

## Water Supply & Regulation Division

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Mr Peter Antolik  
Director of Strategy and Regeneration  
Thames Water Utilities Limited  
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**Date:** 8 December 2009

Dear Mr Antolik

### **The Thames Water Utilities Limited - Water Resources Management Plan**

I am writing further to Richard Wood's decision letter of 3 August which advised Thames Water that the Secretary of State had called for an inquiry in connection with the company's draft Plan. In accordance with our guide for water companies on inquiries into water resources management plans, the date of this letter is termed the "starting date", from which most of the actions leading up to the inquiry are timed.

I am now able to advise you that the Inspector who will run the Thames Water inquiry is Wendy Burden, who is one of the Planning Inspectorate's Level A Inspectors. The inquiry is expected to take place during the period **7 June 2010** to **8 July 2010** and will need to start no later than **21 June 2010**. Please let me know by 15 December of any dates during this period that Thames Water would be unable to attend the inquiry, and the reasons for your unavailability. We will endeavour to have regard to this when agreeing dates with the Planning Inspectorate.

The Inspectorate has asked for a pre-inquiry meeting, which they have estimated should last no more than one day. The Inspectorate's initial estimate is that the inquiry itself could sit for 10-12 days; however this estimate may be revised once the Inspector has held the pre inquiry meeting.

You should now place a general notice on your company's website to the effect that an inquiry has been called and seeking representations within a six week period from those stakeholders who have not previously made representations. You should request that any such representations are sent to our mailbox at [water.resources@defra.gsi.gov.uk](mailto:water.resources@defra.gsi.gov.uk) or to the Defra Water Resources Management Plan team at the address provided at the top of this letter. We will forward copies of all representations to Thames Water.

In parallel to this letter, a letter is being sent to all those stakeholders that submitted representations to the public consultation on the draft Plan during summer 2008, asking whether they wish to submit further representations to support the previous one, to take account of the changes made to the draft Plan since the public consultation.

The Inspectorate has requested that Thames Water produce a Statement of Common Ground (SoCG) with the Environment Agency (EA). The SoCG will need to address the issues identified by Defra as well as each of the actions and improvements advised in EA's advice report. The SoCG should agree as much technical detail and as many changes to the published draft Plan as possible, and describe in clear terms where agreement cannot be reached.

The SoCG should be produced before the company or the EA produce their statements of case. The pre-inquiry meeting will then establish the likely duration of the proceedings, matters that need to be covered by the evidence and the timetable for the production of proofs of evidence.

The Inspectorate appreciates that the success of this approach is dependent on Thames Water and the EA spending time finalising their respective positions at an early stage in the process. In order to achieve this, and to optimise the benefits of such an approach, the Inspectorate has suggested amending the timetable in our guide as follows (NB this week is deemed to be Week 1.)

- Week 6 – Thames Water provides a SoCG with the EA and signed by both parties. This should be published on Thames Water's website and a paper copy submitted to Defra by **19 January 2010**.
- Week 9 – Thames Water and the EA each provide a statement of case. Thames Water must submit both paper (including any listed supporting documents) and electronic copies of its statement to Defra. Thames Water should place a copy, together with any supporting documents on its website and make copies available for public inspection.
- Week 12 - other parties submit their statements of case
- Around Week 16 - pre-inquiry meeting.
- Week 27 - the inquiry opens.

We appreciate that the timing for agreeing the SoCG is very tight, with Christmas falling in the middle of this period, but we would appreciate your best efforts to meet this timing as any delay would need to be made up later in the process. Other timings may change as a result of the pre-inquiry meeting and the timetable will need to be kept under review. If any timings cause difficulty to the company please let me know.

Once you have confirmed your availability for inquiry dates, we will confirm dates with the Inspectorate for both the pre-inquiry meeting and the inquiry itself. We will then liaise with you about venues for both events and are aware that you have already proposed the Oxford area for the inquiry itself.

#### Note on Costs

As outlined in the decision letter of the 3 August, regulation 5(2) of the Water Resources Management Plan Regulations 2007 (SI 2007/727) applies subsections (2) to (5) of section 250 of the Local Government Act 1972 (LGA) to this inquiry process, and as such, the Minister may require the water undertaker or party to the proceedings to pay the costs incurred by him.

The Minister intends to exercise his powers under section 250(4) of the LGA, and as such, Defra expects Thames Water to cover the costs of any pre-inquiry and inquiry venue and the cost of the Inspectorate's time.

Under section 250(5) of the LGA, the Minister may make orders as to the costs of parties, and decide who should pay them. In line with current guidance on costs awards, the general principle is that all parties meet their own expenses. Applications will be considered on a case-by-case basis, but costs will normally only be awarded where:

- a party applies in good time; and
- the party against whom the award is sought has acted unreasonably; and
- the unreasonable behaviour of a party during the inquiry/hearing process has caused the applicant to incur unnecessary or wasted expense.

Guidance is available on the Planning Inspectorate's website and in the Department for Communities and Local Government's Circular 03/2009: Costs Awards in Appeals and Other Planning Proceedings.

I am writing in similar terms to Pauline Smith at the EA, given the need for interaction with the EA. A copy of this letter will also be placed on the Defra website.

Yours sincerely

**John Sherman**

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