Dear Tim,


Thank you for your letter of 25 April 2019. Whilst the EU produces a single UK report, water policy is a devolved matter. I have focused on the work of the Environment Agency on river basin management plans in England.

Conclusions in the report

The original draft EU Commission report released in late 2018 contained conclusions based on several factual inaccuracies, including failure to take account of data that was uploaded to the EU’s WISE database. Defra officials wrote to the EU Commission explaining this, as did other EU Member States who identified similar inaccuracies in their country reports. The EU Commission made several corrections to the final draft in this respect. In some cases, however, they acknowledged our comments in footnotes without making changes to their original conclusions.

For example, in Section 2.1.6, P.35 the conclusion in relation to setting ‘reference conditions’ for ecological potential is unjustified. We are using an alternative method for determining ecological potential by selection of mitigation measures rather than biological elements. The Environment Agency (EA) has developed this approach which is consistent with the EU’s Common Implementation Strategy (CIS) Guidance. The EU Commission recognise this in footnotes without making a change to the conclusion.

Monitoring

The EA adopts a strategic and risk based approach to monitoring. This approach is compliant with the requirements of WFD and is acknowledged in the final EU report. To focus only on the number of monitoring sites does not give the full picture. The effectiveness of monitoring is a combination of the location of sites, elements monitored based on risk assessment, and the frequency of element monitoring.

For example, the report states that 73% of groundwater bodies are not monitored. This refers only to monitoring for quantitative status, not chemical status, and it does not account for the risk based approach to monitoring. By modelling groundwater bodies under the same pressures, the EA has developed a conceptual understanding of each groundwater body to identify the most appropriate locations to monitor to assess if environmental objectives have been met.

The EA through its WFD UK Technical Advisory Group is continually developing the effectiveness of its strategic monitoring network as scientific knowledge and techniques develop.

Exemptions

The use of exemptions by the EA is justified under the provisions of WFD. Part 2 of the river basin management plans in England include the detailed criteria and justification for the use of exemptions under WFD Articles 4.4 and 4.5.
The EA set only a small number of less stringent objectives (WFD Article 4.5) for water bodies based on technical infeasibility in the 1st River Basin Management Plans. Most of the alternative objectives set were extended deadlines (under WFD Article 4.4), based on a lack of evidence on the reasons why elements were at less than good status. This was in line with the approaches permitted by the WFD.

For the 2nd cycle 2015 plans, the EA had a much improved evidence base and a greater level of confidence about the status of water bodies. It also carried out 300 catchment economic appraisals, to ensure the wider benefits and the value of the water environment were taken into account in deciding what objectives to set. This new evidence allowed the EA to set a greater proportion of Article 4.5 exemptions, in the 2nd cycle plans, using the criteria of technical infeasibility or disproportionate cost as allowed in the provisions of WFD. This explains the increase in Article 4.5 exemptions in the 2nd cycle.

It has become clear over the course of implementation of the WFD that it will be very challenging for most Member States to achieve good status for all water bodies. This is due to the sheer pressure from human populations, industry and agriculture. When the WFD was introduced, it was accepted that some water bodies used for industrial or social purposes would never reach good status and mechanisms were built into the WFD to take a proportionate and flexible approach. The UK has applied the flexibilities as WFD was designed to be used.

Even with these mechanisms, we know that most EU Member States, including the UK, will realistically find it a challenge to meet the ambition of the WFD by 2027.

Nevertheless, we continue to work towards a cleaner and heathier water environment with initiatives such as our new farming rules for water launched in April 2018 and an extra £5 billion of investment by water companies to benefit the natural environment.

**Water Sustainability**

The EA has questioned the high Water Exploitation Index value mentioned in the report which is not supported by their own data for those River Basin Districts. Water sustainability in England is being addressed. The Government’s abstraction plan includes reform of the abstraction licensing regime and development of local, catchment-based solutions to abstraction management to move to around 90% of surface water bodies and 77% of groundwater bodies meeting the required standards by 2021. In addition, the Government has recently consulted on a draft national policy statement for water resources, addressing the national infrastructure needed to provide a plentiful supply of water for future generations and to support and protect the environment.

I am copying this letter to Sir William Cash MP, Chairman of the European Scrutiny Committee. I am also copying this letter to the Clerks of the Commons and Lords Committees, Lynn Gardner and Chris Johnson respectively; Les Saunders, Department for Exiting the European Union; and Amy Seakins, Defra Scrutiny Co-ordinator.

Yours sincerely,

[Signature]

**DR THERESE COFFEY MP**