

**WFD Navigation Sector Group Meeting Notes**  
**Wednesday 13<sup>th</sup> February 2008, 2.00pm, Institution of Civil Engineers, London**

Present

Martin Booth, Environment Agency  
Geoff Bowles, Defra M&FA  
Jan Brooke, PIANC, also representing UKMPG  
Mike Costaras (Chair), CEDA  
Mary Kendrick, PIANC  
Rosemary Love, Defra  
Ian MacDonald, Defra  
Colin Morris, DfT  
Roger Morris, Natural England  
Grahame Newman, AINA  
Louise Parish, Defra  
Chris Marsh, Environment Agency (replacing Russell Robson)  
Rory Wallace, Defra  
Sam Horsey, Defra M&FA

Apologies

Kevin Andrews, Defra  
Andrew Birchenough, CEFAS  
Richard Bird, UKMPG  
Brian Clark, BMF  
Nicola Clay, UKMPG  
Dave Corbelli, Environment Agency  
Paul Hesk, FDC  
Stephen Hull, ABPmer  
George Steel, ICE Maritime Panel  
David Whitehead, BPA

Item 1: Welcome, introductions and apologies

Mike Costaras opened the meeting and welcomed those attending.

Item 2: Notes of previous meeting

The minutes of the meeting held on 8<sup>th</sup> October 2007 were agreed subject to a proposed change from RM in paragraph 5 of item 4 (hydromorphology). The sentence starting 'For example, from a morphological point of view .....' should be replaced with the following: 'For example, from a morphological point of view, the Medway estuary is hardened and deepened at its mouth: these two factors make a significant difference to the way the estuary functions and, as a consequence, it might realistically be regarded as heavily modified.'

Item 2: Matters Arising

The link to the EC Cost Benefit Study mentioned in the previous minutes is:  
[http://circa.europa.eu/Public/irc/env/wfd/library?l=/framework\\_directive/thematic\\_documents/economic\\_issues/benefits\\_implementation/report\\_sept12pdf/ EN\\_1.0 &a=d](http://circa.europa.eu/Public/irc/env/wfd/library?l=/framework_directive/thematic_documents/economic_issues/benefits_implementation/report_sept12pdf/ EN_1.0 &a=d)

LP undertook to advise on whether any of the General Binding Rules discussed in the non-agricultural diffuse pollution consultation might affect the navigation sector. **Action: LP**

Item 3: Article 16 daughter Directive

IM reported on the current position. Council reached a political agreement and a text was adopted in December 2007. The European Parliament's second reading is expected in the next few months. By June 2008 it is possible either:

- that Parliament and Council will have agreed on mutually acceptable amendments, or

- that there remains disagreement which means that conciliation will be needed - a process which takes around six months.

At present, Defra is working with the EA to brief MEPs on the critical issues and to protect against 'less welcome' amendments.

In response to a question from GN, IM advised that an inventory of discharges, emissions and losses is a prescribed requirement: discharge points have to be included but sediments, etc. *may* also form part of the inventory. This could/will be dealt with through WG E. With regard to whether there will be a risk based approach to monitoring, IM confirmed that the CMA has not yet reached a decision as to the style and quality of monitoring.

GB asked whether "discharges" will be limited to point source or could include release from a dredger. IM indicated that only point source is specified, otherwise it will be a matter of judgement. Member States are charged with monitoring *inter alia* sediment with a view to establishing trends of pollution, enabling them to devise or inform the programmes of measures necessary to manage pollution. MK suggested that this could be highly contentious as suspended sediments and associated contamination levels vary both temporally and spatially in estuaries. IM suggested that sediment monitoring would only take place annually unless there is a good reason for doing otherwise. MB confirmed that the Directive will make clear what is required, but the EA will target monitoring to deal with the ecological risk, for example by indicating what/where to monitor next. EA *will* look to risk based monitoring. M&FA suggested that discussion with EA and others will be important to ensure that existing their monitoring requirements are not duplicated.

JB asked for confirmation whether a number of other substances would be monitored as part of WFD requirements. IM confirmed that Member States have to add substances - specific pollutants - to the monitoring list where they cause a particular problem. The UKTAG chemical task team have looked at which substances should be on list and have/will set Environmental Quality Standards (EQS) for Good Ecological Status (GES) in surface waters. Stakeholders were consulted in August/Sept 2007. EA has analysed the outcomes but this is still work in progress. UKTAG is awaiting a response from Ministers; there will then be formal consultation on the proposals. It is likely that 9-18 substances will be added to the list in this way.

IM confirmed that if any of the UK specific pollutants are subsequently added to the daughter Directive list, then European EQSs would be set for these substances.

JB introduced ESPO's position paper for briefing MEPs on the daughter Directive. **Action: JB to attach to minutes.** GN indicated his support for the position paper and asked if UKMPG are taking the same position as ESPO? The Chairman noted that neither UKMPG nor BPA was represented at the meeting. *Post meeting note: UKMPG-BPA intend to pursue the original amendment (ie. the exclusion of dredging and shipping activities from the definition of losses).*

IM acknowledged the port sector's right to lobby for these amendments but expressed his concern that the wording in paragraph 2 of Point 1 (ie. "*ESPO believes, however, that the proposal could make navigation and dredging activities significantly more costly, or even impossible, without achieving clear environmental benefits*") duplicates the Point 5. In other words, he feels that the concerns about disproportionate cost expressed with regard to re-suspended sediments, etc. should in fact be adequately covered by the exemptions provisions which are supported in ESPO's Point 5. IM remains concerned that there is a risk that these two proposals may therefore be seen as being interchangeable, with the possibility that the disproportionate cost exemption could be lost if the exemption for resuspended and relocated sediments is supported. Several of those attending agreed with IM that it may be better to 'let sleeping dogs lie' so as to avoid possible undesirable consequences.

MB expressed similar concerns to IM and further highlighted that ESPO's proposed amendment 3 (ie. taking into account re-suspension into the water column when assessing monitoring results) might be interpreted as trying to 'bend the rules' and might be counter-productive as it focuses attention on issues which are not intended. His advice is: 'don't raise

questions if you might not like the answer'. RM expressed a similar concern that 'the more the system is tied down, the less wriggle room you have'. GB suggested that the perhaps the underlying concern is with capital dredging - ie. sediment which has been undisturbed for decades? IM urges UKMPG and BPA to stay in touch with Defra on this issue. **Action: UKMPG and BPA**

#### Item 4: Hydromorphology

MB reported that phase 2 of the EA's HMWB identification process is to be completed internally at the end of February and released early in March. It will then be subject to question and discussion - and open to change if necessary - until the RBMP1s are prepared.

RW reported that Defra's response to the 2007 hydromorphology consultation has not moved forward as quickly as had been hoped. Defra is currently seeking to identify gaps and any further powers required. The next consultation is likely in summer 2008. Defra is also exploring options for a 'catchment restoration' fund.

RW announced that the Defra Water Strategy had been released for consultation (see [www.defra.gov.uk/Environment/water/strategy/index.htm](http://www.defra.gov.uk/Environment/water/strategy/index.htm)). GN questioned the 'definitive statement' therein about requiring fish passes for all fish species and asked if there is a timetable for legislation? LP suggested there may be an amendment to the Salmon and Freshwater Fisheries Act but she will find out more. **Action: LP to advise**

#### Item 5: Ecological targets

JB gave a short presentation on the outcome of the UKTAG GEP project. It was pointed out that the pragmatic approach taken is very much in line with EA's recent Open Board Paper setting out the need to focus on measures where there is a reasonable certainty of a significant risk of ecological damage; cause-and-effect; and the effectiveness of the measure. Notwithstanding this, GN expressed concern that some organisations including local EA representatives might challenge the outcomes of the GEP-setting process as it will often need to rely on expert judgement. MB stated that the EA recognises the need to be practical

MB reported that the intercalibration process 'rolls on' at EU level but that EA will continue to work with existing standards, etc. Concern was expressed about a statement from the recent ECOSTAT meeting indicating that the 'alternative approach' (to setting GEP objectives?) may be abandoned. LP indicated that this reference needs to be amended/removed.

GN asked what other Member States are doing insofar as setting GEP objectives is concerned. JB mentioned that the Task Group has agreed to ask the CIS Hydromorphology Strategic Steering Group to consider running a workshop in early 2009 which would use case studies to explore how Member States have applied both Article 4(3) and the GEP alternative approach to navigable water bodies (maritime and inland, commercial and recreational water bodies). **Action: JB to send RW a Task Group proposal for a workshop**

#### Item 6: River basin planning

MB reported that there have been no recent National Liaison Panel meetings. The next NLP meeting will review the draft Ministerial Guidance. At regional level, there have been Liaison Panel meetings, including exploring possible local (ie. M3b and M4) measures.

MB also introduced the recent EA open Board Paper on the WFD (see [www.environment-agency.gov.uk/commondata/acrobat/9wfd\\_1955862.pdf](http://www.environment-agency.gov.uk/commondata/acrobat/9wfd_1955862.pdf)). This sets out the EA's ambitions for the first round RBMPs, taking into account *inter alia* the Defra impact assessment which shows that the benefits, even of phased WFD implementation are marginal. MB confirms that pragmatism in identifying measures will be vital, and that delivery will have to be phased. He also noted that the EA Board strongly favours seeking time extensions over setting less stringent targets.

MB reiterated that EA is not 'setting out to chase numbers' and that the focus of monitoring will be on ecological outcomes. EA's priorities will include ensuring no deterioration and improving the worst water first (ie. in line with EA's Corporate Plan priorities). He stressed that the Board Paper also provides an early warning that many water bodies 'won't move much out of the red' (ie. will continue to fail to meet good status) *inter alia* because of the 'one-out-all-out' rule.

GN highlighted that, because there is and still will be 'a lot of red on the map', presentation of the outcomes of the first round planning process will be important, especially in water bodies where there is only one element causing failure. MB acknowledged that there will be an emphasis on communicating this in RBMP (ie. need to distinguish between worst and not so bad).

MB confirmed that the EA Board has accepted this paper, only questioning whether climate change had been adequately factored in.

Also on River Basin Planning, GN circulated a table summarising the significant water management issues (SWMIs) identified in each RBD. **Action: JB to attach table to minutes**

#### Item 7: Economics

RW confirmed that the outputs of the Collaborative Research Programme (CRP) have already been used in preparing the impact assessment and the Ministerial guidance to EA.

GN asked whether the CRP methods will become an operational tool? MB indicated that this will not necessarily be the case as EA will guide the regions on decisions at RBD level. He further stressed that, at RBD level, the number of cases requiring DCA will depend on 'how many measures the Liaison Panel comes up with'. JB stressed the importance of disseminating the existence of the economic methodologies to the Liaison Panels, particularly given that disproportionate cost (DCA) decisions could be important in the process of identifying measures for HMWBs/AWBs. MB confirmed that the EA will be 'bringing Liaison Panels up to speed with CRP/economics issues' but added that the Liaison Panels need not get involved in the every detail.

MB suggested that the disproportionate cost test might not have been applied by the time draft RBMPs are prepared. JB cautioned that managing expectations is important: she suggested that where it is already recognised that certain measures are likely to prove disproportionately costly (ie. the 'blindingly obvious' or 'very likely'), it might be better that these are not included in the draft plan in the first place.

*Post-meeting note: the draft Defra guidance to the EA, along with the Impact Assessment, was published on 24<sup>th</sup> February. See <http://www.defra.gov.uk/corporate/consult/river-basin/> The deadline for responses is 19<sup>th</sup> May 2008.*

#### Item 8: Marine issues

LP reported that the draft Marine Bill is expected in Spring 2008; its introduction to Parliament will then depend on public scrutiny. She confirmed that the White Paper envisaged provisions for marine planning; licensing; marine conservation zones; fishery management; sharing the costs of management; and setting up a Marine Management Organisation.

LP also reported that the Marine Strategy (Framework) Directive should be adopted at the next Environment Council in 2008. It has been agreed that Good Environmental Status needs to be achieved by 2020; that the economic provisions of the WFD will also be included in the MSFD; that the initial assessment of human activities will need to have taken place by 2010 and that environmental targets need to be in place by 2012. Also, monitoring in place by 2014 and programmes of measures by 2015. At the coast/in the 1nm 'overlap' with the WFD in TraC waters, the MSD will only apply to aspects not already covered by the WFD.

#### Item 9: PIANC-led Task Group

JB reported on the European CIS exemptions drafting group, setting out the outstanding concern about the inference that the WFD exemptions should 'only be used in exceptional circumstances' (although LP indicated that the sentence stating that exemptions are an integral part of the WFD process has also been retained). JB also reported that the question of whether or not 'affordability' should be acknowledged as a reason for extending a deadline or setting a less stringent target will be covered by a case-study-based workshop.

LP stated that 'Part A' of the exemptions guidance is already signed off by water directors, but stressed the importance nonetheless of flexibility on exemptions.

#### Item 10: Any other business

LP indicated that there may be further consultation on the Non-agricultural diffuse pollution outcomes.

#### Item 11: Date of next meeting

In the light of the forthcoming Ministerial Guidance consultation and progress with setting GEP objectives, it was agreed that the next meeting would be held w/c 19<sup>th</sup> May

**Action: JB to agree a date with ICE and advise attendees**