significant common ground has been achieved on a broad range of matters, as recorded in the Statement of Common Ground between the parties. The Agency's concerns, as set out below, do not relate to whether the Project should proceed or the adequacy of the assessments undertaken. They are wholly focussed upon the Applicant's proposed approach to the modification of important regulatory regimes as they would apply to the Project, and should be understood in that context.

1.6 The Agency's principal concerns relate to the provisions set down within Article 5 of, and Schedule 8 to, the draft DCO (the **Regulatory Provisions**). These provisions were first presented to the Agency close to the time the DCO application was made, without its involvement in their preparation. The existing abstraction licensing and environmental permitting regimes are well-established, contain significant flexibility, and are designed to accommodate projects of this nature and scale. The Agency does not consider that the modifications proposed are required or appropriate. The Regulatory Provisions would require the Agency to develop and employ bespoke operational processes and operate under restricted powers in relation to this Project, as compared to all other major water projects in England. If the underlying justification for the Regulatory Provisions stems from the absence of a new bulk supply agreement between the Applicant and Portsmouth Water, the appropriate means of addressing those matters is through the commercial and operating arrangements between those parties, not through substantial revision of the environmental regulatory regimes.

1.7 In relation to Article 5, greater clarity is required as to the proposed scheme of operation and its interaction with the licensing regime, and a drafting amendment is required to address its interaction with the impoundment licensing regime. In relation to Schedule 8, the Agency's key concerns include:

1.7.1 the proposed enforcement mechanisms for aggregate abstraction limits, which are inadequately defined and would inappropriately allocate responsibility among licence holders and require the Agency to police matters more properly regulated between the Applicant and Portsmouth Water under their commercial operating arrangements;

1.7.2 provisions constraining the Agency's ability to modify or revoke licences, which would impede its capacity to meet its environmental duties; and

1.7.3 the proposed disapplication of the requirement for abstraction licences to be time-limited, which would remove the periodic review mechanism through which the Agency assesses ongoing environmental sustainability.

1.8 Further detailed commentary on each provision of Article 5 of, and Schedule 8 to, the draft DCO is provided at Annex A to the written representation.

1.9 The draft DCO also includes protective provisions for the benefit of the Agency which differ from the Agency's standard form in a number of respects. The Agency's position is that the protective provisions should be amended to reflect its standard form.



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