

**INTERIM REVIEW OF DROUGHT
MANAGEMENT EXPERIENCE IN THE
NORTH WEST REGION OF THE
NATIONAL RIVERS AUTHORITY
LESSONS LEARNED**

(29th June 1995-March 31st 1996)



Table of Contents

Executive summary

Acknowledgements

1.0	INTRODUCTION	6
1.1	Context	6
1.2	Background	6
2.0	STRATEGY	8
3.0	OPERATIONAL THREADS	10
3.1	Licensing issues	10
3.2	Compensation flows	11
3.3	Environmental evidence	12
3.4	Mitigating conditions	13
3.5	Data integrity	14
3.6	North West Water Limited- Operational inconsistencies	15
3.7	NRA Drought Orders	16
3.8	Workload issues	16
4.0	TECHNICAL SUPPORT	18
4.1	Hydrology	18
4.2	Hydrogeology	19
5.0	KEY ISSUES FOR DISCUSSION WITH NORTH WEST WATER LIMITED ..	20
5.1	Demand management and leakage control	20
5.2	Hydrological review	20
5.3	Operational review	21
6.0	COMMUNICATIONS	22
6.1	Internal	22
6.2	External	23
7.0	DROUGHT ORDER PROCEDURES	25
8.0	CONCLUSIONS	26
9.0	RECOMMENDATIONS	27

APPENDICES

APPENDIX A DROUGHT ORDERS LOCATION

APPENDIX B PRESS RELEASES

APPENDIX C DROUGHT ORDERS LEGAL FRAMEWORK

EXECUTIVE SUMMARY

This report examines the experiences of the drought from June 1995 to March 1996. Its assessment is from the stance of the National Rivers Authority, rather than the Environment Agency.

This period of prolonged dry weather is unprecedented in North West Region's records. Despite this minimum historic event, and record demands for water, essential Public Water Supplies were maintained, without interruption, and without the aquatic environment suffering as a consequence. Such are the critical success factors.

The recommendations are many and various. Too many to record here. They are listed at the end of the report while their rationale is given within the report narrative.

ACKNOWLEDGEMENTS

Many lessons have been learned in this generally successful episode in Water Resources management, a success crucially achieved by the close and unstinting co-operation between staff of all disciplines, all levels and all geographic locations. Thanks to everyone.

INTERIM REVIEW OF DROUGHT MANAGEMENT EXPERIENCE IN THE NORTH WEST REGION OF THE NATIONAL RIVERS AUTHORITY

LESSONS LEARNED (29th June 1995-March 31st 1996)

1.0 INTRODUCTION

1.1 Context

This report is written from the viewpoint of the National Rivers Authority up to March 31st 1996. As such the Environment Agency will only be referred to in general terms. Some of the recommendations or action points may already have been addressed.

1.2 Background

" The NRA has a duty to balance the needs of abstractors and the environment while conserving essential water supplies "

Drought progress

The drought of 1995 first became apparent in the North West Region at the end of June when supplies in the Wirral became stressed because local borehole sources could no longer meet their demand.

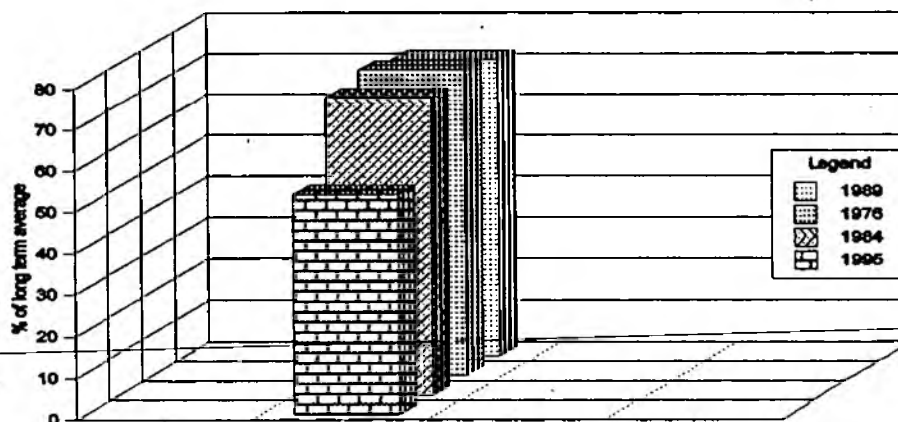
What was originally claimed by North West Water Limited to be a local distribution issue, and anticipated to be only an isolated and short term problem, persisted and widened to the rest of the Region. Subsequently the Northern Command Zone (NCZ) became the focus of the resource problems, though latterly the Southern Command Zone (SCZ) became affected too.

As the dry weather continued it became apparent that the supply problem was growing into a fundamental resource one, and North West Water Limited found it necessary to apply for a Drought Order to sustain the isolated supply to Grange-in-Borrowdale near Keswick in Cumbria - only about 3 miles from the wettest place in England.

North West Water sought further Drought Orders (Appendix A) as the exceptional lack of rainfall persisted and the Region experienced the driest April- September period in a 60 years record.

Rainfall comparison

1976, 1984, 1989, 1995



Rainfall over the North West Region : average of nine raingauges in water supply catchments for the period April to September 1995

Regional response

At the beginning of August it was decided to put the Region on a 'Drought Footing'. Drought liaison meetings between the NRA and North West Water Limited were instigated on a weekly basis and have continued regularly ever since.

At the same time an extensive internal communication system was set up. A Regional team was established to provide a co-ordinated Regional view. It comprised staff from Area offices and Richard Fairclough House (RFH- Regional Head Office) technical support teams. Weekly 'Drought Reports' were compiled and circulated to staff and Regional Rivers Advisory Committee (RRAC) members. E-mail messages were sent regularly and widely to update staff of often rapidly changing situations.

The NRA prepared and presented environmental statements to all Drought Hearings.

Although the drought is continuing the main objective of this report is to identify the lessons learned so far: set down what went right and make improvements elsewhere.

There is a brief narrative to outline the circumstances and/or reasons for framing the recommendations as written.

The recommendations which follow reflect the new duty which the Environment Agency has from 1 April 1996 to grant Drought Permits.

2.0 STRATEGY

The NRA has a basic duty to balance the reasonable needs of abstractors with those of the environment. The NRA strategy followed this requirement by stating clearly to North West Water Limited, at the outset, that Drought Orders would only be agreed if appropriate mitigation measures (either environmental or demand management) were implemented.

The first Drought Order to be applied for by North West Water Limited was at Grange-in-Borrowdale, Keswick, Cumbria. The NRA did not object to this application because it was a very local isolated supply which could not be supported from any other source. However at the time it was made plain that the NRA would object to any further Drought Order until the Company had imposed a hosepipe ban throughout the Region, not just in the NCZ.

Despite North West Water Limited being reluctant to accept that such a ban would have any effect they later conceded that it had saved about 10% of the seasonal peak. Once the hosepipe ban was in place, negotiations took place about a series of compensation flow reductions where the environmental implications were local but where the supply zones were linked to the major aqueducts and therefore of strategic support. A set of reductions was agreed and again the NRA stated that it would object to further Drought Orders unless they imposed a non-essential use ban (prescribed uses order - PUO). The general sequence of events can be summarised as follows:-

Status of site	Drought Order (example)	North West Water Limited action	Application Date 1995
Local source unsupported	River Derwent -abstraction of additional water		August
		Introduce hosepipe ban	August
Local source some strategic support	Reduced compensation flow from Jumbles/Bottoms/Rivington / Delph /Clowbridge Reservoirs		August
		Prescribed Uses Order -PUO (non-essential use ban)	September
Strategic source	Windermere/ Ullswater- abstraction for additional water	Compensation to Lake users, environmental mitigation.	September
North West Water Limited made a general commitment, across all Drought Orders, to increase flows, at NRA direction, if problems were thought likely to result from the provisions of the Drought Order.			

The PUO is controversial because it does not save much water directly. Various estimates have been made and 12MI/d is the latest one. More importantly is the signal it gives to the public at large and at a Drought Hearing specifically. When going for Drought Orders which have significant environmental effects it is almost a prerequisite that people should not be using the water to wash cars instead. It is doubtful whether Drought Orders or Drought Permits, for more than just compensation flow reductions, would be granted without a PUO in place. It does however cause North West Water much aggravation not only because the companies affected complain bitterly that their livelihoods are being damaged but also because the provision of alternative supplies costs £33k per week.

The NRA needs to think carefully about how to deal with this in the future because North West Water are less likely to introduce PUO's based on this year's experience. Yet it is difficult for the NRA, politically, to grant environmentally sensitive Drought Permits without a PUO or some sort of powerful equivalent in place. Operational rule curves are seen as the way forward where the total stocks of a basket of sources are compared with pre-determined trigger levels.

Equally the NRA needs to know when to allow the removal of such bans. Admittedly North West Water Limited could unilaterally remove the bans but it would jeopardise future co-operation. The NRA needs an Action Plan which will hopefully have been accepted/endorsed by North West Water Limited to show an incremental progression of decisions which clearly show that a correct balance has been struck between the environment and abstractors.

Recommendation

That a framework is drawn up by the NRA outlining the general principles by which Drought Order /Drought Permit assessments will be made. The framework should show the timescale and actions required and consequences of non-compliance.

Some of the discussions have focussed on what constitutes a drought. Various definitions have been proposed but none universally accepted. The legislation states that 'if... by reason of an exceptional shortage of rain there exists or is threatened ...a serious deficiency of supplies of water' but does not indicate what constitutes an exceptional shortage.

The experience of 1995/6 is that a flexible approach which can be modified to meet changing circumstances or perceptions is favoured. A Plan which is too rigid is likely to cause its own problems.

3.0 OPERATIONAL THREADS

Areas faced real operational problems as the drought developed. For example how should they deal with temporary overabstractions: should compensation flow releases continue even when the quality of those releases was poor? Some were policy decisions ie they reflected the provisions of the Licensing Manual. Some were environmental ie they reflected a choice between either protecting fish in a river or protecting fish in a reservoir.

It became apparent that a thorough knowledge of licences in a catchment and the history behind the granting of those licences was of great use. Past experience helped to explain that:-

- the prescribed flow on the Lune resulted from a velocity requirement to stimulate migration from previous work on fish movements by Stewart.
- the effect of flow reduction in tidal reaches may allow intrusion of brackish water to intakes.

3.1 Licensing issues

There were numerous confessions to over-abstractions by North West Water Limited. It was decided that when the transgressions were reported a compliance/warning letter would be sent to the company as set down in the Licensing Manual with the expectation that the activity would stop immediately. If it were thought that abstraction would have to continue as part of a longer supply strategy, then the company would have to apply for a Drought Order (Permit).

Recommendations

That the Licensing Manual procedures are invoked when notified of an over-abstraction. To prevent further infringements North West Water Limited should identify any changes required to licences or operating practice. If applications for upward variations or new licences are made, then justification of demand coupled with leakage reduction initiatives will be required.

That Regional guidance is drawn up on leakage control and demand forecasting and management by April 1996.

That North West Water Limited should apply for a Drought Order/Permit in anticipation of a licence condition be infringed, not in retrospect.

That if North West Water Limited do not take any long term action to prevent such over-abstraction then staff should monitor sensitive sites more closely either by visit or instrumentation.

That a list of problem sites is assembled and that specimen Drought Order/Permits are available for speedy implementation.

Spray irrigation in the Crossens Area in West Lancashire was subject to a Water Resources Act 1991, Section 57 restriction, which meant that despite holding abstraction licences farmers were not allowed to abstract for about three weeks in August. This was to maintain water levels in local ditches to prevent peat shrinkage. Otherwise the ditch walls could have collapsed causing a flooding risk. As this is likely to happen again, lists of affected parties need to be drawn up and people told in advance of this possibility.

Recommendations

That the NRA should review the need for changes in licensing or operational practice in the Crossens area, and assess whether last summers actions proved effective in reducing environmental impact.

That the NRA should draw up a warning system for S57 restrictions and formulate guidelines for implementing and enforcing the ban.

3.2 Compensation flows

Sometimes Areas have been asked at short notice to modify the discharge rate of compensation flows from supply reservoirs, being pressured by the fact that 'operational agreements' have been used in the past, confirmed by an exchange of letters. This makes it very easy for the company to win extra water without having to justify what savings/publicity effort they are making elsewhere and therefore by-passing other agreed policies/actions.

Sometimes the quality of compensation flows was poor because of turbidity of the residual reservoir water; even wind action at the margins of the water body caused problems.

Recommendations

That a wholesale review of the compensation flow from reservoirs is carried out, based on their hydrological yield and any developed downstream in-river needs. Flows may be varied upwards or downwards.

That a record is compiled of where problems occurred during this drought and what action was taken.

That a mechanism is agreed with North West Water Limited to ensure that good quality compensation water is released at all times.

3.3 Environmental evidence

The environment is at greater risk during a drought than during normal conditions. However few major problems have been reported. This might be because extra vigilance and management has prevented problems, because reservoir compensation flow releases have been greater than would have naturally occurred in an undeveloped catchment or because the problems will not show up until later with reduced salmon/rare fish populations and impoverished macrophyte communities, or that measurable evidence is difficult to find.

Information about the effects of the drought will be increasingly important as the company demand to know why we want preventive action if there is no evidence of adverse consequences this time. It has also been necessary to cite environmental implications of the drought /Drought Orders to media enquiries. There is a much greater impact if examples can be given.

The 'genetic seedcorn' argument, where it was asserted that a small group of salmon which represented the last of a run of spring salmon on the Lune, is powerful. Also what are the effects on estuaries of reduced flows.

Sites as classified by Habitats Directive, County Heritage Site, Site of Biological Importance., RAMSAR need to be listed.

There were also discussions about the variation of seasonal effects winter/ summer and whether insects/ macrophytes were more or less important at different times eg the summer was probably more significant because of food for fish and expected amenity presence of vegetation.

The NRA needs to clearly state in evidence /hearings not just the fisheries information but the wider ecology/landscape/amenity issues. Even if there is no impact the case needs to show that they have been investigated and reasonably assessed. It is better to include them and then dismiss them rather than to ignore them completely.

It is useful to know the water quality classification of given stretches of river and how they might be affected by a change in flow initially in terms of quality and then in terms of how that new quality might affect the environment

The water quality classification provides an objective baseline which is lacking in more general ecological assessments. Harder numerical evidence is required and projects to obtain this should be considered.

Recommendations

That NRA should review environmental information provided for Drought Order applications and consider whether studies should be carried out to provide baseline environmental assessments. Such information should be specific to the catchment affected, not just general comments.

That a directory of Environmental Evidence is compiled from experience of all NRA functions and also from other environmental organisations where a lack of water might contribute to environmental degradation eg lack of water affects birdlife.

That the NRA should review evidence of long term environmental impacts of both the natural low flows experienced during the summer and of any additional measures taken to conserve water supply eg by reducing compensation flow.

That background baseline monitoring is carried out in catchments likely to be affected in the future eg the Fylde perhaps identifying key species that could act as touchstones for the rest of the aquatic environments not just the fish populations but macrophytes and landscape too.

3.4 Mitigating conditions

Area staff were key in drawing up conditions which they felt were fundamental to mitigate the worst effects of the Drought Orders applied for. However there was concern that these conditions only existed by virtue of an exchange of letters. Other Regions have drawn up legal agreements but this is felt not to give the operational flexibility that has proved useful for us.

Letters of agreement were submitted as part of drought statements so that they entered the legal framework of the granting of the Drought Orders. This has the advantage of flexibility and legal standing since the letters are placed before the Inspector at a Hearing and therefore are material to the Secretary of State making his decision.

Also if the company does not fulfil its promises then it would influence our decisions over Drought Permits.

North West Water Limited undertook to increase flows, at NRA direction, if problems were thought likely to result from the provisions of any Drought Order.

Recommendation

That a Memorandum of Understanding is formulated which incorporates mitigating conditions to address the areas of concern to the NRA at least one week before North West Water Limited apply for a Drought Order/ Drought Permit

3.5 Data integrity

The drought hearings showed that the availability of the very latest hydrometric data put the NRA in a very good professional light in the eyes of both the Inspector and the attending public. Sometimes there was a lack of data which in hindsight would have been useful. Telemetered inflow data for certain Lakes and reservoirs were examples of this.

Equally there were examples of a disagreement between NRA data and North West Water Limited data from the same site and between duplicated NRA datasets. Fortunately this was spotted before the Hearing but it requires some routine checking and strengthened liaison and co-operation between North West Water Limited and the NRA.

Recommendations

That a review of hydrometric needs is carried out and where necessary projects are promoted to bridge any gaps.

That procedures are introduced which routinely check data which is duplicated at the same site and which check the management of data so that internal data is consistent between RFH and Areas.

That shortfalls in essential data, and more secure/legible methods of transmission should be pursued with North West Water.

That complete sets of weekly reservoir data sheets or a plot of the data to provide operational bench marks for 1996 are sent to the Areas

That the existing National Rivers Authority Quality Management System (QMS) is developed further.

That derived data is up-to date.

3.6 North West Water Limited- Operational inconsistencies

Occasionally North West Water Limited policy did not get translated to their operational staff and problems resulted. For example severe problems were caused on the River Ehen when excessive releases were made, followed by sudden cessation of flow. This caused fish to move upstream and then become stranded and vulnerable to poaching. If such discrepancies can be resolved locally then they should be. If not or if there is a wider generic problem than it should be referred to RFH to be raised in the regular liaison meetings with North West Water Limited.

Recommendation

That local operational problems should be resolved locally but that generic one should be discussed in the regular regional liaison meetings.

3.7 NRA Drought Orders

Some reservoirs are used for compensation flows only. While in practice either the NRA or North West Water Limited could apply for Drought Orders if the drought were causing environmental problems, it is the NRA which needs to take the lead because North West Water Limited have nothing to gain from so doing.

Areas need to review likely sites and be constantly aware of developing situations, being mindful of the time delay which is involved between recognising the need and receiving powers to make alterations. If there is an objection to the Drought Order about 28 days may elapse before a decision, so early recognition is important.

National guidance states that a Regional team should co-ordinate Drought Order/Drought Permit applications.

Recommendations

That Staff are made aware of the opportunities for the NRA to apply for environmental Drought Orders and are also aware of possible sites so that sufficient preparation can take place to allow timely applications bearing in mind the time consuming bureaucracy that is involved.

That Regional staff co-ordinate Drought Order/Drought Permit applications

3.8 Workload issues

Throughout there were impacts on OPM's and PRP objectives. Staff were concerned that their efforts in managing the drought would not be recognised and that ultimately there would be criticism that other work had not been fulfilled. However morale was maintained by managers giving regular positive feedback.

Recommendation

That managers give proper recognition, not necessarily financial, for staff efforts during the drought.

An excellent working relationship and team spirit developed amongst staff at all levels, from all disciplines and from all locations which did much to enhance the reputation of the North West Region as a whole

4.0 TECHNICAL SUPPORT

4.1 Hydrology

The fundamental importance of hydrology in establishing management policies of both drawdown and refill has been illustrated.

Daily analysis of North West Water demand figures, re-zoning works, reliable yield, predicted failure was carried out. This enabled the NRA to influence North West Water Limited to take action at a time earlier than they might have wanted because it could be shown hydrologically why such action was indeed appropriate. NRA and North West Water Limited use the same modelling package so there was no dispute about the input data or its process which in turn means that the results have a shared authenticity.

There was a continual need to update data received at least on a weekly basis, to then run suites of models to indicate how strategic water resource systems were faring. Demand analysis was incorporated to gauge any likely reservoir failures.

At times during the drought North West Water Limited had neither the expertise nor the time to analyse the changing situation with the thoroughness that the NRA did. The hydrology team provided continuous cover throughout the drought. This has underpinned the value of a small centralised pool of professionals in dealing with North West Water Limited on the specialist hydrological and water resources management that was needed to show the effects of changes to systems in one part of the Region on supplies elsewhere. Hydrological modelling has proved an invaluable asset and should be maintained in order to continue development and enhancement of simulation and /optimisation models developed jointly by North West Water Limited/ NRA.

Recommendations

That early action is required to assemble up-to-date hydrological data sets and to incorporate this information into revised assessments of source yields.

That recent data on inflows, current demand and its variability, and operational constraints are incorporated into working models to produce a realistic operating policy for 1996

That additional models are developed to analyse resource groups in the Pennines initially for systems which were critical in the summer of 1995.

That the potential for NW systems to contribute resources to inter-basin transfers eg to Severn -Trent, Thames Regions is re-examined.

At Drought Hearings a process developed whereby the Areas headed up the presentation but were backed up by the Hydrological team with demand management and operating policy analysis. This mutual support proved a potent method of explaining the NRA case as a whole

Recommendations

That this joint approach for presentation at Hearings should be continued

That demand data from 1995 should be analysed to incorporate increased variability of peak demands into demand forecasting

That the NRA request a plan from North West Water Limited to show how their leakage reduction targets will be achieved

That the NRA monitor progress against stated leakage targets, particularly in local areas which experienced supply difficulties in 1995/96.

4.2 Hydrogeology

Hydrogeological staff have shown how groundwater can be much better used than North West Water Limited were aware of. They have now identified sources which may provide an additional 50 Ml/d but it was only NRA expertise that proved the potential that was not being used. Again a small centralised team of professionals provided this technical platform.

Recommendations

That to secure improved medium term resources, North West Water Limited should be encouraged to bring back North Cheshire boreholes, where groundwater levels are now high and causing flooding problems, into operational use.

That the scope for securing better conjunctive use of the River Dee, Vyrnwy and Cheshire boreholes is investigated.

That disused or unused groundwater and surface water sources, abandoned for economic reasons, are investigated to meet demand on a medium term basis.

The proper use of NRA expertise has been welcomed by North West Water Limited and excellent technical links have been fostered as a result.

5.0 KEY ISSUES FOR DISCUSSION WITH NORTH WEST WATER LIMITED

It is recommended that Areas be involved in the normal 6 monthly liaison meetings with North West Water Limited. The frequency of these liaison meetings is likely to be increased in the immediate aftermath of the drought.

Examples of agenda items for these meetings will be:-

5.1 Demand management and leakage control

- "drought induced water supply restrictions are no longer palatable to our customers"- North West Water Limited press release 7th September 1995--discuss if this is still the company stance and establish what demands and levels of service are reasonable
- discuss demand management controls
- evaluate leakage plans, especially for those Areas affected by Drought Orders
- discuss licence applications and agree whether their demand forecasts are justifiable and whether leakage has been addressed adequately.
- what is the company standpoint on metering eg there were record demand levels for electricity in 1996 despite metering!!
- discuss what initiatives for customer efficiency the water company has instigated
- discuss waste minimisation strategy eg establish a system to contact local industrialists in stressed/vulnerable areas
- develop imaginative education programme to promote low water-use gardening and sports ground maintenance

5.2 Hydrological review

- North West Water Limited's current programme of reservoir depth surveys should be reviewed and possibly extended. Asset information to be incorporated into hydrological decision support tools eg agree 'empty' storage thresholds for each reservoir or emergency storage/dead storage
- update of historic reservoir flow records
- reassessment of reliable yields in light of 1995 inflows/data
- review statutory compensation requirements for compensation reservoirs
- which water is more 'environmentally valuable' when assessing Drought Orders
- review the severity of the drought and anticipate future events. Climate change research shows climate more turbulent therefore likely to generate more extremes ie more droughts and floods
- ensure that the effects of cut backs on local sources are correctly represented in defining the demand on regional sources in the regional models
- Agree proper operational abstraction figure for the R. Lune.
- AMP 3 --NRA to support North West Water Limited to get better infrastructure
- need to develop a Memorandum of Understanding about how to estimate reasonable costs associated with extra NRA work associated with monitoring /managing Drought Order imposed conditions.

5.3 Operational review

- set compensation flows accurately and check on a regular frequency during summer.
- review Skerton weir maintenance and its suitability of purpose
- NRA fisheries interests on the Lune
- sewerage agencies to be vigilant if storms occur when there is reduced flow in rivers due to Drought Order because a blockage in proper sewage system could trigger storm sewage overflow and cause pollution because increased loadings would occur.
- navigation authorities need contacting
- how to establish effects on flora/fauna/amenity landscape
- to establish fish zero levels
- water resources in Cumbria eg at Crummock Water, Grange in Borrowdale need investigating.
- ~~progress with reactivating disused sources.~~
- further strengthening of infrastructure to increase interconnectivity particularly to improve regional support of local sources and links between Northern and Southern Command Zones

6.0 COMMUNICATIONS

6.1 Internal

Once the Region was on the Drought Footing an Area contact was nominated to act as the focus for all Area contact. They acted as the co-ordinated voice of the Area having liaised with colleagues representing different functional disciplines. This focal point proved very valuable in providing a quick co-ordinated response.

Recommendations

That an Area nominee is empowered to act as a focal point for all Area viewpoints during droughts.

That each Area and RFH set up Drought Co-ordination groups to meet regularly (weekly)

Weekly liaison meetings were held amongst staff at RFH. The outcome of these meetings plus information from liaison meetings with North West Water Limited were compiled into a weekly report which was sent to staff throughout the Region, as well as to Regional Advisory Board (RAB) members.

A summary of the drought progress was made available on E-mail to enable all staff to be aware of what was happening. This was felt to be a valuable internal communications improvement. It is estimated that about 5000 person-messages had been sent between 1st August 1995 and 31st March 1996.

At the drought review meeting in December 1995 it was suggested that there had not been early enough contact between RFH and the Areas but this had not lasted long. It was also suggested that Areas should be routinely involved in the weekly meetings at RFH. Since that review this has been the case. Areas also held their own internal meetings to which RFH staff had an open invitation. North Area have written their own review from which this report draws.

Feedback from Areas has been crucial on many occasions and has shown that North West Water Limited policy is not always transmitted to their operational staff. Contact and information from Area staff to RFH is therefore not just encouraged but is essential.

Staff at RFH who were involved with both the technical and policy making decisions have always been available for discussion. Cover has been co-ordinated so that links have been preserved. This continuity afforded a consistent line to be followed both with North West Water and with the media as required.

Circumstances and situations changed rapidly and good communications are essential to maintain not just a professional front where consistent decisions are made in similar situations but also to foster internal team spirit where information is freely shared and does not become an instrument of power.

Recommendations

That a dedicated team is established early on with good communication skills and computer literacy with a remit to update a wide variety of staff at frequent intervals.

That arrangements are made for weekly meetings where staff from RFH and Areas can learn from exchanged information and can agree Regionally consistent and operationally secure policies.

That reports are issued weekly.

That E- mail is used as a prime instrument for regular updates

That Regional Advisory Board members are kept up-to-date

6.2 External

Frequent press releases were issued to a wide range of outlets throughout the Drought (Appendix B). Invariably the result was a request for radio or TV interviews. About 40 such requests have been serviced by staff of all Areas and RFH. Although the substance of the interview tended to be associated with the press release this was not always the case. Often it was promoted by the interviewer as an opportunity for the NRA to criticise the water company for mismanagement, because it makes for more exciting entertainment. This line was resisted because we are left having to work with ill feeling long after the media has lost interest.

However it shows that a public relations strategy is needed, rather than just treating each press release by itself. Some possible strategies are:-

- to reinforce the NRA position as an independent organisation working for the good of the environment
- to bring pressure to bear on the water company to improve demand management
- to use it as threat to get better mitigating conditions
- to raise public awareness of the drought and the environmental consequences

There has only been one occasion when the NRA and North West Water Limited were at loggerheads over their respective press releases. An agreement was subsequently reached whereby each would show the other any press release likely to be of concern. Although this exchange has not always happened there has not been a recurrence of the conflict.

The use of the Internet by the NRA is being assessed nationally. The possibilities for use in water resource emergencies - either to influence opinion formers or for others to obtain information about the effects of the drought, should be reviewed.

Recommendations

That a public relations strategy for drought management is developed.

That training is given for staff likely to be involved in media attention.

A frequent criticism of North West Water Limited was that they did not let enough people know in enough detail in enough time. The public appreciate being told things even if it might not be wholly relevant all the time. Err on the generous side.

There needs to be a survey to establish whether our external communications have been effective.

Recommendation

That NRA should consider setting up local consultative group, possibly using the catchment management plan framework or Environment Consultative Committee to serve as a focus for consultation and discussion of environmental issues. North West Water Limited may wish to participate.

7.0 DROUGHT ORDER PROCEDURES

There is much bureaucracy involved in applying for Drought Orders. The legal aspects are attached as Appendix C. The water company must notify a variety of organisations. Once they have applied to the Secretary of State for the Environment the NRA is notified officially of their intentions and has a week to object or otherwise comment. Not always has a full week been available to provide a proper co-ordinated response from Areas and RFH.

As the drought has developed experience has shown that it is possible to include water company agreements into our statements. Also, although the NRA is not an objector to the applications and theoretically do not have an official platform it has responded to the DoE by requesting a formal opportunity to present its case. This has always been granted and welcomed by Inspectors and affords the NRA an ideal position to illustrate how and why it has achieved the correct balance it has been seeking.

The practice which has evolved is that Area staff take the lead in reading out the statement and especially state the environmental case, supported by RFH staff who give hydrological and demand management aspects.

It has also proved useful to examine the more routine aspects of Hearings. These are:-

- hire a separate room at the venue of the Hearing for NRA staff with coffee/lunch
- prepare location maps of venue
- have an NRA logo and fixing for the door for identification for staff or visitors
- arrange photocopying and fax facilities, robust enough for large volumes of transmissions, plus laptop computer/printer extension leads for power
- use it as a training opportunity for staff. Droughts will not occur too often so make the most of them within reason.
- consider whether we need to issue a press release as a result of the Hearing arrange for PR staff to be present
- nominate someone to service requests for interviews to relieve the presenters
- arrange a team to identify likely questions and to pass notes to and fro the presenters with additional information. Tear the notepaper first to avoid noisy disruption -post-its are good for this. Have your experts available for on-line information gathering. It has been suggested that an ecologist as well as fisheries staff should be present
- be on time before the Hearing and after lunch or other adjournments. NRA staff coming in late does not create a good public impression. Consider staying overnight if it's a two day hearing
- the hearing is relatively courteous without aggressive cross examination but we must go along properly briefed.
- number paragraphs in drought statement
- evidence must include the wider environment eg ecology, landscape
- we must agree the technical facts with North West Water Limited in advance. All units should be metric.
- we must provide sufficient copies of our statements and any press releases for the objectors/ Inspectors and North West Water Limited.

8.0 CONCLUSIONS

The experience gained over the past months has been invaluable. Droughts are rare events and it is important to collate as many shared experiences as possible so that collectively, future management and hence protection of the environment can be improved.

Staff have co-operated extremely well both within and across functions, within and across geographic locations. It is unlikely that the apparently satisfactory progress could have been achieved without this co-operation irrespective of the technical expertise which doubtless exists throughout the Region.

Much naturally depends on North West Water and it can be seen from the lists above that there are many loose threads that need to be followed up.

Strategic issues have emerged. Do people of the North West want to use water unrestrainedly? If they do, do they realise the consequences on the environment. Should we try to educate them to use less or to develop more resources to sustain the demand.

In order to improve our response to the continuing or next drought the following recommendations should be considered for inclusion in Work Programmes and/or Catchment Management Plans.

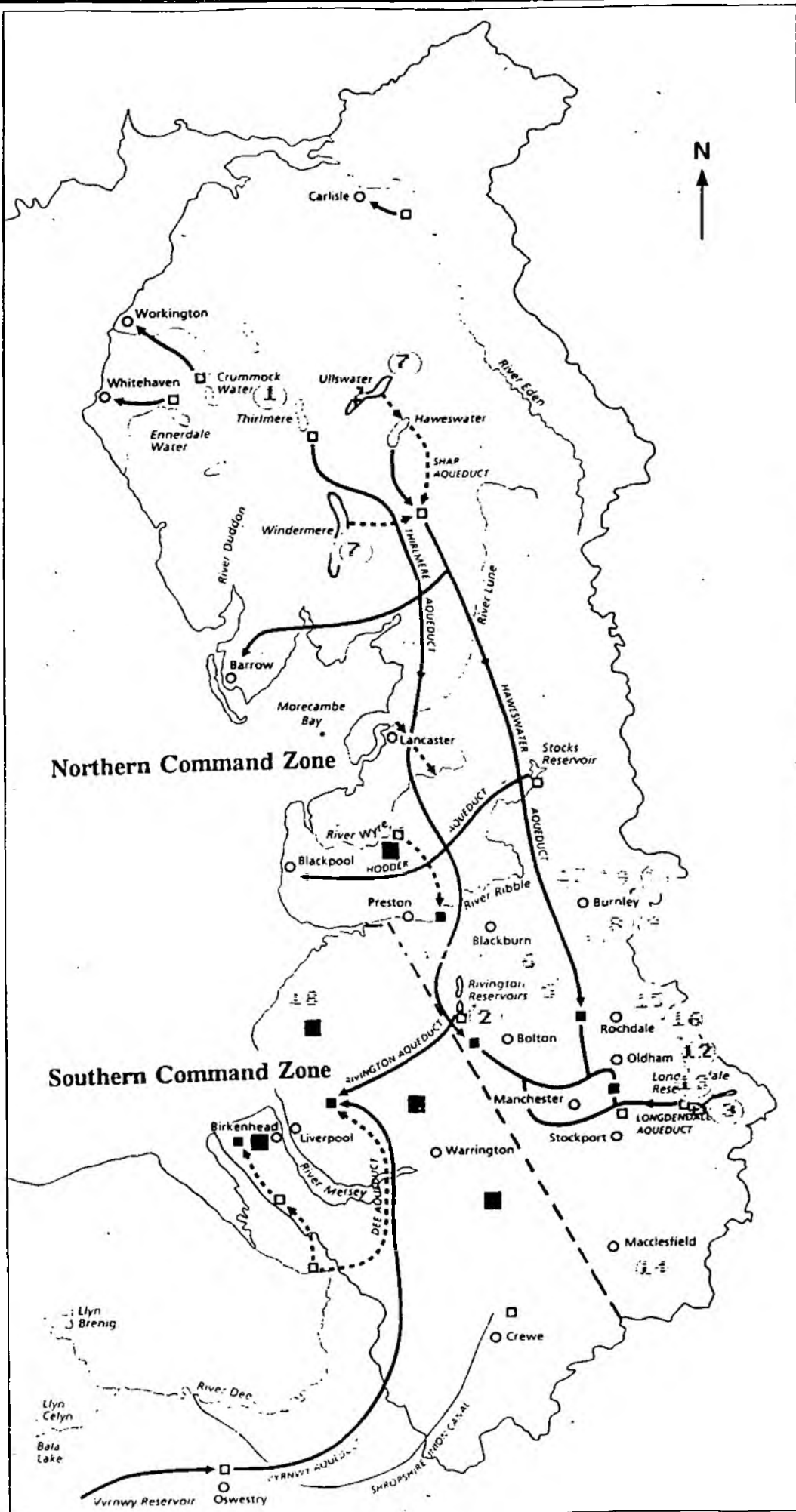
APPENDICES

APPENDIX A DROUGHT ORDERS LOCATION

APPENDIX B PRESS RELEASES

APPENDIX C DROUGHT ORDERS LEGAL FRAMEWORK

APPENDIX A DROUGHT ORDERS LOCATION



(5) DROUGHT
ORDERS
AND
RESTRICTIONS

DROUGHT ORDERS AND RESTRICTIONS

Map ref no	Location	Date granted	Date expiry	Description
1	Greenup Syke Grange-in- Borowdale, Cumbria	5 Sept 95	31 Oct 95	Abstraction of 0.25 MI/d from River Derwent
2	Rivington	1 Sept 95	30 Apr 96	Reduction in compensation water from 24.7 MI/d to 19.9 MI/d
3	Longdendale, Bottoms Lodge	1 Sept 95	30 Apr 95	Reduction in compensation water from 45MI/d to 22.7 MI/d
4	Clowbridge	3 Nov 95	30 Apr 96	Reduction in compensation water from 3.67 MI/d to 1.5 MI/d
5	Jumbles	1 Sept 95	30 Apr 96	Reduction in compensation water from 20.0 MI/d to 12.0 MI/d
	Jumbles	3 Nov 95	30 Apr 96	Reduction in compensation water from 12.0 MI/d to 6.0MI/d
6	Delph	1 Sept 95	30 Apr 96	Reduction in compensation water from 3.66 MI/d to 1.0 MI/d
7	Lake Windermere	2 Oct 95	29 Feb 96	Allows drawdown of lake by 762 mm and reduces hands off flow to 45 MI/d
	Ullswater	2 Oct 95	29 Feb 96	Allows construction of temporary weir to raise level by 150 mm and reduction of hands off flow to 45 MI/d and reduction of level by 914mm
	Lake Windermere	1 Mar 96	31 Aug 96	Allows drawdown of lake by 305 mm
	Ullswater	1 Mar 96	31 Aug 96	Allows construction of temporary weir to raise lake by 150 mm
8	Hurstwood	10 Oct 95	9 Apr 96	Reduction in compensation water from 1.34 MI/d to 0.8 MI/d
9	Cant Clough	10 Oct 95	9 Apr 96	Reduction in compensation water from 2.29 MI/d to 1.0 MI/d
10	Lee Green /Swinden	10 Oct 95	9 Apr 96	Reduction in compensation water from 1.0 MI/d to 0.6 MI/d
11	Coldwell	10 Oct 95	9 Apr 96	Reduction in compensation water from 0.9 MI/d to 0.6 MI/d
12	Dovestones	17 Oct 95	18 Apr 96	Reduction in compensation water from 15.9 MI/d to 9.96 MI/d
	Dovestones	10 Jan 96	9 June 96	Reduction in compensation water from 9.96 MI/d to 5 MI/d
13	Swineshaw	17 Oct 95	16 Apr 96	Reduction in compensation water from 3.67 MI/d to 1.67 MI/d

14	Langley Bottoms and Teggsnose	14 Nov 95	13 May 96	Reduction in compensation water to the River Bollin at NRA discretion. NRA drought order first one Nationally using new Environment Act 1995 powers
15	Piethorne	7 Dec 95	31 May 96	Reduction in compensation water from 4.6 ML/d to 2.25 ML/d or 1.0 ML/d if no abstraction by Ogden Mill
16	Castleshaw	7 Dec 95	31 May 96	Reduction in compensation water from 2.27 ML/d to 1.5 ML/d
	River Lune	Applied for 6 Dec 95	NOT GRANTED	Reduction in prescribed flow from 365 ML/d to 200 ML/d between 1 Jan 96 and 31 Mar 96
17	Churn Clough	31 Jan 96	30 Jul 96	Reduction in compensation water from 0.71 ML/d to 0.4 ML/d in Churn Clough Brook and from 0.9 ML/d to 0.5 ML/d in Woodhouse Brook

The description of the drought orders here is only a summary. More detailed information is available for each one separately on RFH file T55/2/3/...

OTHER NORTH WEST WATER LIMITED RESTRICTIONS

	Hosepipe ban	17 Aug 95		Still in force
	Prescribed Uses Order	3 Oct 95	2 Apr 96	Not renewed

SPRAY IRRIGATION RESTRICTIONS

Map ref no	Location	Date valid	Date expiry	Description
18	Crossens catchment, West Lancashire	18 Aug 95	4 Sept 95	Section 57 of the Water Resources Act 1991 Affected 74 licence holders.

9.0 RECOMMENDATIONS

(i) *Strategy framework*

That a framework is drawn up by the NRA outlining the general principles by which Drought Order /Drought Permit assessments will be made. The framework should show the timescale and actions required and consequences of non-compliance.

(ii) *Licensing.*

That the Licensing Manual procedures are invoked when notified of an over-abstraction. To prevent further infringements North West Water Limited should identify any changes required to licences or operating practice. If applications for upward variations or new licences are made, then justification of demand coupled with leakage reduction initiatives will be required.

That Regional guidance is drawn up on leakage control and demand forecasting and management by April 1996.

That North West Water Limited should apply for a Drought Order/Permit in anticipation of a licence condition be infringed, not in retrospect.

That if North West Water Limited do not take any long term action to prevent such over-abstraction then staff should monitor sensitive sites more closely either by visit or instrumentation.

That a list of problem sites is assembled and that specimen Drought Order/Permits are available for speedy implementation.

(iii) *Crossens*

That the NRA should review the need for changes in licensing or operational practice in the Crossens area, and assess whether last summers actions proved effective in reducing environmental impact.

That the NRA should draw up a warning system for S57 restrictions and formulate guidelines for implementing and enforcing the ban.

(iv) **Compensation flows**

That a wholesale review of the compensation flow from reservoirs is carried out, based on their hydrological yield and any developed downstream in-river needs. Flows may be varied upwards or downwards.

That a record is compiled of where problems occurred during this drought and what action was taken.

That a mechanism is agreed with North West Water Limited to ensure that good quality compensation water is released at all times.

(v) **Environmental information**

That NRA should review environmental information provided for Drought Order applications and consider whether studies should be carried out to provide baseline environmental assessments. Such information should be specific to the catchment affected, not just general comments.

That a directory of Environmental Evidence is compiled from experience of all NRA functions and also from other environmental organisations where a lack of water might contribute to environmental degradation eg lack of water affects birdlife.

That the NRA should review evidence of long term environmental impacts of both the natural low flows experienced during the summer and of any additional measures taken to conserve water supply eg by reducing compensation flow.

That background baseline monitoring is carried out in catchments likely to be affected in the future eg the Fylde perhaps identifying key species that could act as touchstones for the rest of the aquatic environments not just the fish populations but macrophytes and landscape too.

(vi) **Memorandum of Understanding**

That a Memorandum of Understanding is formulated which incorporates mitigating conditions to address the areas of concern to the NRA at least one week before North West Water Limited apply for a Drought Order/ Drought Permit.

(vii) Hydrometry

That a review of hydrometric needs is carried out and where necessary projects are promoted to bridge any gaps.

That procedures are introduced which routinely check data which is duplicated at the same site and which check the management of data so that internal data is consistent between RFH and Areas.

That shortfalls in essential data, and more secure/legible methods of transmission should be pursued with North West Water Limited.

That complete sets of weekly reservoir data sheets or a plot of the data to provide operational bench marks for 1996 are sent to the Areas

That the existing National Rivers Authority Quality Management System (QMS) is developed further.

That derived data is up-to date.

(viii) Drought management

That local operational problems should be resolved locally but that generic one should be discussed in the regular Regional liaison meetings.

That Staff are made aware of the opportunities for the NRA to apply for environmental Drought Orders and are also aware of possible sites so that sufficient preparation can take place to allow timely applications bearing in mind the time consuming bureaucracy that is involved.

That Regional staff co-ordinate Drought Order/Drought Permit applications

That managers give proper recognition, not necessarily financial, for staff efforts during the drought.

(ix) **Hydrology**

That early action is required to assemble up-to-date hydrological data sets and to incorporate this information into revised assessments of source yields.

That recent data on inflows, current demand and its variability, and operational constraints are incorporated into working models to produce a realistic operating policy for 1996

That additional models are developed to analyse resource groups in the Pennines initially for systems which were critical in the summer of 1995.

That the potential for NW systems to contribute resources to inter-basin transfers eg to Severn -Trent, Thames Regions is re-examined.

(x) **Demand Management**

That this joint approach for presentation at Hearings should be continued

That demand data from 1995 should be analysed to incorporate increased variability of peak demands into demand forecasting

That the NRA request a plan from North West Water Limited to show how their leakage reduction targets will be achieved

That the NRA monitor progress against stated leakage targets, particularly in local areas which experienced supply difficulties in 1995/96.

(xi) **Hydrogeology**

That to secure improved medium term resources, North West Water Limited should be encouraged to bring back North Cheshire boreholes, where groundwater levels are now high and causing flooding problems, into operational use.

That the scope for securing better conjunctive use of the River Dee, Vyrnwy and Cheshire boreholes is investigated.

That disused or unused groundwater and surface water sources, abandoned for economic reasons, are investigated to meet demand on a medium term basis.

(xii) **Communications**

That an Area nominee is empowered to act as a focal point for all Area viewpoints during droughts.

That each Area and RFH set up Drought Co-ordination groups to meet regularly (weekly)

That a dedicated team is established early on with good communication skills and computer literacy with a remit to update a wide variety of staff at frequent intervals.

That arrangements are made for weekly meetings where staff from RFH and Areas can learn from exchanged information and can agree Regionally consistent and operationally secure policies.

That reports are issued weekly.

That E- mail is used as a prime instrument for regular updates

That Regional Advisory Board members are kept up-to-date

MDE 31st May 1996

APPENDIX B PRESS RELEASES

PRESS RELEASES	
Date	Title
8 August 1995	NRA warns farmers about illegal abstraction
11 August 1995	NRA calls for more careful use of water in North West
17 August 1995	NRA urges farmers to cut down on spray irrigation
22 August 1995	NRA says no cause for complacency
24 August 1995	NRA disappointed over water company drought plan
1 September 1995	Drought-NRA responds to Secretary of State
4 September 1995	NRA welcomes NWW ban on non-essential use of water
7 September 1995	NRA assesses impact of new proposal
15 September 1995	NRA voices objection to drought orders
19 September 1995	NRA succeeds in securing environmental protection
22 September 1995	NRA say NWW did "too little, too late"
4 October 1995	Significant potential for saving water
4 October 1995	NRA welcomes "non- essential use ban"
27 October 1995	New power exercised to protect drought-stricken fish
27 October 1995	NRA applies for first ever drought order
13 November 1995	NRA reacts to OFWAT concerns over North West Water's performance
14 November 1995	Drought maintains grip on Region
16 November 1995	Farmers fined for illegal abstraction
18 December 1995	Safeguarding public drinking water supplies for next summer- NRA submits drought report to Secretary of State
22 December 1995	NRA acts to save salmon
19 January 1996	NRA urges water savings to protect environment
29 January 1996	NRA does not object to extended drought order
13 February 1996	NRA considers environmental options following Secretary of State's decision
14 February 1996	NRA secures environmental safeguards
20 February 1996	NRA warns water companies to prepare for water shortages this summer
19 March 1996	NRA warn of water shortages

WATER RESOURCES ACT 1991 (as amended by ENVIRONMENT ACT 1995)

CHAPTER III DROUGHT

Section 73

(1) *If the Secretary of State is satisfied that, by reason of an exceptional shortage of rain, there exists or is threatened -*

(a) *a serious deficiency of supplies of water in any area, or*

(b) *such a deficiency in the flow or level of water in any inland waters as to pose a serious threat to any of the flora or fauna which are dependant on those waters then* ⁽¹⁾ subject to the following provisions of this Chapter, he may by Order (in this Chapter referred to as an "ordinary drought order") make such provision authorised by this Chapter as appears to him to be expedient with a view to meeting the deficiency.

(2) If the Secretary of State -

(a) is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in an area exists or is threatened: and

(b) is further satisfied that the deficiency is such as to be likely to impair the economic or social well-being of persons in the area.

then subject to the following provisions of this Chapter, he may by order (in this Chapter referred to as an "emergency drought order") make such provision authorised by this Chapter as appears to him to be expedient with a view to meeting the deficiency.

(3) Subject to Section 76 (3) below, the power to make a drought order in relation to any area shall not be exercisable *unless* ⁽²⁾ an application is made to the Secretary of State

(a) by the Authority; or

(b) *except in the case of an ordinary drought order by virtue of subsection (1) (b) above* ⁽³⁾ by a water undertaker which supplies water to premises in that area.

(4) The power to make a drought order shall be exercisable by statutory instrument; and Schedule 8 of this Act shall have effect with respect to the procedure on an application for such an order.

(1) Substituted by para 139 (2) Schedule 22 Environment Act 1995
 (2) Substituted by para 139 (3) (a) Schedule 22 Environment Act 1995
 (3) Inserted by para 139 (3) (b) Schedule 22 Environment Act 1995

Section 74

- (1) An ordinary drought order made on the application of the Authority may contain any of the following provisions, that is to say -
 - (a) provision authorising the Authority (or persons authorised to do so by the Authority) to take water from any source specified in the order subject to any conditions or restrictions so specified;
 - (b) provision authorising the Authority (or persons authorised to do so by the Authority) to discharge water to any place specified in the order subject to any conditions or restrictions so specified;
 - (c) provision authorising the Authority to prohibit or limit the taking by any person (including a water undertaker) of water from a source specified in the order if the Authority is satisfied that the taking of water from that source seriously affects the supplies available to the Authority, any water undertaker or any other person;
 - (d) provision suspending or modifying, subject to any conditions specified in the order, any restriction or obligation to which the Authority, any water undertaker or sewerage undertaker or any other person is subject as respects -
 - (i) the taking of water from any source;
 - (ii) the discharge of water;
 - (iii) the supply of water (whether in point of quantity, pressure, quality, means of supply or otherwise); or
 - (iv) the filtration or other treatment of water;
 - (e) provision authorising the Authority to suspend or vary, or attach conditions to, any consent specified in the order for the discharge of any effluent by any person, including any sewerage undertaker or water undertaker.
- (2) An ordinary drought order made on the application of a water undertaker may contain any of the following provisions, that is to say -
 - (a) provision authorising the water undertaker to take water from any source specified in the order subject to any conditions or restrictions so specified;
 - (b) provision authorising the water undertaker to prohibit or limit the use of water for any purpose specified in the order, being a purpose for the time being set out in a direction given by the Secretary of State to water undertakers generally as a purpose which may be specified by virtue of this paragraph in any ordinary drought order;
 - (c) provision authorising the water undertaker to discharge water to any place specified in the order subject to any conditions or restrictions so specified;

- (d) provision authorising the Authority to prohibit or limit the taking by any person of water from a source specified in the order if the Authority is satisfied that the taking of water from that source seriously affects the supplies available to the water undertaker;
- (e) provision prohibiting or limiting the taking by the Authority of water from a source specified in the order if the taking of water from that source is determined, in accordance with provision made by the order, seriously to affect the supplies available to the water undertaker;
- (f) provision suspending or modifying, subject to any conditions specified in the order, any restriction or obligation to which the water undertaker or any sewerage undertaker or other person is subject as respects -
 - (i) the taking of water from any source;
 - (ii) the discharge of water;
 - (iii) the supply of water (whether in point of quantity, pressure, quality, means of supply or otherwise); or
 - (iv) the filtration or other treatment of water;
- (g) provision authorising the Authority to suspend or vary, or attach conditions to, any consent specified in the order for the discharge of any effluent by any person, including the company which applied for the order (whether in the capacity in which it made the application, in its capacity as a sewerage undertaker or in any other capacity).

(3) The period for which -

- (a) an authorisation given by or under an ordinary drought order;
- (b) a prohibition or limitation imposed by or under any such order;
or
- (c) a suspension or modification effected by or under any such order,

has effect shall expire before the end of the period of six months beginning with the day on which the order comes into force, unless that period of six months is extended, in relation to that order, by virtue of the exercise by the Secretary of State of his power (subject to subsection (4) below) to amend the order.

- (4) The power of the Secretary of State to amend an ordinary drought order shall not be exercised so as to extend the period of six months mentioned in subsection (3) above beyond the end of the period of one year beginning with the day on which that order came into force.

- (5) Without prejudice to the following provisions of this Chapter, an ordinary drought order may -
- (a) make different provisions for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

Section 75

- (1) An emergency drought order made on the application of the Authority may contain any of the provisions which could be included, by virtue of section 74(1) above, in an ordinary drought order made on the application of the Authority.
- (2) An emergency drought order made on the application of a water undertaker may contain any of the following provisions, that is to say -
- (a) any provision which could be included, by virtue of subsection (2) of section 74 above, in an ordinary drought order made on the application of a water undertaker, except provision authorised by paragraph (b) of that subsection;
 - (b) provision authorising the water undertaker to prohibit or limit the use of water for such purposes as the water undertaker thinks fit;
 - (c) provision authorising the water undertaker -
 - (i) to supply water in its area, or in any place within its area, by means of stand-pipes or water tanks; and
 - (ii) to erect or set up and maintain stand-pipes or water tanks in any street in that area.
- (3) The period for which -
- (a) an authorisation given by or under an emergency drought order;
 - (b) a prohibition or limitation imposed by or under any such order;
or
 - (c) a suspension or modification effected by or under any such order,

has effect shall expire before the end of the period of three months beginning with the day on which the order comes into force unless that period of three months is extended, in relation to that order, by virtue of the exercise by the Secretary of State of his power (subject to subsection (4) below) to amend the order.

- (4) The power of the Secretary of State to amend an emergency drought order shall not be exercised so as to extend the period of three months mentioned in subsection (3) above beyond the end of the period of five months beginning with the day on which that order came into force.

- (5) Where powers have been conferred by an emergency drought order on any person -
- (a) the Secretary of State may give to that person such directions as he considers necessary or expedient as to the manner in which, or the circumstance in which, any of those powers is or is not to be exercised;
 - (b) it shall be the duty of that person to comply with any such direction; and
 - (c) where that person is a water undertaker or sewerage undertaker, the duty to comply with any such direction shall be enforceable under section 18 of the Water Industry Act 1991 by the Secretary of State.
- (6) The giving of a direction under subsection (5) above in relation to any power shall not affect -
- (a) the validity of anything done in the exercise of that power before the giving of the direction; or
 - (b) any obligation or liability incurred before the giving of the direction.
- (7) Without prejudice to the following provisions of this Chapter, an emergency drought order may -
- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

Section 76

- (1) The following provisions apply where a drought order contains a provision authorising a water undertaker to prohibit or limit the use of water, that is to say -
- (a) the power may be exercised in relation to consumers generally, a class of consumer or a particular consumer;
 - (b) the water undertaker shall take such steps as it thinks appropriate for bringing the prohibition or limitation to the attention of the persons to whom the prohibition or limitation will apply and, in particular, shall (as the undertaker thinks appropriate) -
 - (i) cause notice of the prohibition or limitation to be published in one or more local newspapers circulating within that part of the water undertaker's area which would be affected by the provision of the order; or
 - (ii) send notice of the prohibition or limitation to the persons to whom the prohibition or limitation will apply;

- (c) the prohibition or limitation shall not come into operation until the end of the period of seventy-two hours beginning with the day on which the notice is published or, as the case may be, sent to the person in question.
- (2) The Secretary of State may revoke or vary any direction given by him for the purposes of section 74(2)(b) above by a further direction for those purposes.
- (3) Where any purpose set out in a direction given for the purposes of section 74(2)(b) above will cease, by virtue of the variation or revocation of the direction, to be one which may be specified in an ordinary drought order, the Secretary of State shall (without an application having been made to him) exercise his power to vary or revoke ordinary drought orders, in so far as any orders in force will be affected by the variation or revocation of the direction, so as to make those orders conform to the variation or reflect the revocation.
- (4) The revocation or variation of a direction under subsection (3) above shall not affect either -
 - (a) the validity of anything done in pursuance of an order before the giving of the further direction; or
 - (b) any obligation or liability accrued or incurred before the giving of the further direction.

Section 77

- (1) Any drought order which -
 - (a) authorises the taking of water from a source from which water is supplied to an inland navigation; or
 - (b) suspends or modifies -
 - (i) a restriction as respects the taking of water from a source from which water is supplied to an inland navigation;
or
 - (ii) an obligation to discharge compensation water into a canal or into any river or stream which forms part of, or from which water is supplied to, an inland navigation,

may include provision for prohibiting or imposing limitations on the taking of water from the inland navigation or for the suspension or modification of any obligation to which a navigation authority are subject as respects the discharge of water from the inland navigation.

(2) A prohibition or limitation by or under a drought order on the taking of water from any source may be imposed so as to have effect in relation to a source from which a person to whom the prohibition or limitation applies has a right to take water whether by virtue of an enactment or instrument, an agreement or the ownership of land.

(3) Where a drought order made on the application of a water undertaker confers power on the Authority -

- (a) to prohibit or limit the taking of water from any source; or
- (b) to suspend or vary, or attach conditions to, any consent for the discharge of any effluent,

the Authority shall exercise that power in such manner as will ensure, so far as reasonably practicable, that the supplies of water available to the water undertaker are not seriously affected.

(4) For the purposes of sections 125 to 129 below any water authorised by a drought order to be abstracted from a source of supply shall be treated as if it had been authorised to be so abstracted by a licence granted under Chapter II of this Part, whether the water undertaker to which the order relates is the holder of such a licence or not.

(5) Where -

- (a) any drought order confers power on the Authority to suspend or vary, or attach conditions to, any consent for the discharge of any effluent; and
- (b) the Authority exercises that power so as to restrict the discharge of effluent by a sewerage undertaker,

the sewerage undertaker may so modify any consents or agreements relating to the discharge by other persons of trade effluent as to enable it to comply with any requirements or conditions imposed on it by or under the order with respect to discharges from sewers or works of the undertaker.

(6) In this section -

"compensation water" means water which a water undertaker or the Authority is under an obligation to discharge -

- (a) in accordance with the provisions of a licence under Chapter II of this part into a source of supply; or
- (b) under any local statutory provision, into any river, stream, brook or other running water or into a canal;

and

"inland navigation includes any canal or navigable river.

Section 78

- (1) A drought order may authorise the Authority or a water undertaker, subject to any conditions and restrictions specified in the order, to carry out any works required for the performance of any duty or the exercise of any power which is imposed or conferred by or under the order.
- (2) A drought order authorising the Authority or a water undertaker to carry out any works -
 - (a) may authorise the Authority or that undertaker for that purpose to enter upon any land specified in the order and to occupy and use the land to such extent and in such manner as may be requisite for the carrying out and maintenance of the works; and
 - (b) may apply in relation to the carrying out of the works such of the provisions of Part VII of this Act or Part VI of the Water Industry Act 1991 as appear to the Secretary of State to be appropriate, subject to such modifications as may be specified in the order.
- (3) The Secretary of State shall include in any drought order authorising the Authority or a water undertaker to enter any land provisions requiring the Authority or that undertaker to give to the occupier of the land and to such other persons concerned with the land as may be specified in the order not less than twenty-four hours' notice of any intended entry.
- (4) Subject to subsection (3) above, a drought order may make any such provision in relation to provisions of the order authorising any person to enter any land as corresponds to provision having effect by virtue of section 173 below or to provision contained in Part II of Schedule 6 to the Water Industry Act 1991.
- (5) Any works to be carried out under the authority of an emergency drought order shall be included in the definition of emergency works in section 52 of the New Roads and Street Works Act 1991.
- (6) Until the coming into force of section 52 of the New Roads and Street Works Act 1991, subsection (5) above shall have effect as if the reference to that section were a reference to section 39(1) of the Public Utilities Street Works Act 1950; but nothing in this section shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing that section 52 into force on different days for different purposes (including the purposes of this section).

Section 79

- (1) Schedule 9 to this Act shall have effect with respect to the payment of compensation where a drought order has been made.

- (2) Except as provided by Schedule 9 to this Act, neither the Authority nor any water undertaker or sewerage undertaker shall incur any liability to any person for loss or damage sustained by reason of anything done in pursuance of any drought order or of any omission in pursuance of such an order.
- (3) Nothing in any drought order shall affect the right of the Authority, a water undertaker or a sewerage undertaker, in the event of an interruption or diminution of the supply of water, to recover any fixed or minimum charge which might have been recovered from any person by the Authority or that undertaker if there had been no such interruption or diminution.

Section 79A⁽⁴⁾

- (1) If the Agency is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened then, subject to the following provisions of this section, it may, upon the application of a water undertaker which supplies water to premises in that area, issue to that undertaker a drought permit making such provision authorised by this section as appears to the Agency to be expedient with a view to meeting the deficiency.
- (2) A drought permit may contain any of the following provisions, that is to say -
 - (a) provision authorising the water undertaker to which it is issued to take water from any source specified in the permit subject to any conditions or restrictions so specified;
 - (b) provision suspending or modifying, subject to any conditions specified in the permit, any restriction or obligation to which that undertaker is subject as respects the taking of water from any source.
- (3) A drought permit shall specify -
 - (a) The day on which it comes into force; and
 - (b) the period for which, subject to subsections (4) and (5) below, any authorisation given, or suspension or modification effected, by the permit is to have effect.
- (4) Subject to subsection (5) below, the period for which -
 - (a) an authorisation given by a drought permit, or
 - (b) a suspension or modification effected by such a permit,has effect shall expire before the end of the period of six months beginning with the day on which the permit comes into force.

(5) At any time before the expiration of the period for which such an authorisation, suspension or modification has effect, the Agency may, by giving notice to the water undertaker to which the permit in question was issued, extend that period, but not so as to extend it beyond the end of the period of one year beginning with the day on which the permit came into force.

(6) A drought permit which -

(a) authorises the taking of water from a source from which water is supplied to an inland navigation; or

(b) suspends or modifies -

(i) a restriction as respects the taking of water from a source from which water is supplied to an inland navigation; or

(ii) an obligation to discharge compensation water into a canal or into any river or stream which forms part of, or from which water is supplied to, an inland navigation,

shall not be issued without the consent of every navigation authority exercising functions over any or all of the parts of the canal or inland navigation in question which are affected by the permit.

(7) Schedule 8 to this Act shall have effect with respect to the procedure on an application for a drought permit as it has effect with respect to the procedure on an application for a drought order, but with the following modifications, that is to say -

(a) with the substitution for any reference to a drought order of a reference to a drought permit;

(b) with the substitution for any reference to the Secretary of State of a reference to the Agency;

(c) with the omission of the reference to the Agency in the Table in paragraph 1;

(d) with the insertion, in paragraph 1(3)(c), of a requirement that the notice in question shall specify the address at which any objections are to be made to the Agency; and

(e) with the omission -

(i) of paragraph 2(1)(a) and the word "either" immediately preceding it, and

(ii) of paragraph 2(6)

- (8) For the purposes of sections 125 to 129 below any water authorised by a drought permit to be abstracted from a source of supply shall be treated as if it had been authorised to be so abstracted by a licence granted under Chapter II of this Part, whether the water undertaker to which the permit is issued is the holder of such a licence or not.
- (9) Section 79 above and Schedule 9 to this Act shall apply in relation to drought permits and their issue as they apply in relation to ordinary drought orders and their making.
- (10) A drought permit may -
- (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (b) contain such supplemental consequential and transitional provisions as the Agency considers appropriate.
- (11) In this section -
- "compensation water" has the same meaning as in section 77 above
- "drought permit" means a drought permit under this section;
- "inland navigation" has the same meaning as in section 77 above."

Section 80

- (1) If any person -
- (a) takes or uses water in contravention of a pollution or limitation imposed by or under any drought order or takes or uses water otherwise than in accordance with any condition or restriction *imposed by or under any drought order or by any drought permit* ⁽⁵⁾ or
 - (b) discharges water otherwise than in accordance with any condition imposed by or under such an order,
- he shall be guilty of an offence under this section
- (2) If any person -
- (a) fails to construct or maintain in good order a gauge, weir or other apparatus for measuring the flow of water which he was required to construct or maintain by any drought order *or drought permit* ⁽⁶⁾ or

(5) Substituted by para 141 (a) Schedule 22 Environment Act 1995

(6) Inserted by para 141 (b) Schedule 22 Environment Act 1995

- (b) fails to allow some person authorised for the purpose by or under such order *or by virtue of any such permit* ⁽⁷⁾ to inspect and examine any such apparatus or any records made thereby or kept by that person in connection therewith or to take copies of any such records,

he shall be guilty of an offence under this section.

- (3) In any proceedings against any person for an offence under this section it shall be a defence for that person to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) A person who is guilty of an offence under this section shall be liable -
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.

Section 81 In this Chapter -

- (a) references to the taking of water include references to the collection, impounding, diversion or appropriation of water;
and
- (b) references to an obligation or to a restriction include references to an obligation or, as the case may be, to a restriction which is imposed by or under any enactment or agreement.

(7) Inserted by para 141 (c) Schedule 22 Environment Act 1995

question during the period of five years ending with 1st September 1989, being an alteration or modification which would be within the scope of the licence if granted in accordance with the application.

SCH. 7

Section 61 of this Act

5.—(1) No compensation shall be payable under section 61 of this Act (compensation for revocation or variation of a licence) in respect of the revocation or variation of a 1989 Act licence of right if the revocation or variation is for giving effect to the decision of the court in an action in respect of which paragraph 2 above has effect or in any proceedings in consequence of such an action.

(2) Nothing in section 61(3) of this Act (compensation not payable in respect of works etc. carried out before the grant of a licence) shall apply in relation to any licence of right.

Licences of right

6.—(1) In this Schedule references to a licence of right are references to—

- (a) any 1989 Act licence of right, that is to say, a licence granted (whether or not by virtue of paragraph 1 above) under paragraph 30 or 31 of Schedule 26 to the Water Act 1989; or 1989 c. 15.
- (b) any licence which, having been granted in pursuance of an application under section 33 of the Water Resources Act 1963 (or in pursuance of an appeal consequential on such an application), has effect after the coming into force of this Act by virtue of sub-paragraph (2) below. 1963 c. 38.

(2) The repeal by the Water Consolidation (Consequential Provisions) Act 1991 of paragraph 29(4) of Schedule 26 to the Water Act 1989 shall not prevent any licence granted as mentioned in paragraph (b) of sub-paragraph (1) above from continuing (in accordance with paragraph 1 of Schedule 2 to that Act of 1991 and subject to the preceding provisions of this Schedule) to have effect after the coming into force of this Act as a licence under Chapter II of Part II of this Act. 1991 c. 60.

SCHEDULE 8

Section 73.

PROCEEDINGS ON APPLICATIONS FOR DROUGHT ORDERS

1.—(1) The applicant for a drought order shall—

- (a) cause notice of the application to be served on the persons specified in the Table set out in sub-paragraph (2) below;
- (b) cause a notice of the application to be published in one or more local newspapers circulating within the area affected by the order; and
- (c) cause a notice of the application to be published in the London Gazette.

(2) The said Table is as follows—

Table

All orders

- (a) The Authority (where it is not the applicant).
- (b) Every local authority (not being a county council) and water undertaker (not being the applicant) whose area would be affected by the

SCH. 8

Orders which suspend or modify any enactment or any order or scheme made or confirmed under any enactment.

order.

Such persons (if any) as are specified by name in the enactment, order or scheme as being persons for whose protection it was enacted or made.

Orders concerning the taking of water from a source or the discharge of water or effluent to a place.

(a) Every local authority (not being a county council) in whose area the source, or the place at which water or effluent is to be discharged, is situated.

(b) Every drainage board for an internal district in which the source, or the place at which water or effluent is to be discharged, is situated.

(c) Every navigation authority exercising functions over any watercourse affected by the order.

(d) If the order concerns any consent relating to the discharge of sewage effluent or trade effluent, the person to whom the consent was given.

Orders which authorise the carrying out of any works.

(a) Every local authority (not being a county council) within whose area the works are situated.

(b) If the order authorises the carrying out of works in, under or over a watercourse, every drainage board for an internal drainage district within which the works, or any part of the works, are situated.

Orders which authorise the occupation and use of land.

Every owner, lessee and occupier of the land.

Orders which prohibit or limit the taking of water.

Every named person to whom the prohibition or limitation applies.

(3) A notice for the purposes of this paragraph of an application for a drought order—

(a) shall state the general effect of the application;

(b) shall specify a place within the area affected by the order where a copy of any relevant map or plan may be inspected by any person free of charge at all reasonable times within a period of seven days from the date on which it is served or, as the case may be, published;

(c) shall state that objections to the application may be made to the Secretary of State within seven days from the date on which it is served or, as the case may be, published; and

(d) in the case of an application for an order authorising the occupation and use of land, shall specify the land to which the application relates.

(4) A notice sent in a letter in pursuance of section 220 of this Act to an address to which it may be sent in pursuance of that section shall not be treated as having been properly served for the purposes of this paragraph unless the sender takes such steps as are for the time being required to secure that the letter is transmitted in priority to letters of other descriptions.

Objections to and making of orders

SCH. 8

2.—(1) If any objection is duly made with respect to an application for a drought order and is not withdrawn, then, subject to the provisions of this paragraph, the Secretary of State shall, before making the order, either—

- (a) cause a local inquiry to be held; or
- (b) afford an opportunity—
 - (i) to the objector; and
 - (ii) if the objector avails himself of the opportunity, to the applicant and to any other persons to whom it appears to the Secretary of State expedient to afford the opportunity,
of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(2) Subject to sub-paragraph (3) below, where, on an application for a drought order, it appears to the Secretary of State that a drought order is required to be made urgently if it is to enable the deficiency of supplies of water to be effectively met, he may direct that the requirements of sub-paragraph (1) above shall be dispensed with in relation to the application.

(3) Nothing in sub-paragraph (2) above shall authorise the Secretary of State to fail to consider any objection to a proposed drought order which has been duly made and not withdrawn.

(4) Notwithstanding anything in sub-paragraph (1) above, the Secretary of State may—

- (a) require any person who has made an objection to a proposed drought order to state in writing the grounds of his objection; and
- (b) disregard the objection for the purposes of this paragraph if the Secretary of State is satisfied—
 - (i) that the objection relates exclusively to matters which can be dealt with on a reference under Schedule 9 to this Act or by any person by whom compensation is to be assessed; or
 - (ii) in a case where the order is one confined to the extension of a period specified in a previous order, that the objection is one that has in substance been made with respect to the application for that previous order.

(5) Subject to the requirements of this paragraph, the Secretary of State, upon being satisfied that the proper notices have been published and served, may, if he thinks fit, make the order in respect of which the application is made with or without modifications.

(6) The Secretary of State may hold a local inquiry on any application for a drought order notwithstanding that he is not required to do so by this paragraph.

Notice after making of order

3. After a drought order has been made, the person on whose application it was made shall cause to be published (in the manner in which notice of the application was required under paragraph 1 above to be published) a notice—

- (a) stating that the order has been made; and
- (b) naming a place where a copy of it may be inspected.

Section 79.

SCHEDULE 9

COMPENSATION IN RESPECT OF DROUGHT ORDERS

Compensation to be made in the case of all drought orders

1. Where a drought order has been made, compensation in respect of the entry upon or occupation or use of land shall be made by the applicant for the order to—

- (a) the owners and occupiers of the land; and
- (b) all other persons interested in the land or injuriously affected by the entry upon, occupation or use of the land,

for loss or damage sustained by reason of the entry upon, occupation or use of the land.

Compensation to be made in the case of ordinary orders only

2.—(1) This paragraph shall apply for determining the compensation to be made, in addition to any made under paragraph 1 above, where an ordinary drought order has been made.

(2) Compensation in respect of the taking of water from a source or its taking from a source otherwise than in accordance with a restriction or obligation which has been suspended or modified shall be made by the applicant for the order to—

- (a) the owners of the source of water; and
- (b) all other persons interested in the source of water or injuriously affected by the taking of the water,

for loss or damage sustained by reason of the taking of the water.

(3) Compensation in respect of water's being discharged or not discharged to any place or its being discharged otherwise than in accordance with a restriction or obligation (whether relating to the treatment or discharge of the water) which has been suspended or modified shall be made by the applicant for the order to—

- (a) the owners of the place of discharge; and
- (b) all other persons interested in the place of discharge or injuriously affected by the discharge or lack of discharge,

for loss or damage sustained by reason of the water being discharged or not discharged or being discharged otherwise than in accordance with the restriction or obligation.

(4) Compensation in respect of the imposition of a prohibition or limitation on the taking of water from a source shall be made by the applicant for the order, to any persons to whom the prohibition or limitation applies, for loss or damage sustained by reason of the prohibition or limitation.

(5) Compensation in respect of a power to make discharges of sewage effluent or trade effluent in pursuance of any consent shall be made by the applicant for the order, to any person who has been exercising that power, for loss or damage sustained by reason of the suspension or variation of the consent or the attachment of conditions to the consent.

Claims for compensation: general

3.—(1) A claim for compensation under this Schedule shall be made by serving upon the applicant a notice stating the grounds of the claim and the amount claimed.

(2) Any question as to the right of a claimant to recover compensation, or as to the amount of compensation recoverable, shall, in default of agreement, be referred to, and determined by, the Lands Tribunal.

Claims for compensation under paragraph 2

SCH. 9

4.—(1) A claim for compensation under paragraph 2 above may be made at any time not later than six months after the end of the period for which the order authorises, as the case may be—

- (a) the taking or discharge of water;
- (b) the imposition of a prohibition or limitation on the taking of water;
- (c) the suspension or modification of any restriction or obligation; or
- (d) the suspension or variation of, or attachment of conditions to, any consent relating to the discharge of sewage effluent or trade effluent.

(2) Where a claim for compensation under paragraph 2 above is made during the continuance of the ordinary drought order, the Lands Tribunal may, if it thinks fit, award a sum representing the loss or damage which is likely to be sustained by the claimant in respect of each day on which, as the case may be—

- (a) water is taken or discharged;
- (b) water is not discharged or is discharged otherwise than in accordance with an obligation or restriction; or
- (c) sewage effluent or trade effluent is discharged otherwise than in accordance with a consent originally given.

(3) In assessing the compensation to be made under paragraph 2(2) above the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, on an equitable apportionment of the water available from the source between the claimant, the applicant and other persons taking water from the source, may fairly be apportioned to the claimant.

(4) In assessing the compensation to be made under paragraph 2(3) above in respect of the lack of discharge of compensation water, the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, under the conditions existing by reason of the shortage of rain, would have been available to the claimant during the period during which the deficiency of supplies of water is continued, if the applicant in relation to whom the obligation was imposed had never carried on its undertaking.

(5) In sub-paragraph (4) above "compensation water" has the same meaning as in section 77 of this Act.

SCHEDULE 10

Section 88.

DISCHARGE CONSENTS

Applications for consents

1.—(1) An application for a consent, for the purposes of section 88(1)(a) of this Act, for any discharges shall be made to the Authority.

(2) An application under this paragraph shall be accompanied or supplemented by all such information as the Authority may reasonably require; but, subject to paragraph 2(4) below and without prejudice to the effect (if any) of any other contravention of the requirements of this Schedule in relation to such an application, a failure to provide information in pursuance of this sub-paragraph, shall not invalidate an application.

(3) An application made in accordance with this paragraph which relates to proposed discharges at two or more places may be treated by the Authority as separate applications for consents for discharges at each of those places.

2882

STATUTORY INSTRUMENTS

1984 No. 999**TRIBUNALS AND INQUIRIES****The Drought Orders (Inquiries Procedure) Rules 1984**

<i>Made -</i>	<i>9th July 1984</i>
<i>Laid before Parliament</i>	<i>20th July 1984</i>
<i>Coming into Operation</i>	<i>13th August 1984</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 11 of the Tribunals and Inquiries Act 1971 (a) and after consultation with the Council on Tribunals, hereby makes the following rules:—

Citation and commencement

1.— (1) These rules may be cited as the Drought Orders (Inquiries Procedure) Rules 1984.

(2) These rules shall come into operation on 13th August 1984 but shall not apply to any application for a drought order which has been made to the Secretary of State before that date.

Application of rules

2. These rules shall apply to public local inquiries and (except rule 4(3)) to hearings before a person appointed by the Secretary of State held under the provisions of paragraph 3(1) of Schedule 1 to the Drought Act 1976 (b) for the purpose of inquiring into any application for a drought order or of hearing any person who has duly objected to such an application.

Interpretation

3. In these rules, unless the context otherwise requires —

“appointed person” means the person appointed by the Secretary of State to hold an inquiry or hearing to which these rules apply, and
“inquiry” (except in rule 4(3)) includes such a hearing;

“drought order” means an order under the Drought Act 1976;

“statutory objector”, in relation to an application for a drought order, means a person who has duly objected to the application in accordance with the provisions of paragraph 1 of Schedule 1 to the Drought Act 1976 and whose objection has not been withdrawn;

“the authority”, in relation to an application for a drought order, means the regional water authority or statutory water company by whom the application is made.

Procedure before inquiry

4.— (1) The Secretary of State shall as soon as may be notify the authority

2884

TRIBUNALS AND INQUIRIES

of those documents as are available before the date of the inquiry may be inspected by any statutory objector; and the authority shall afford to every statutory objector a reasonable opportunity to inspect and, where practicable, take copies of such documents as are so available.

(7) The authority shall afford to any other person interested a reasonable opportunity to inspect, and where practicable, to take copies of the authority's statement and the other documents referred to in paragraph (6) above.

Appearances at inquiry

5.— (1) The authority and any statutory objectors shall be entitled to appear at the inquiry, and any other person may appear at the discretion of the appointed person.

(2) The authority may appear by any officer appointed by them for that purpose or by counsel or solicitor, and any other person entitled or permitted to appear under paragraph (1) above may appear on his own behalf or be represented by counsel, solicitor or any other person.

(3) Where there are two or more persons having a similar interest in the matter under inquiry the appointed person may allow one or more persons to appear for the benefit of some or all persons so interested.

Government departments at inquiry

6.— (1) Where a government department has expressed in writing to the authority a view in support of the order and the authority have set out such a view in the statement referred to in rule 4(4), a representative of the government department concerned shall be made available at the inquiry.

(2) The said representative shall at the inquiry state the reasons for the view expressed by his department and shall give evidence and be subject to cross-examination to the same extent as other witnesses, provided that the appointed person shall disallow any questions which in his opinion are directed at the merits of government policy.

Procedure at inquiry

7.— (1) Except as otherwise provided in these rules, the procedure at the inquiry shall be such as the appointed person shall in his discretion determine.

(2) Unless in any particular case the appointed person with the consent of the authority otherwise determines, the authority shall begin and shall have the right of final reply; and the other persons entitled or permitted to appear shall be heard in such order as the appointed person shall determine.

(3) The authority and any statutory objector shall be entitled to call evidence and cross-examine persons giving evidence, but any other persons appearing at the inquiry may do so only to the extent permitted by the appointed person.

(4) The appointed person shall not require or permit the giving or production of any evidence, whether written or oral, which would be contrary to the public interest but, save as aforesaid, and without prejudice to rule 6(2), any evidence may be admitted at the discretion of the appointed person, who may direct that documents tendered in evidence may be inspected by any person entitled or permitted to appear at the inquiry and that facilities be afforded him to take or obtain copies thereof.

S.I. 1984/999

2885

(5) The authority may --

- (a) alter or add to the reasons contained in the statement served under rule 4(4), or
- (b) refer to or put forward documents which have not been included in the list furnished under rule 4(6).

but the appointed person shall give to every statutory objector an adequate opportunity of considering any altered or added reason, or added document, if necessary by adjourning the inquiry for such period as he considers reasonable.

(6) The appointed person shall be entitled (subject to disclosure thereof at the inquiry) to take into account any written representations or statements received by him before the inquiry from any person who, for whatever reason, does not attend the inquiry, insofar as those representations or statements appear to the appointed person to be proper and relevant to the matters in issue.

(7) If any statutory objector does not appear at the inquiry, the appointed person may proceed with the inquiry.

(8) The appointed person may from time to time adjourn the inquiry, and if the date, time and place of the adjourned inquiry are announced before the adjournment, no further notice shall be required.

Site inspections

8.— (1) The appointed person may make an unaccompanied inspection of any land before or during the inquiry without giving notice of his intention to any person entitled to appear at the inquiry.

(2) After the close of the inquiry the appointed person may inspect any land which appears to him to be affected by the application for a drought order, if he has reason to consider that such an inspection is necessary or expedient for the purposes of the inquiry.

(3) In all cases when the appointed person decides to make an inspection pursuant to paragraph (2) above, he shall announce during the inquiry the date and time at which he intends to do so.

(4) The authority and the statutory objectors shall be entitled to accompany the appointed person on any inspection after the close of the inquiry, but the appointed person shall not be bound to defer his inspection if any person entitled to accompany him is not present at the time appointed.

(5) The appointed person, before he decides whether or not to inspect any land after the close of the inquiry, shall take into consideration any request concerning such an inspection which is made to him by the authority or by any statutory objector before or during the inquiry, but he shall not be required to comply with such a request.

Procedure after inquiry

9.— (1) The appointed person shall after the close of the inquiry make a report in writing to the Secretary of State which shall include the appointed person's findings of fact, conclusions, and recommendations, if any, or his reason for not making any recommendations.

2886

TRIBUNALS AND INQUIRIES

Notification of decision

10.— (1) The Secretary of State shall notify his decision, and his reasons therefor, or cause notification to be sent, in writing, to the authority and to the statutory objectors and to any other person who, having appeared at the inquiry, has asked to be notified of the decision; and, where a copy of the appointed person's report is not sent with the notification of the decision, the notification shall be accompanied by a summary of the appointed person's conclusions and recommendations.

(2) If any person entitled to be notified of the Secretary of State's decision under paragraph (1) above has not received a copy of the appointed person's report, he shall be supplied with a copy thereof on written application made to the Secretary of State within one month from the date on which he is notified of the Secretary of State's decision or the date on which notice of the making of the order is first published in accordance with the provisions of Schedule 1 to the Drought Act 1976, whichever is the later.

(3) For the purposes of this rule "report" does not include documents, photographs or plans appended to the report, but any person entitled to be supplied with a copy of the report under paragraph (2) above may apply to the Secretary of State within six weeks from the date on which notice of the making of the order is first published as aforesaid, for an opportunity of inspecting those documents, photographs and plans and the Secretary of State shall afford him such an opportunity.

Service of notices by post

11. Notices or documents required or authorised to be served or sent under the provisions of any of these Rules may be sent by post.

Dated 9th July 1984.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This note is not part of the rules.)

These rules prescribe the procedure to be followed at public local inquiries and hearings held under paragraph 3(1) of Schedule 1 in connection with applications made to the Secretary of State for orders under the Drought Act 1976.

Provision is made for the notification of the date, time and place of an inquiry and for other action to be taken before an inquiry is opened (Rule 4), for the granting of entitlement or permission to persons to appear at the inquiry (Rule 5), for attendance by representatives of government departments (Rule 6), for the regulation of procedure at and after the inquiry (Rules 7 and 9) and for the making of site inspections (Rule 8).

Rule 10 prescribes the manner in which the Secretary of State is to notify

GUIDANCE NOTE ON PROCEDURES FOR MAKING APPLICATIONS FOR DROUGHT ORDERS UNDER THE WATER RESOURCES ACT 1991.

GENERAL

1. Sections 73-81 of and Schedules 8 and 9 to the Water Resources Act 1991 provide for the making of orders to meet deficiencies in water supply resulting from an exceptional shortage of rain. Drought orders can be made by the Secretary of State under Section 73 in conjunction with Sections 74 or 75 of the Act (see paras 7 and 8 below) on the application of either the National Rivers Authority (NRA) (Section 74(1) and 75(1)) or a water undertaker (Section 74(2) and 75(2)). Orders under section 74 are called "ordinary drought orders"; orders under section 75 are "emergency drought orders".

2. The Secretary of State can make ordinary drought orders only if he is satisfied that, by reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened; and emergency drought orders if he is additionally satisfied that the deficiency is likely to impair the economic or social well-being of persons in the area. Before proceeding with orders, therefore, the Department will require to be satisfied that such circumstances do exist. The Secretary of State cannot make an order under the Act where a serious deficiency of supplies exists due to other causes, eg equipment failures.

3. In considering an application, the Department will have regard to the practicability and effectiveness of the proposals, their effects on individuals, the public and the environment, the economic and social well-being of the area; and any other factors relevant to the application. Cases are dealt with on their individual merits and in the light of advice from the Department's own or contracted engineers.

PROCEDURE

4. The statutory procedure for making orders is set out in Schedule 8 to the Act. Detailed guidance on the information required from the applicant in support of an application for an order is contained in paragraphs 10-12 below. The procedure allows for the making and consideration of objections to order proposals, and the Secretary of State may hold a public inquiry or hearing whether or not there are objections to them. Where there are objections, a hearing may be held as an alternative to a public inquiry, although both may be dispensed with if the need for the order is sufficiently and demonstrably urgent. The Drought Orders (Inquiries Procedure) Rules 1984, SI 1984 No 999, which sets out the procedure to be followed at an inquiry or hearing into objections, are intended to strike a balance between the interests of those affected. (In practice a hearing is invariably held in preference to an inquiry.) This note gives guidance on the need for urgency in dealing with orders and the types of order for which applications can be made (paras 5-9); the information required from undertakers in support of order applications (paras 10-12); and on specific aspects of procedure (paras 13-26).

NEED FOR URGENCY

5. In order to enable the Department to process applications as quickly as possible, applicants should take steps to ensure that:-

- i. a contact is nominated to liaise with the Department on individual applications;
- ii. full information as set out in paras 10-12 of this note is supplied in support of each application, which must be self-contained;
- iii. proof of advertisement of the order is sent to the Department as quickly as possible;
- iv. wherever possible information is supplied by telephone and followed by written confirmation; and
- v. queries raised by the Department are dealt with urgently.

POWERS OF SECRETARY OF STATE TO DISPENSE WITH INQUIRY

6. Where it appears to the Secretary of State that an order needs to be made urgently if it is to enable the deficiency of supplies of water to be effectively met, he has powers under paragraph 2(2) of Schedule 8 to the 1991 Act to direct that the requirement to hold a hearing or inquiry is dispensed with, although he may not disregard unwithdrawn objections. Any request for such a dispensation must be submitted with a full supporting case.

TYPES OF ORDER FOR WHICH APPLICATION MAY BE MADE**Ordinary Drought Orders**

7. Section 74 deals with the general situation in which an exceptional shortage of rain results in or threatens a serious deficiency of supplies of water in any area. Section 73 empowers the Secretary of State to make orders under it authorising the NRA and water undertakers to take action as follows:

NATIONAL RIVERS AUTHORITY

- Section 74(1)(a) - to abstract from a source specified in the order.
- Section 74(1)(b) - to discharge water to a place specified in the order.
- Section 74(1)(c) - to prohibit or limit the taking of water from a source specified in the order.
- Section 74(1)(d) - to suspend or modify restrictions or obligations to which the NRA, any water or sewerage undertaker, or anyone else is subject as respects taking, discharging, supplying or filtering/treating water.
- Section 74(1)(e) - to suspend, vary or attach conditions to any

consent issued for the discharge of effluent by anyone.

WATER UNDERTAKERS.

- Section 74(2)(a) - to abstract from a source specified in the order.
- Section 74(2)(b) - to prohibit or limit the use of water for any of the "non-essential" purposes specified in the Drought Direction 1991, given to water undertakers by the Secretary of State under this subsection (copy attached).
- Section 74(2)(c) - to discharge water to a place specified in the order.
- Section 74(2)(d) - to authorise the NRA to prohibit or limit the taking of water from a source specified in the order.
- Section 74(2)(e) - to prohibit or limit the taking by the NRA of water from a source specified in the order.
- Section 74(2)(f) - to suspend or modify restrictions or obligations to which the water undertaker or any sewerage undertaker, or anyone else is subject as respects taking, discharging, supplying or filtering/treating water.
- Section 74(2)(g) - to authorise the NRA to suspend, vary or attach conditions to any consent issued for the discharge of effluent by anyone.

Emergency Drought Orders

8. Section 75 is intended to deal with a situation in which the deficiency of supplies resulting from or threatened by an exceptional shortage of rain is "likely to impair the economic or social well-being of persons in the area". Section 73 empowers the Secretary of State to use it, on application by the NRA or a water undertaker, to make orders containing any of the provisions which could be included in an ordinary drought order (see para 7 above) except section 74(2)(b) and in addition empowers him to make provision authorising a water undertaker (but not the NRA):

- a. to limit the use of water for such purposes as it thinks fit (ie not merely those specified in the Drought Direction 1991); and
- b. to set up, and supply water by means of, standpipes or water tanks.

9. The decision whether the "economic or social well-being" of any area is threatened is largely one of fact. It could include a situation where factories or businesses are threatened with closure or bankruptcy or public health is at risk.

APPLICATIONS: INFORMATION TO BE SUPPLIED - ORDINARY DROUGHT ORDERS

10. Applications are made by letter and must be supported by the

following information:-

- a. copies of the notices required under paragraph 1(1) and (2) of Schedule 8 to the 1991 Act;
- b. a technical brief describing the proposals or the works to be carried out;
- c. a statement of reasons why the order is necessary, including information on:-
 - the monthly rainfall figures for the period concerned, with the corresponding long-term average figures to show how exceptional the event has been;
 - the effect on the relevant source works, whether on water levels in boreholes and reservoirs or on river flows;
 - the population affected;
 - the daily water demand and how it is met from the available source;
 - the steps taken to reduce demand (hosepipe bans, publicity campaign, pressure reductions, waste detection and prevention etc) and their effects so far;
 - for an order under section 74(2)(b), a note of which of the purposes listed in the Drought Direction 1991 are to be specified in the order, and whether the order is to specify that the prohibition is to be restricted to a class of consumer (see section 76(1));
- d. a location map (except in the case of orders under section 74(2)(b)) of large enough scale to enable positions of the relevant sources and any affected water courses and any affected water courses to be identified, and suitable for attachment to the order if necessary;
- e. a copy of any existing abstraction licence and any statutory instrument or local Act governing the rate of abstraction, imposing restrictions (for instance on residual minimum flows) or imposing requirements relating to the discharge of compensation water;
- f. a note on the applicant's strategy for dealing with the water shortage, not only within the area covered by the order but as appropriate, throughout the NRA region or the undertaker's supply area, including information as to:
 - strategic steps and their timing;
 - publicity;
 - liaison with, as appropriate, consumers, water undertakers, local authorities (water quality, social services, highways), health authorities, police and fire authorities; representative bodies such as CBI, NFU and trades unions;
- g. for orders which will reduce residual river flows by reason of reduced compensation water or regulatory discharges, or by new or increased abstractions, an assessment of the expected effects on the quality of the river as well as on other licensed abstractions should be provided. Where it is proposed to use water from a new source, it should be confirmed that its quality (after treatment if necessary) is suitable for public supply;
- h. as appropriate, comments of the following bodies on the proposals:-
 - the NRA (as controlling authority for surface and underground resources) where the applicant is a water

undertaker;

- the water undertaker(s) affected, where the applicant is the NRA; and
- any navigation authority affected;

1. if possible, a draft of the order.

APPLICATIONS : INFORMATION TO BE SUPPLIED - EMERGENCY DROUGHT ORDERS

11. In practice, before he makes an emergency drought order, the Secretary of State asks for information to show that before applying for such an order the applicant has, as appropriate, made vigorous efforts to:-

- conserve and augment resources;
- control demand;
- make all consumers aware of the need for economy;
- make suitable use of ordinary drought orders.

Should the situation described in section 73(2) exist without the applicant having time to take any of these steps, this need not prevent the Secretary of State making an order.

12. The information to be supplied with applications for emergency orders is therefore the same as that for ordinary orders, but with the following additional items:-

a. where the applicant is a water undertaker, an analysis of average daily consumption broken down by type and consumer;

b. information supporting the contention that economic and social well-being could be impaired. This should deal with the implications of the order for all or any of the following:-

- domestic life;
- hospitals, health services etc;
- public services;
- industry;
- agriculture and food production;
- commerce;
- research establishments;
- tourism, sport and recreation;

c. for an order under section 75(2)(b) to prohibit or limit the use of water, reasons why a section 74(2)(b) order will not suffice;

d. for an order under section 75(2)(c) allowing the supply of water by means of standpipes or water tanks, details of:-

- the proposed scheme including the number of persons per standpipe or water tank;
- the manpower implications for implementing and operating the scheme; and
- the means by which non-domestic users will be supplied.

e. details of any drought order already made on the applicant's initiative that affects the area under consideration, and whether it is to be revoked or modified;

f. if possible, a draft of the order.

NOTICES

13. Paragraph 2(5) of Schedule B to the 1991 Act requires the Secretary of State to be satisfied that the proper notices have been published and served. Notices must be served on persons affected in accordance with paragraph 1(1)(a) of the Schedule and published in accordance with paragraphs 1(1)(b) and 1(1)(c). Paragraph 1(3)(a) requires that the notice shall state the general purpose of the application. Care should be taken to ensure that details of the notice are accurate and that the period given for objections is not less than is required. This will avoid the possibility of having to re-advertise the proposals. To avoid delay, regional daily papers may be used in default of local weekly ones.

14. Copies of both served and published notices must be sent to the Department as quickly as possible to enable the Department to make the order.

15. It is not necessary to send the Department the complete newspaper containing the published notice. The relevant page will suffice provided that it bears the title of the paper and the date.

UNOPPOSED ORDERS

16. A period of 7 days is allowed from the date of publication of proposals of service of notice for objections to be made. If no objections are received, the Department will, if satisfied that an order is necessary, make the order and notify the applicant by telephone when it is signed on behalf of the Secretary of State. Notice of the making of the order must be published in local papers and in the London Gazette.

OPPOSED ORDERS

17. Where objections are received to an order, the Department will copy them to the applicant, who may wish to negotiate with the objector to get the objection withdrawn. The Department will meanwhile put in hand arrangements for an inquiry or hearing and will invite the applicant to arrange a suitable venue. This need not be a council office - a suitable hall or room in a hotel or the applicant's own offices will suffice. When this has been done the Department should be informed.

18. The Department will notify all the parties of the arrangements for the inquiry or hearing.

19. If the applicant decides to withdraw its application, the Department should be advised immediately.

20. The applicant should advise the Department immediately by telephone where any objection is withdrawn and copy the relevant correspondence to the Department. Where the Department is advised for the withdrawal of an objection, they will notify the applicant and forward a copy of the objector's letter.

21. Where, as the result of withdrawal of the application or

objection to it, it becomes necessary to cancel agreements made for a hearing, the Department will notify all parties by letter.

22. As mentioned in para 6, the Secretary of State has powers to dispense with a hearing or inquiry in cases of urgent need. He may also, under paragraph 2(4)(b) of Schedule 8 to the 1991 Act, disregard an objection where it relates exclusively to compensation or, where the order is an extension of a previous one and the objection has in substance been made to that previous order.

DECISIONS ON ORDERS

23. The Secretary of State's decision will be notified to the applicant by letter.

EXTENSION OF ORDERS

24. Under section 74(3) of the 1991 Act, ordinary drought orders may remain in force for a period of up to 6 months and under sub-section (4) these can be extended for up to a further 6 months. Under section 75(3), emergency drought orders may remain in force for up to 3 months and under sub-section (4) these can be extended for up to a further 2 months.

25. Applications for extension of orders must be made and submitted with full supporting material including any fresh evidence and processed in the same way as the original order, but an inquiry need not be held if the objections are ones which had in substance been made to the original application (see para 23 above).

26. In the drought of 1984, a number of extension orders had to be made which would not have been necessary had the undertakers applied for the appropriate provisions to be made for the maximum period permitted by the Act. Applicants are therefore advised to apply for orders to remain in force for the maximum period allowed where they are uncertain whether a shorter period will suffice. If it is necessary to apply for a new order to extend the original, the application can be made and processed while the original is in force.

ENQUIRIES

27. Any queries on this note should be addressed as follows:-

- General Enquiries:

~~Room A443~~ ⁸⁴⁶³, DOE
Room A443 Romney House,
43 Marsham Street,
London SW1P 3PY
Tel: 071-276-8167 8882
C.71

fax

276.

8603

- Technical Enquiries

Mr C Wright, DOE
Room A432 Romney House
43 Marsham Street,
London SW1P 3PY
Tel: 071-276-8687

THE DROUGHT DIRECTION 1991*Change reference to
reflect WRA 1991.*

74(2)(b) WRA '91

The Secretary of State for the Environment as respects England, and the Secretary of State for Wales as respects Wales, in exercise of their powers under section 131(4)(b) of the Water Act 1989, hereby give the following direction to water undertakers generally:-

1. This direction may be cited as the Drought Direction 1991.

2. The following purposes may be specified by virtue of subsection (4)(b) of section 131 of the Water Act 1989 in any order under that section:- *74(2)(b) WRA 91*

(a) the watering, by hosepipe, sprinkler or other similar apparatus, of:-

(i) gardens (other than market gardens), including lawns, verges and other landscaped areas;

(ii) allotments;

(iii) parks; or

(iv) any natural or artificial surfaces used for sport or recreation,

whether publicly or privately owned;

(b) the filling (whether wholly or partially) of privately owned swimming pools, other than:-

(i) pools designed to be used in the course of a programme of medical treatment;

(ii) the filling of pools where necessary in the course of their construction;

(c) the filling (whether wholly or partially) of ornamental ponds other than fish ponds;

(d) the operation of mechanical vehicle washers, whether automatic or not;

(e) the washing of road vehicles, boats, railway rolling stock or aircraft for any reason other than safety or hygiene;

(f) the cleaning of the exterior of buildings, other than windows;

(g) the cleaning of windows by hosepipe, sprinkler or other similar apparatus;

(h) the cleaning of industrial premises or plant for any reason other than safety or hygiene;

DOE WRM

Fax:01712768603

10 Aug '95

10:51

P. 10/10

- (i) the operation of ornamental fountains or cascades, including those where water is recycled;
- (j) the operation, in relation to any building or other premises, of any cistern which flushes automatically, during any period when those premises are wholly or substantially unoccupied.

3. The Drought Direction 1989 is hereby revoked.

Dinah Nichols

Signed by authority of
the Secretary of State
18 April 1991

An Under Secretary in the
Department of the Environment

[Signature]

Signed by authority of
the Secretary of State
18 April 1991

An Under Secretary in the
Welsh Office