

Fish Legal representation to Examining Authority, 4.11.2014

We refer to the ExA's 28.10.2014 document, "Panel's Note of Information Proposed by interested parties to be submitted at Deadline V on 28 October 2014", which allows an extension until today (4 November) for Deadline V submissions.

We make the following brief response to "Information/Revision to draft DCO" Item 10, which is a request to local authorities/all Hearing participants for: "Management Plans: Any proposals for mitigation measures within the environmental management plans which interested parties believe should be recorded in the text of [DCO] Requirement 6 as minimum specifications".

We note that both the DCO and the AEMP have been substantially altered in the applicant's Deadline V (28.10.2014) submission. Several major new elements have been added to the AEMP in relation to salmonids, such as smolt (and adult) trapping studies and juvenile electrofishing surveys, and we see that a funding commitment for a Panteg fish counter has also been added to the draft Development Consent Obligation. At the same time, there is no provision, for example, for a mainstem River Tawe salmonid stock counter, as we advocated in our Deadline V submission. The latter, in our opinion, would require at least a s.106 commitment and possibly compulsory acquisition powers under the DCO. Numerous other issues of this type (inadequate plans and thus inadequate commitments) arise in relation to the 'interaction' between the latest AEMP and the latest DCO.

We therefore feel that – beyond what we have already stated in our Deadline V submission – it is inappropriate to make "proposals for mitigation measures within the environmental management plans which [we] believe should be recorded in the text of Requirement 6", since Requirement 6 has already been superseded (indeed has become Requirement 7 in relation to the AEMP), and we have not had an adequate opportunity to review and comment on the 'Deadline V' versions of the AEMP and DCO. We will therefore have to make our submission on those at Deadline VI, although we are concerned that there is no provision for any response to that submission (nor much time) before the Inquiry closes in mid-December.

Fish Legal  
4 November 2014