

# A.W.ALSTON

Farmer

[REDACTED]

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15<sup>th</sup> December 2014

Dear Sir

**Ref: AW Alston abstraction licence renewals**

Thank you for the opportunity to respond to the draft determination report.

**The process**

I would like to point out that this process started on 7<sup>th</sup> April 2011 when [REDACTED] of Natural England wrote to [REDACTED] stating that they had received a copy of Ecological and Eco-hydrological evidence from Tim Harris about Catfield Fen. The claim was that there was evidence of long term drying of the site and it appeared to be accelerating. It was possible that local abstraction may be contributing to this drying and that Natural England considered that it was not possible to conclude that water abstraction did not have a significant effect either alone or in combination with other facts as would be required under the Habitat Regulations test when considering any new application for water abstraction.

Based on the information available to Natural England, they considered that the Appropriate Assessment would not be able to conclude that there would be no adverse effect on the integrity of the Broads SAC. In addition, Natural England were aware of other factors contributing to the current unfavourable condition of Catfield Fen and they were in discussion with landowners and managers to resolve these land management issues.

In the whole process there has never been any evidence to show any link with my abstractions and water levels or Ecology in any part of the SSSI. In order to show

100% that my abstractions are not causing an effect to the integrity of the European Site, it has become necessary to show what is causing the problem. The problem is a change from traditional site management to conservation management. This extra determination would not normally be required for abstraction licensing but is required in this case to determine the cause of the problems of site integrity.

██████████ Natural England later visited the site and could find no evidence to substantiate the drying criticism and up graded Unit 11 to being in good condition.

Later on the Stockade Theory appeared which did not show that water was actually getting past the clay layer under Catfield Fen.

In 2014 the Parmenter report suggested that there was a link between ph, Sphagnum moss and Fen Orchids. On the basis of this report Unit 3 was downgraded from Good Condition to Unfavourable Recovering to Unfavourable Declining. Evidence from Applied Ecology Ltd (AEL Catfield Fen Comment on LP June 2014) shows that this decision by Natural England was not correct and Unit 3 should be classified as being in Good Condition. The link is not between ph, Sphagnum expansion and decline in Fen Orchids but between ph and the ability of a marsh to flush out low ph water caused by terrestrialisation.

Also in 2014 Parmenter and Riches suggested that site management had not changed and no reed cutting had occurred on what is now Unit 11 since the 1920's. Evidence from ██████████ BRASCA shows this to be untrue.

On Snipe Marsh, the only evidence seems to be that there is very little evidence in the draft determination report but this has been corrected in the evidence supplied.

There has been a persistent theme running for a number of years that appears to have no evidence to back up the claims. As one claim is dismissed another arises to take its place to the point where Parmenter now claims Catfield Fen must be rainwater fed. Earlier evidence from that quarter said that Catfield Fen was groundwater fed. I suspect the motivation for this course of action is not founded by a desire to save Catfield Fen but by the owner's desire to stop abstraction for whatever reason.

There are also some serious problems that have come to light in the course of the response regarding conservation management around Barton Broad that appear to be detrimental to the long term conservation aims. Namely, that the whole of the East side of Barton Broad (with the exception of Sharp Street marsh SSSI) is now shut off by sluices from the floodplain. No fresh water can enter these sites and there has been a change in the birds and animals that live there. But these birds and animals are not taken into account when NE assess the condition of SSSI's.

## **Determination report**

### **1 Summary of Proposals**

It says that there is the "potential to impact" Ant Broads & Marshes SSSI but there is no evidence that there is an impact.

### 3. Case History

Please note that the landowner who produced the Compendium of Ecological Evidence did not permit access to Environment Agency to collect evidence to check the evidence supplied. [REDACTED] was also restricted as was [REDACTED]. One has to ask what is someone trying to hide on Unit 11?

[REDACTED] Natural England has assessed Unit 11 as being in good condition, so one has to ask why did this Appropriate Assessment process carry on after his assessment?

The final Amec report of 2012 concluded that Anglian Water's abstraction could be relatively widespread. In 2004 Andrew Alston wrote to the Environment Agency (see AW Alston EA letter Feb 2004) reporting a "blip" in a piezometer during a pump test of Anglian Water but it appears no action was taken to restrict the abstraction of Anglian Water. Site management of Catfield Fen was also flagged up as one of the possible causes of Catfield Fen drying out. The change being terrestrialisation which is a natural process unless kept in check by correct management. See section 10.4.1 EA Ecohydrological Guidelines for Lowland Wetland Plant Communities. The correct management is not in place in Units 3 & 11 and many other sites around Ant Broads and Marshes SSSI. One also has to ask under section 10.1.1 whether Snipe marsh is a true S24 community given that common reed is hardly present except on the section of newly cut Carr.

The Amec 2012 report states that the risk from abstraction on the integrity of Catfield Fen was low. This is backed up by the Environment Agency in 2014. Changes in Sphagnum have occurred but this is a site management issue caused by the area being in conservation management as discussed in Catfield Fen minded to Nov 2014 which is attached.

The Appropriate Assessment concluded no adverse effect from the proposed abstraction on the Ant Broads and Marshes SSSI. This was the question posed in 2011 by Natural England.

Snipe Marsh was then flagged up by the Broads Authority in the summer of 2014. The problem being no agreed thresholds against which to assess impacts. Snipe Marsh seems to have come as a surprise, but the Environment Agency were aware of it and the fact it had S24 species in 2007 (Entec 2007). So one has to ask was the assessment carried out for Review of Consents with the Anglian Water abstraction in mind? If it had been, this problem could have been resolved during Review of Consents.

There are comments on drain maintenance being carried out by RSPB, Broads Authority, Butterfly Conservation and Norfolk Wildlife Trust in Catfield Fen. What is not mentioned is the extreme difficulties these organisations have in getting permission from Natural England to carry out these basic functions. There is also no mention of the blocked drains on Catfield Hall's land leading from Church wood to Catfield Fen. This is one of two sources of surface water into the Fen as the sluice is permanently closed.

The Environment Agency has treated these applications as one of "high public interest". In September 2012, of the 84 responses 82 were from a Mark Avery website

where people printed, signed and sent a letter. There was one from Mr Harris and one from his land agent Mr P Riches. Hardly of high public interest!

9.2 Not enough attention has been given to the BA/BESL sluice operation. This is a barrier to water movement, it causes stagnation of water, it reduces the ability of water to flush the marsh surface which leads to acidity build up. However with the level of terrestrialisation present on Catfield Fen, flushing is getting very difficult to achieve.

**Units L & K (Snipe marsh) have been assessed as Groundwater fed Calcareous Fens but I believe that they are Surface water fed Calcareous Fens, being fed from drains and ponds at Grove farm.** If there were groundwater input to Snipe marsh then water levels would be 80cm higher.

9.3 Fen Orchid is not threatened by an increase in Sphagnum it is threatened by a change in site management to having more tall plants for more of the time. Fen Orchid is a small plant and struggles to compete.

Risk to Snipe marsh from water abstraction is minimal as the whole area is sluiced and levels are controlled. ph sampling on Snipe marsh has shown that the perimeter ditches are all 6.8ph as is the drain water entering Snipe Marsh. But the deep internal ditches which don't flow are ph 6. This shows that this water is unlikely to be groundwater but more likely to be oozing out of the peat following rainfall. There is no evidence to suggest Snipe marsh is groundwater fed.

It is satisfying to know that alone my abstractions are not having any effect on Snipe marsh alone and I believe it is highly unlikely that they are having an in-combination effect as the whole area is sluiced and water continually flows into Snipe marsh. (see letters from [REDACTED]).

#### 9.4 Impact on morphology

There appears to be no assessment on the impact of closing the BA/BESL sluice on Snipe Marsh or the rest of the SSSI at How Hill. Closing all the sluices on the East side of Barton Broad plus the terrestrialisation issues on all the marshes in the SSSI are affecting the morphology of the river. This should have been assessed by English Nature or latterly by Natural England at planning permission but it was not as the assessment was only concerned about the new soke dyke. [REDACTED] doubts whether there would be any flooding to properties around Snipe marsh if water was allowed in.

#### 9.6 Impact on water quality

By closing off the river from the floodplain, the BA, RSPB & Tim Harris have prevented the flood waters from entering the floodplain. The reedbeds require nutrients from the floodwater to grow. Traditionally these reeds and sedges were cut and removed hence removing the nutrients. Now the nutrients in the river have nowhere to go. There may be more than half the area of the Ant Broads and Marshes cut off from the river plus the depth of water is reduced by terrestrialisation. The net result is the ability of the floodplain to store a volume of water is dramatically reduced. The Broads Authority and BESL then have to deal with more sediment. Reeds are very good at cleaning up water but in the Ant valley the Environmentalists view is to restrict this function. It is difficult to see their thought process. [REDACTED]

██████ who used to cut reed and sedge on Units 3 and 11 felt nutrients were good for reed growth.

9.7 page 39. The Determination Report is based on “new information received from NE and the BA and EA have assessed the potential for adverse effect on site integrity...” However the Appropriate Assessment says that the Crome’s broad is fed by precipitation, land drainage and through the sluice from the river. That was in 2006 but this major source of water through the sluice has now been stopped by the Broads Authority. It seems very odd that the Broads Authority failed to give this information amongst their “new evidence”. It is another case of certain interested bodies with a certain viewpoint providing evidence to fit the criteria required to achieve the end result they want, rather than giving a balanced view on matters.

#### Snipe Marsh area of the Ant Broads and marshes SSSI

It says that the vegetation on Snipe Marsh should be considered to include S24 *Phragmites australis* and *Peucedanum palustre* (tall Herb Fen). One has to look very hard to find these plants. However the Environment Agency’s Eco-hydrological Guidelines for Lowland Wetland Plant Communities states in 10.1.1 Tall herbaceous fen community with monocotyledons, notably *Phragmites australis* and *Cladium mariscus* providing the major structural component. This is simply not the case on Snipe Marsh where in the eastern section grass is dominant and in the western section pin rush is dominant. There is hardly any reed anywhere except on the small section of newly cut Carr on the southern boundary.

I note the comment by NE about S24 being one of the most sensitive features of the Broads SAC. I have to say that many of the S24 species are very common around Catfield and Hemp Agrimony (*Eupatorium cannabinum*) is so common it’s treated as a weed where it is not protected. Also Milk Parsley likes drier conditions as it performs much better in dry summers leading to an abundance of Swallowtail butterflies, as we have seen on Catfield Fen. These species are relatively new to Snipe Marsh as historic management of cutting hay would mean that summer water levels would have been lower than they are today. It’s possible that the installation of the BA/BESL sluice could be why these species are on the increase as water levels do not vary much now over the year. Additionally variable seasonal historic water levels favored hay making whereas current static water level management favors S24.

#### Page 46. Update conclusion under Conservation of Habitat and Species Regulations 2010

It appears that very little “ground truthing” has taken place to confirm that the groundwater model is functioning on the surface as the model predicts. Letters from ████████ dispute the findings and as these are “ground truthings” there must be a parameter entered into the ground model that must be incorrect. I suspect it’s the water level and the fact that the model is running as a groundwater fed Calcareous Fen and should be a surface water fed calcareous Fen.

Page 47. I note the RSPB believe that Sutton Fen can be used as an exemplar for land owners (RSPB 2013). That is not the view of local landowners, that must be the view of RSPB alone. The management of Sutton Fen has changed since RSPB purchased

the land in 2004 the most obvious change being the lack of small birds, which is a surprising observation given that RSPB own the site. Considerable damage has been done to the site including a major fire in the summer of 2009 started by Richard Mason and Andrew Alston's farm staff helped the fire crews access the site to put out the fire and cutting down of 220m of Mr Andrew Alston's 30 foot high hedges in 2010 by mistake! This is another site closed off from the floodplain and will suffer like Catfield Fen in time. Land drainage pumps which were renewed at great expense under CSS by the previous owner have been switched off, disconnected and possibly removed which now leaves a vast area flooded for too much of the year.

#### 9.12 Representations

84 people responded between 15.8.12-12.9.12. 82 of which downloaded a letter from Mark Avery's website. Only Mr Harris and his agent really responded so I do not believe that these applications are of high public interest. They have become so due to publicity by Tim Harris in newspapers and Private Eye, RSPB publicity machine and Mark Avery.

#### 15 EA Duties

I do not believe that enough consideration has been made of the financial impacts to the businesses affected by this decision. This should be weighed against the environmental benefits. The benefits being the S24 species in Snipe marsh which seem to be under no threat as they appear to be in greater numbers than historically (based on historic land changes and sluice management) but still in very low numbers totally today and hardly enough to be even classified as S24 under EA Ecohydrological Guidelines for Lowland Wetland Plant Communities. After all on 17<sup>th</sup> September less than 10 Milk Parsley plants were found on the whole of Snipe marsh.

16 The decision to refuse the application to renewal the abstraction licences is based specifically in relation to the predicted in-combination water level change at Snipe marsh. However on Friday 12<sup>th</sup> December the EA have sent through water level data (ground thruthing) of Crome's Broad which is at the same water level as Snipe marsh. Why has this data not been included in the assessment? We are told it may be erroneous in recent years but there is historic data there which does not appear to have been entered into the groundwater model. Also data from @one alliance from Anglian Water shows no effect on this gauge board [REDACTED] (ABM 26A) during the Anglian Water signal test (see Scan 1078 Crome's Broad Water levels during Signal test). But we are told lack of data is the reason for a precautionary approach.

There is not a lack of data and the groundwater model should be run again using the best available information which should lead to a more positive conclusion. During the signal test, the abstraction rate doubled to 4000cm/day but there was no effect on the water levels in Crome's Broad which only seem to change in response to rainfall.

Page 56 item 2. Given that the EA will have all the up to date information from this consultation it is highly unlikely that the applicant will find any new information with which to base any appeal in the Spring. Therefore, it is highly unlikely that the applicant will appeal given the risk of costs to his business. That money would be

better spent looking for an alternative supply of water and building a reservoir to get over short term periods of no rainfall.

I cannot see why if the licence were to be granted that the applicant would have legal costs during a judicial review. Presumably the person seeking the judicial review would be seeking it against the EA not the applicant.

Page 61 [REDACTED] wrote an independent report in May 2013 but the contents of which seem to have been ignored in favour of paid reports by others which now seem erroneous.

RSPB's statistical analysis of the water levels inside and outside the Rond only showed it was drier in the summer than winter. This is no surprise given that plants photosynthesise more in the summer and take up more water. There was no connection to abstraction.

BA have consistently failed to mention a change in BA/BESL sluice management since the sluice went operational in 2009.

Page 62 Mr Harris seems to be putting pressure on EA by having Nabarro solicitors write letters. This seems to have hurried the assessment of Snipe Marsh and left questions unanswered considering how thorough the work was before this stage. One would have thought that the important thing is for a full understanding of hydrology of the area rather than precautionary action which will not lead to a better understanding of how to manage the sites.

The BA response seems to have been influenced by people outside the BA. Seeing as this was a statutory response to BA & NE I wonder how independent it really was and how much pressure was exerted on the BA staff to proceed in a given direction rather than omit that the sluice management had changed.

Page 64 The 2014 Parmenter report needs to be checked by NE. Applied Ecology Ltd have checked this report and there are a number of possible errors which have led NE to downgrade Unit 3. One wonders how many other erroneous reports are included within the ecology reports? Perhaps the BA should revisit their evidence of July 2014 following the Parmenter report?

Page 65 Parmenter/Riches report that reed had not been cut on unit 11 since 1920's. See notes from [REDACTED] and BRASCA response. How can they possibly know what happened prior to when Tim Harris bought the farm in 1993? They clearly have not talked to previous employees. Even I remember reed being cut on Unit 11 and sedge from Unit 3.

I hope these comments are useful to your determination. There are clearly many little errors that add up to the wrong "minded to" decision.

Yours sincerely



[REDACTED]