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ELF / Imperial Water Event, 22nd March 2022.

Marinet Briefing : The Environment Act 2021 – holding sewage undertakers to account.

The purpose of this Briefing is to inform you in advance of the provisions of the Environment Act relating to the water companies (sewerage undertakers), and the shortcoming of these provisions, so that Marinet's 15 minute slot can be devoted to Questions and Answers. This Briefing covers the Act's relevant Clauses.

79. Each sewerage undertaker must prepare, publish and maintain a drainage and sewerage management plan – this plan must cover capacity, future demands, resilience, sequence of implementation, relevant environmental risks and how they are to be mitigated, and anything additional identified by the Secretary of State. These plans must be reviewed and resubmitted at least every 5 years.

Shortcomings: The plan does ***not*** plan for the separation of drainage away from the foul sewer – the principal cause of storm overflows, and Clause 79 has no definition of *relevant* environmental risks.

80. The Secretary of State (SoS) must prepare a plan for reducing discharges of sewerage from storm overflows – the SoS's plan must feature reduction of adverse impact on environmental and public health, and consider the frequency, duration and volume of storm overflows. It must be presented to Parliament before *1st Sept. 2022*, be subject a 'progress report' after 3 years, and thereafter every 5 years.

The *water companies* must also publish an *annual* storm overflows report – using similar parameters to the SoS's report, and the *Environment Agency* likewise.

Shortcomings: The water companies already publish such annual reports, but there is no requirement in the Act for these reports to present *interim* performance data, e.g. monthly, so that information becomes *current;* and the Act says the presentation of the EA report is at the EA's *discretion*.

81. Reporting on discharges from storm overflows – water companies must publicly report on such discharges within 1 hour of their commencement and within 1 hour of their ending, and indicate the location. Their reporting must be readily accessible to the public and easily understandable.

Shortcomings: Additional '*secondary legislation*' is needed before this is law, and ***no date*** for this exists.

82. Monitoring quality of water affected by discharges – water companies must continuously monitor water quality upstream and downstream of a discharge, both from overflows and treatment works.

Shortcomings: There is *no provision* in the clause for a public declaration of the results of this monitoring, and the whole clause requires 'secondary legislation' before it becomes law, and ***no date*** for this exists.

83. Reduction of adverse impacts of storm overflows – water companies must secure a progressive reduction in the adverse impacts on the environment and public health of discharges from storm overflows

Shortcomings: There is ***no*** yardstick in the clause to define progressive reduction or its enforcement.

84. Report on the elimination of discharges from storm overflows – the Secretary of State must report on the actions needed to eliminate storm overflows, the costs and their benefits, before 1st September 2022.

See *overleaf* for a fuller statement of the **shortcomings** of these clauses of the Environment Act 2021.

<u>Statement on the shortcomings and background to clauses 79 to 84 of the Environment Act 2021</u>.

Shortcomings: Will this Act clean up our rivers and seas, or will it fail? We believe it will in very large part fail. Our reasons for this belief are:

• The Act has ***not*** addressed the *fundamental cause* of storm overflows. In England – less so in Wales and Scotland - *surface water* drainage of rainfall does ***not*** have its own network of pipes connected to the nearest brook or river. Rather surface water is connected to the nearest foul sewer. The result is the foul sewer is easily overloaded and overflows when it rains. The new drainage and sewerage management plans (clause 79) are ***not*** required to address this issue. This is a *deliberate* decision by Government.

• Many *sewage treatment works* have ***not*** had their capacity enlarged in recent times to deal with new developments and expanding population, so they themselves become easily overloaded when it rains, and even when it does not rain. The Act does ***not*** require the water companies to address this shortcoming.

• ***Why*** have water companies *not* been investing in their sewerage and drainage systems? This is because of their business model (privatised industry). On the one hand H.M. Treasury has ensured that they are 'blue chip' companies and so they have become a generous source of income to the nation's pension funds and, on the other hand, most are now in 'private equity' ownership and so paying out generous dividends to these 'owners'. Result, there is *minimal* re-investment of surplus revenue (profit) within the industry itself and corners are cut (poor operating standards) to ensure that dividends continue to pay handsomely. The Act and the Government *has refused* to address this issue. As long as this is so, nothing will change.

• As you will see below, Marinet (*without* wider NGO support – an issue also covered further on) sought to get these issues addressed during the parliamentary stages of the Bill. However the Government continuously *frustrated* these efforts and *denied* support. When we did secure support in the House of Lords, notably via the Duke of Wellington and associated colleagues, the Government said solving the storm overflows problem via separating surface water drainage from the foul sewer would cost ***£500 billion*** (more than the money borrowed under the pandemic!) and Peers took fright. When challenged on this, the Government produced its Storm Overflows report (see clause **84**) ***after*** the opportunity to modify the Bill had passed and the report said: "*A policy focused on achieving 10 spills per year on average* [currently the average is 40] *in rivers where storm overflows are observed to be the reason for not achieving good ecological status would cost between* ***£13bn and £59bn.*** *The impact on annual household bills could be between £22 and £108 respectively."* (House of Commons Environmental Audit Committee report on *Water Quality in Rivers* page. 49, ref. 245: Storm Overflow Taskforce Evidence Project, report Nov. 2021, page ii).

• Hence it is Marinet's clear conclusion that the Government (and DEFRA) have ***never*** been interested in seriously solving the sewage overflow issue. They've produced an Act that *appears* to address the problem in name only but, in practical terms, does ***not,*** and have misled Parliament when it has attempted to make a serious effort to require the Government (and DEFRA) to do so. In short, the Act will change ***very little.*** Meanwhile the environmental and public health problems will grow, the eventual costs of the solutions will mount to even higher levels, and a ***dysfunctional*** *water industry* will continue to be *unreformed*.

See the *<u>following page</u>* for the Background Facts to the passage of the Environment Act 2021.

Background Facts to the passage of the Environment Act 2021.

• ***No*** other NGO supported Marinet in its endeavours at the Committee Stage in the House of Commons, despite being requested by Marinet to do so. This is because most NGOs are now *charities* and charity law forbids this kind of political engagement. It is also to be noted that MPs at this stage in *all* political parties were unresponsive to the case put to them by Marinet, and did not seriously challenge the Government.

• It was not until the Environment Bill entered the ***House of Lords*** in mid-summer 2021 that serious opposition to the weak nature of the House of Commons version developed. The background to this is:

◦ After discussions with ELF, Marinet ***canvased a wide range of Peers*** in the House of Lords to see if they would be receptive to amending the Environment Act. The ELF discussions had greatly assisted us in a reasoned critique of our focus, and an improvement in the drafting and wording of possible amendments.

◦ Our canvassing identified the ***Duke of Wellington*** as a committed campaigner wanting to secure such changes. Together we developed cross-party support in the Lords for a series of possible amendments during Committee Stage. This *persuaded* the Government to consider *serious* changes to the legislation.

◦ Also, although ***Philip Dunne MP's*** Private Members Bill (*Sewage [Inland Waters] Bill*) did not succeed in the House of Commons it did expand Parliament's awareness considerably, including the Government's.

◦ Also, the Environment Agency published data in 2021 which was given strong publicity by The Guardian newspaper, revealing that water companies in 2020 had made over ***400,000*** storm overflow discharges.

◦ Also, ad hoc environmental groups developed around the country outraged by poor water quality in their rivers ('wild' swimming in rivers is increasingly popular) and their 'noise' impacted on the public's consciousness. Notable amongst these was *SOS Whitstable*, in Kent, where Southern Water is constantly discharging raw sewage into their sea bathing waters. This water company was fined a record £90 million in 2021 for flagrant breaches of the law relating to discharges between 2010 and 2015. SOS Whitstable ran a national Petition in support of the Duke of Wellington's amendments, securing over ***100,000*** signatures.

◦ The House of Commons Environmental Audit Committee (EAC) worked throughout 2021 to produce a well researched report, *Water Quality in Rivers*, with a strong set of recommendations for action. Reading of this report is recommended, and Marinet has produced a concise summary of it - available on request.

◦ However as with the Environment Act, this EAC report is flawed. This is because it was published ***after*** both the 2020 Agriculture Act (see below) and the Environment Act had completed their parliamentary passage. This meant their evidence on water quality in our rivers was ***not*** *available to MPs or Peers* when they were scrutinising and evaluating the legislation. This is a *poor* way in which to inform Parliament.

Finally, **Agriculture** – it cannot be overstated how important the impact of agriculture is on water quality. The Env. Agency establishes Reasons for Not Achieving Good Status/RNAG in rivers. This shows water companies cause *35%* of RNAGs whereas *agriculture* causes ***51%***. Primary reasons are pesticide and fertiliser pollution, but especially sewage pollution from *intensive* livestock units (pigs, poultry and cattle) i.e. *factory farming*. These animal wastes, often highly pathological, end up in the rivers. It is essential that ***all*** such animal waste receives ***anaerobic digestion*** *to a* ***pasteurisation*** *temperature (above 65°C).* Almost none are so treated presently. The 2020 Agriculture Act, the 2021 Environment Act and the Commons EAC Inquiry/Report ignored this essential cause and remedy**.** *So,* ***poor*** *river water quality* ***will continue.***