

Link response to Consultation on Guidance on River Basin Planning March 2006

Introduction

Wildlife and Countryside Link (Link) brings together 36 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management and food production practices and encourage respect for and enjoyment of natural landscapes and features, the historic environment and biodiversity. Taken together, our members have the support of over 8 million people in the UK.

Link welcomes the opportunity to comment on this guidance, which we believe will play a very important role in directing the Environment Agency to deliver effective river basin planning. This response is supported by the following organisations:

- Association of Rivers Trusts
- Buglife – The Invertebrate Conservation Trust
- The Herpetological Conservation Trust
- Marine Conservation Society
- The National Trust
- Pond Conservation: The Water Habitats Trust
- RSPB
- The Wildlife Trusts
- Woodland Trust
- WWF-UK
- Zoological Society of London

General Points

In addition to responding to the specific questions posed in the consultation documentation, Link would like to draw attention to the following overall issues:

- While understandably there is a focus on planning at the river basin district level, Link is concerned that the document makes no mention of the role of national or catchment level measures in River Basin Management Plans and Programmes of Measures. We suggest that a clear timetable be set out indicating how planning at the national, RBD and catchment level will be integrated.
- The overall tone of the document lacks ambition and does not adequately address crucial issues of the delivery mechanisms for measures to achieve Good Status, in particular to address impacts from diffuse pollution, morphological alterations and land use planning. Without these, the objectives of the Directive may not be achieved and the UK will risk infraction. The guidelines throughout emphasise realism about resources and ample use of alternative objectives, without balancing this with statements about environmental benefits of the Directive and shifts in land-use. This implies a disturbingly low level of ambition.

Responses to Questions

1. Consultation Timetables

It is extremely important for the RBMP process that there is consensus and understanding of the major issues, and bringing the significant issues report forward could prejudice this. It is also important that the report is based on the most accurate information about the status of water

bodies, and it needs to take account of latest characterisation and risk assessment iterations. Therefore, Link believes there is a sensible case to be made for keeping the timetable as originally planned and not publishing the significant issues report earlier.

2. River Basin Planning Principles

Link suggests the following changes:

- Principle IV should be *'to work in partnership with other regulators **and deliverers.**'*
- Principle VI should be *'to make use of alternative objectives to deliver sustainable development **when reasonable and justified.**'*
- Principle VII should be *'to use better regulation principles and consider the **broad** cost-effectiveness of the full range of possible measures, **including non monetarised costs.**'*

Link would also like to see an additional principle included requiring that *'river basin planning must be effective in achieving the objectives of the WFD'*.

3. Including Scenarios

Scenarios are not a legal requirement and all options will already be covered by the legally required cost-effectiveness analyses. Therefore, scenarios should not be included in the SWMI paper and the Agency cannot try to limit options before all the possible measures to achieve the objectives set out in the RBMPs themselves are considered.

4. Ensuring Delivery

Link is very concerned that mechanisms, authority and powers to ensure delivery of RBMPs are not in place. In particular, further steps must be taken to address impacts from the following key areas:

- Land use planning – Public bodies do not have sufficient duty to comply with River Basin plans. This is further addressed in our answer to question seven below.
- Pressures on coastal and transitional waters – There is currently insufficient legislation or regulation to ensure that Ports and Navigation Authorities take active steps to restore water and alter their activities. Although voluntary action is preferred, the Agency must be empowered to compel those who fail to comply and should be formally directed to liaise with other regulators through RBD liaison panels. Link believes that passive reliance by the Agency on regulators to engage in the appropriate liaison panels will not guarantee their necessary involvement in the development of RBMP measures in relation to coastal and transitional waters.
- Morphological pressures – The Agency does not currently have powers to restore the morphology of water bodies. Relying on the co-operation of landowners will not guarantee action, and the Agency must be given new powers to ensure that hydromorphological conditions are consistent with the ecological objectives of water bodies.
- Diffuse pollution from agriculture – Regulatory controls on diffuse pollution are urgently needed if we are to have any chance of achieving Good Status. Any new regulations should be supported by incentives and advice. Link also support continuing consideration of the potential role of fiscal instruments in promoting more efficient nutrient and pesticide use.

5. Stakeholder Representation in Wales

Given that the Welsh Assembly Government has considerable competencies in areas that will affect river basin planning, and that some measures to achieve Good Status will have to be decided by WAG, we believe it is absolutely necessary that a Welsh Stakeholder Group is established and involved in the decision making process. This is a clear requirement of Article 14 of the WFD. Furthermore, in future additional competencies will be devolved, increasing the need for stakeholder engagement at the country level.

6. Dispute Resolution

More clarity about how the “usual dispute resolution arrangements” referred to in the consultation will work, would be welcomed. Link believes that judgements about disputes must be based on clear criteria, and be resolved publicly. Any evidence from the Agency submitted to the Secretary of State must be available for all to see, and other parties must also be able to submit evidence to the Secretary of State.

7. Links to Statutory Development Planning

It is crucial that planning authorities are closely involved in the river basin planning process, and as current awareness of the WFD among planners is low, this looks unlikely. It is possible, and even highly probable, that there will be conflicts between RBMPs and land use development plans. To address this serious barrier to delivery, Link believes that all public bodies should be given stronger duties to comply with RBMPs. By extending Regulation 3 (of the transposition regulations) to all public bodies, local planning authorities will have to exercise their functions to achieve compliance with the WFD. In addition, Link urges ODPM to issue clear policy advice to all planning bodies, preferably through a specific planning policy statement on water.

8. Approval Criteria

Link believes that criterion 2 about availability of resources should be removed as this issue is addressed through the cost-effectiveness and disproportionate costs analyses. Criterion 5 should be changed to read “The RBMP and Regional Spatial Strategies applying in that river basin district must be consistent with each other.” The suggested version implies that the RBMP must align itself to the RSS, which is certainly not the case and could compromise WFD objectives without the use of justified exemptions. Link also suggests adding a further criterion that ‘*River Basin Management Plans must achieve their specific objectives*’.

9. Dealing with changes during the planning cycle

Arrangements for changes to the RBMP during the planning cycle should follow the same process as dispute resolution with the Secretary of State.