FINAL

Deadline 1 – Written Representation

Comments on Relevant Representations and other submissions (Havant Borough Council, East Hampshire District Council, Portsmouth Water, the Environment Agency and UKHSA)

Hampshire Water Transfer and Water Recycling Project (WA010002)

Deadline 1, 23 November 2026

From Water Matters Community. Supported by Save Our South Coast Alliance (SOSCA) and Andrew Newbery.

Unique PINS references: [redacted]

Use of artificial intelligence: Claude (Anthropic), an AI assistant, was used to help draft this written representation. It worked from the Relevant Representations commented on (RR-089, RR-102, RR-127, RR-253 and RR-349), the draft Order and Explanatory Memorandum (APP-023, APP-024), APP-072, AS-020, the Defra letter in PDA-004, and the hearing transcripts (EV5-002, EV5-004 and EV5-006). All sections were drafted by us with its help and then finalised by us. We confirm that the representation is accurate and take full responsibility for it.

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Summary

We object to the Project, for reasons given in our other submissions.

This note comments on what Havant and East Hampshire councils, Portsmouth Water, the Environment Agency and UKHSA have said in writing or at the November hearings. Whilst some support the Project, in principle, there is nonetheless some common ground with them on the safeguards needed if, contrary to strong objections, the scheme proceeds. Without prejudice to our fundamental objections to the scheme (for the reasons fully set out in our other submissions), we ask the Examining Authority to:

- secure safeguards in the Order for chemicals with no legal standard, which the Environment Agency says its permits cannot control (paragraphs 2.2 to 2.5);
- require monitoring that adapts as the science develops, as the councils ask, checked by independent experts (paragraphs 3.1, 3.2 and 3.4);
- ask Southern Water and Portsmouth Water to disclose the water quality limits and stop triggers they are developing for water entering the reservoir (paragraph 3.3);
- invite UKHSA to say whether its advice still stands in the light of the information that has emerged in the Examination, and whether that advice covers substances with no standard, accumulation in the reservoir and people turning away from tap water (paragraphs 4.3 and 4.4);
- make clear in the Order what Southern Water and Portsmouth Water are each responsible for, as East Hampshire and the Environment Agency ask (paragraphs 5.1 and 5.2); and
- invite the councils' views on Article 5, and remove or narrow the parts that override their planning controls or let Southern Water direct how the reservoir is run (paragraphs 6.3 to 6.5).

1. About this note

1.1 We comment on the Relevant Representations of:

- Havant Borough Council (RR-127) and East Hampshire District Council (RR-089);
- Portsmouth Water (RR-253);
- the Environment Agency (RR-102, and its draft Statement of Common Ground, AS-020); and
- the UK Health Security Agency (RR-349).

1.2 Several of these bodies also spoke at the Preliminary Meeting, the Open Floor Hearing and ISH1 on 11 and 12 November 2026. Some explained or developed what

they had said in writing. So we look at both: what each said in its Relevant Representation, and how it clarified its position at the hearings.

1.3 We are grateful to all of them. Each has its own expertise and responsibilities. Our aim is to help the ExA by showing where our concerns and theirs meet. Where these bodies have already made a point, we try to follow their lead where possible and do not repeat our own case unnecessarily. Nothing here is a criticism of any of them.

1.4 We recognise that both councils and Portsmouth Water have said they support the Project, in principle. More information is continuing to emerge, and more is due at Deadline 1, and we would encourage such parties to continue to consider their position on this throughout the examination.

1.5 Our own position is that we object to the Project. Our reasons are in our Relevant Representations (RR-354, RR-018 and RR-294) and in our other Deadline 1 submissions. We would encourage all parties to read those.

1.6 Even so, there is a great deal of common ground on the safeguards that would be needed if the Project went ahead. That is what this note is primarily about. Our comments on such safeguards should not be read as support for the Project. We take the subjects one by one.

1.7 Our replies to what Southern Water said at the hearings are in our separate Deadline 1 submission documents. We use the term “recycled effluent”; our separate written representation for Deadline 1 on that term explains why.

1.8 Quotations from the oral hearings are taken from the published transcripts. As each transcript states, it was produced by voice-to-text software and is not a verbatim record; the recording is the primary record of the hearing. We have not been able to check every quotation against the recordings in the time available. If any party considers that we have misquoted them, we would welcome their correction.

2. Safeguards that belong in the Order

2.1 Both councils say the effects on water quality “remain matters that must be properly assessed through the DCO process” (RR-127 and RR-089, para 2.3). Havant asks whether “any controls that properly fall within the DCO are adequately secured” (RR-127, para 2.6). Both suggest it is important not to duplicate the Environment Agency’s work.

2.2 The Environment Agency has since helped to show where the line falls. At ISH1 it explained that its permits are based on environmental quality standards, and that it does not have standards for every substance (EV5-002, at about 00:51:09). It said it did not think it could set conditions for substances without one, and that this is a

wider challenge for regulators and not special to this scheme (EV5-004, at about 00:33:46). We are grateful for that clear explanation.

2.3 The Agency's draft Statement of Common Ground adds that the permit application is not expected until early February 2027 and may take up to a year (AS-019, row EA-ES-075; tracked version AS-020). So the Order will be decided before the permit conditions are known.

2.4 Leading on from the subject of duplication, we also note – and are grateful for – the wider point made by [redacted] (speaking on behalf of East Hampshire District Council and Havant Borough Council) at ISH1 (EV5-002, at about 01:29:46:11): "The Gateshead principle doesn't displace or disapply the examinations task under para 3.2.5 of the NPS" requiring examination of the environmental information and reaching a reasoned conclusion; "so I just think it's important to remember that combined with the infrastructure EIA regulations, which will also require the Examining Authority to consider and come to a [reasoned] conclusion on significant effects, so Gateshead is acknowledged, but I don't think it necessarily helps [the Applicant] here" ***[NOTE:*** *these are taken from our notes of the hearing, supplemented by the transcript; Mr Jobbins will need to clarify what was exactly said – although the intent seems to us quite clear****]***.

2.5 Putting these strands together, we respectfully suggest that safeguards for substances with no standard are ones that "properly fall within the DCO". In Havant's words (RR-127, para 2.6): "*The Council does not seek to duplicate the Environment Agency's technical assessment or permitting role. The Council's interest is whether the potential effects on the Borough have been properly assessed, whether there is sufficient assurance that they can be effectively regulated, and whether any controls that properly fall within the DCO are adequately secured*". In our submission, appropriate safeguards need to be introduced into the DCO and these would support the Agency's work, not duplicate it.

2.6 Further information on the controls necessary, why they are needed and the Gateshead principle are provided in our Deadline 1 submission ISH1, Annex ISH-1-Tracey Viney.

3. Monitoring and independent checking

3.1 East Hampshire asks for "adaptive monitoring arrangements, periodic review mechanisms and publication of monitoring information" (RR-089, para 4.33). [redacted] (for East Hampshire and for Havant Borough Council) supported this approach at ISH1 (EV5-002, at about 01:28:58). We fully agree. As the evidence develops, the controls must be able to follow it. For example, in relation to contaminants of emerging concern.

3.2 Portsmouth Water asks for related safeguards. Water should enter the reservoir only under an agreed protocol (RR-253, para 5.5.5, request PW42). The reservoir should be named in the water monitoring plan, with trigger levels (RR-253, requests PW37 to PW39). These should be secured in the Order (RR-253, request PW40). It also points out that nothing yet covers testing and first supply (RR-253, para 5.5.3). We support all of these and – taking into account our other concerns (including those articulated by [redacted] at ISH1) – we would want to go further and ensure that such safeguards remain in effect throughout the life of the Project and that such monitoring is independent.

3.3 Portsmouth Water mentions that they and Southern Water are developing limits for acceptable discharge and triggers for stopping it (RR-253, para 5.5.5). These are the water quality limits for water entering the reservoir, and the levels at which the flow would be stopped. They are not in the draft Order or the application. It would help everyone, and public confidence especially, if they could be shared with the Examination.

3.4 We offer three suggestions to build on what the councils and Portsmouth Water have proposed:

- monitoring should include the reservoir itself, as Portsmouth Water asks (consideration should also be given to what other monitoring locations might also be appropriate);
- an independent expert panel should audit the plant, review the results and report publicly; and
- there should be a duty to act on the panel's findings.

3.5 These suggestions do not remove our objection to the whole Project.

3.6 Our other submissions explain why we think the data so far is too thin to rely on, and why no assessment has been made of what enters the sewers (RR-354, sections 6, 9 and 10). We encourage the councils and regulators to look at those and to examine the Deadline 1 submissions we are making in respect of OFH1 and ISH1 (water environment) – which include expert opinions on matters that affect this scheme.

4. Public confidence and health

4.1 East Hampshire records concern about "public confidence in Southern Water", and notes that the Project's benefits "may not be realised if public confidence in the perceived quality of drinking water reduces" (RR-089, paras 4.7 and 4.30). Havant records public concern about water quality and "the adequacy of regulatory controls" (RR-127, para 6.1). The councils have put this better than we could.

4.2 We suggest one step follows. If some people lose confidence in tap water, they may turn to bottled water or filters. That effect should have been properly assessed but wasn't. We say more about this, and about when customers are to be told, in our separate Deadline 1 submissions (including those we are submitting for OFH1 and ISH1 (water environment)).

4.3 UKHSA advises that it is satisfied the Project should not result in any significant adverse impact on public health (RR-349). UKHSA based that assessment on SW's Environmental Statement, as it would be expected to. Some further information has since come out in the examination:

- Southern Water's health witness explained at ISH1 that the health assessment did not try to assess health effects from the change of water source (EV5-002, at about 01:15:06);
- the ExA has asked for the full pilot plant data, which is due at Deadline 1 (EV5-002, at about 00:33:37);
- Defra has asked Southern Water for more detail on "the health and safety of water recycling, including the HWTWRP" (PDA-004, Appendix A, action A5.3); and
- expert evidence on public health and confidence was presented by experts in the field, including by [redacted] (in ISH1) and [redacted] (OFH1), which will be set out in more detail in the Water Matters Community Deadline 1 submissions.

4.4 UKHSA is not taking part in the Examination. We wonder whether the ExA might invite it to look at this newer material and say whether its advice covers substances with no standard, accumulation in the reservoir's water, sediment and wildlife over time, and people turning away from tap water. It could also advise whether it knows of any study of health outcomes in people supplied with recycled effluent. [redacted] told ISH1 that he knew of none (EV5-004, at about 00:06:06).

4.5 Our own concerns about health and water quality are set out in RR-354 and in our other Deadline 1 submissions (we would refer you in particular to the Annexes in our OFH1 and ISH1 submissions for Deadline 1). They are among the main reasons we object to the Project. We would encourage UKHSA and the other bodies to read them.

5. Who is responsible for what

5.1 East Hampshire says the "respective responsibilities of Southern Water and Portsmouth Water should also be clearly defined" (RR-089, para 4.31). The Environment Agency likewise asks for "further clarity regarding the allocation of

responsibilities" between the two companies (RR-102, page 3). We agree with both. The allocations are not clear. The DCO should make it clear. And this should not involve usurping the position of Portsmouth Water in favour of Southern Water.

5.2 At ISH1 Southern Water said Portsmouth Water would be responsible for testing the water in the reservoir (EV5-002, at about 00:44:43). It would help if the Order said so – although we would strongly recommend a fully independent monitoring regime and safeguards regarding the ability to reject water.

6. The draft Order and the reservoir's planning permissions

6.1 Here, for the moment, we follow the Environment Agency's lead. It says that its preliminary view is that the changes the draft Order makes to its powers "appear to be unnecessary" and that "insufficient justification has been provided" (RR-102). Counsel for the Environment Agency also made points on this at ISH1 (EV5-006, at about 00:14:04 to 00:17:26).

6.2 Havant Borough Council and East Hampshire granted the planning permissions for the Havant Thicket Reservoir strictly on the basis of it being a reservoir for spring water. This was the fundamental basis on which that reservoir was consulted and then permitted. We are grateful for the care they took. As far as we can tell, Article 5 appeared in its present form only with the DCO application. When the Planning Inspectorate reviewed an earlier draft in October 2025, the provision dealing with the reservoir's planning permission was still blank (section 51 advice, 22 October 2025, WA010002-000129, Ref 24). Portsmouth Water told ISH1 that paragraphs (3) to (7) were not in the draft it was shown before the application (EV5-006, at about 00:07:27). So the councils had little time to consider it. At ISH1 they said they had concerns about Article 5(8) and, quite properly, continue to reserve their position (EV5-006, at about 00:58:06).

6.3 To help that consideration, we go through Article 5 part by part below, and say what we understand each part to do. This is our understanding of the drafting. References are to the draft Order (APP-023) and its Explanatory Memorandum (APP-024).

> **Article 5(1) and (2): using the reservoir.** These let Southern Water "use and enjoy" the reservoir and its pipelines, including to store recycled effluent mixed with other water. It is also the part that conflicts with the spring-water basis of the existing planning permissions. Southern Water accepts that the permissions allow "only spring water" (APP-024, para 8.5). We say that the spring-water only feature of the existing permissions was so fundamental that it cannot be overridden by this DCO, particularly given the issues on consultation we have identified in RR-354 and in our Deadline 1 submissions.

Article 5(3) to (5): directing how the reservoir is run. Southern Water could direct how Portsmouth Water operates and maintains the reservoir, under a "scheme of operation". If the two companies cannot agree a scheme, it is to be "as specified by" Southern Water. The scheme may cover whatever Southern Water "considers necessary and appropriate" (Article 5(4)). A dispute about the scheme can go to the Secretary of State (Article 5(5)). We note that the two councils, the Environment Agency and the public have no role in the scheme, although it could affect water levels, wildlife and public access at the reservoir.

Article 5(4)(d): taking over control. The scheme may set out "the circumstances when" Southern Water "may assume operational control" of any part of the reservoir. Those circumstances are not defined in the Order. In addition, we would encourage the ExA to examine very carefully the reasons given by Portsmouth Water's counsel in ISH1 as to why this provision is inappropriate as drafted.

Article 5(6): acting directly. If Southern Water considers the reservoir is not being run in line with its directions, it "may take such action as it considers appropriate". There is no test of reasonableness, no notice period and no limit on what the action may be. We wonder how this fits with the commitments to deliver seasonally fluctuating water levels for the benefit of wildlife that were made when the councils approved the reservoir. In addition, we would encourage the ExA to examine very carefully the reasons given by Portsmouth Water's counsel in ISH1 as to why this provision is inappropriate as drafted.

Article 5(7): treating the reservoir as a relevant pipe. Southern Water could use its powers under Part 6 of the Water Industry Act 1991 at the reservoir whenever it "considers it expedient". For this purpose, the reservoir is to be treated as "a relevant pipe". Part 6 is about laying and maintaining pipes and entering land. It is not clear what those powers would mean when applied to a reservoir. In addition, we would encourage the ExA to examine very carefully the reasons given by Portsmouth Water's counsel in ISH1 as to why this provision is inappropriate as drafted.

Article 5(8): the planning permissions and legal agreements. According to our reading of their representations, this is the part of most direct concern to the councils. Our understanding is:

- The draft Order does not specify the precise changes to the existing planning permissions for the Havant Thicket Reservoir that are *necessary* and *justified*. Instead, Southern Water's Article 5(8) is drawn very widely so that any use of its powers under Article 5 is "deemed not to constitute a breach of planning control" or of "any planning obligation".

- The conditions and legal agreements would remain, but the councils could not enforce them against Portsmouth Water (or Southern Water) for anything done under Article 5. There would be no application, notice or local decision.
- The clause is not limited to the change in the type of water. It covers everything done under Article 5(3) to (7) as well. At the very least, this shows the provision is much too widely drawn.
- It reaches the legal agreements too. Southern Water said at ISH1 that the section 106 agreement is not affected (EV5-006, from about 00:58:42). If so, the words "any planning obligation" may not be needed. Any saving in Article 5(8)(c) does not extend to planning control or planning obligations, which is a concern here.

In addition to our points on Article 5(8), we would encourage the ExA to examine very carefully the reasons given by Portsmouth Water's counsel in ISH1 as to why this provision is inappropriate as drafted.

Article 5(9): private agreements. Southern Water's powers are subject to any agreement it makes with Portsmouth Water. Southern Water says this makes Article 5 only a back-up (EV5-006, at about 00:02:54). But such an agreement would be private, could be changed without anyone else knowing, and would not necessarily involve the councils or the Environment Agency. Also, private agreements should not oust the jurisdiction of regulation – to which see Article 5(10) which very much seems to be trying to do this.

Article 5(10): the link to Schedule 8. This ties Article 5 to the changes Schedule 8 makes to the Environment Agency's powers. For the moment, we will follow the Agency's lead on Schedule 8 and look forward to its Deadline 1 submission.

Article 5(11): no arbitration. The Order's normal arbitration clause does not apply to disputes under Article 5. Apart from the scheme of operation, there seems to be no practical way to resolve a dispute; and in effect, what Southern Water says goes.

Article 3(1)(b): development at the reservoir. This grants consent for any development involved in using Article 5. That development is not described, shown on the plans or assessed, and we have found no requirement in Schedule 2 that is directed at it (APP-023). We would encourage the ExA to examine very carefully the reasons given by Portsmouth Water's counsel in ISH1 as to why this provision is inappropriate as drafted.

There is a concern that benefits and biodiversity enhancement measures secured under planning conditions and the s106 agreement could be undermined, or under threat. For example, if the Applicant planned works at the site in the future, areas of mitigation habitat would not be protected.

6.4 At this stage of the examination, we would prefer Article 5(3) to (8) and (11) to be removed, and any change of use to go through the councils in the normal way.

6.5 The councils know their permissions better than anyone. They may welcome the chance to give their view in answer to written questions or in their Local Impact Reports. The ExA may wish to invite their views on:

- which conditions and agreements relating to the Havant Thicket Reservoir may be affected by Article 3(1)(b), Article 5, Article 46 and Schedule 8 (as well as the implications of treating the reservoir as a relevant pipe); and
- what changes to these provisions they would wish to see.

6.6 To be clear, changing Articles 3 or 5 or Schedule 8 (or any related provision, such as Article 46) would not meet our objection to the Project. Nor would it satisfy other issues that we have noted above (for example, in sections 2 and 3). Our wider case on the draft Order is in RR-354 (Annex 7), and in the representations of [redacted] ([redacted] (RR-018) and SOSCA (RR-294) and in our other Deadline 1 submissions. We would encourage parties to read those.

7. The former landfill

7.1 Havant's main remaining concern is whether there is a clear way to scrutinise, approve and check the details left until after consent (RR-127, para 4.29). We share it, and would be glad to see Havant's suggestions on how that could be secured.

7.2 Our contaminated land expert (a former regulator in this field) is concerned that the risk of increased leachate to the Langstone Harbour SPA, SAC, Ramsar cannot be adequately mitigated for this Project. Water Matters has requested an ISH to consider a range of matters related to the development of the Water Recycling Plant on the Broadmarsh landfill site, including the inadequate alternative site assessment. We look forward to having the opportunity to present more evidence on this matter.