

# Get to grips with water abstraction

In his latest column, **Hugh Townsend** tells farmers everything they need to know about water abstraction licence trading



**T**HERE are a variety of reasons why businesses and individuals might need access to water outside of the mains system. Vegetable growers need to irrigate their crops; factories use water for a variety of industrial purposes from cleaning to use as a solvent; utility providers such as power stations require water for cooling; livestock farmers have troughs to fill.

All of these are regular water uses which, at mains rates, represent a significant cost, which varies

by water provider and volume of usage. These types of water use where the water is not for human consumption do not require the extensive costly treatment in the mains water system. South West Water charges business users from £0.8438 to £1.8259 per cubic metre, which when using thousands of cubic metres daily could represent a significant cost.

Therefore many businesses benefit from drawing water directly from land they can access. In legis-



➤ With dairy cows in milk drinking 68-155 litres of water a day, farmers need access to plenty of water  
Philip Gibson

lative terms, this is known as "abstraction". Likewise, when the water has been abstracted, often it then needs to be stored, in a pond or reservoir. This is known as "impoundment".

The Environment Agency (EA) is responsible for protecting our national water supply, both for ecological reasons and to prevent shortages. One mechanism for this is that anyone abstracting or impounding water needs a licence. This states exactly how much water they can abstract or impound, along with when and how abstraction can take place. There is often also an additional restriction on abstraction when water flow in the catchment area drops below a certain level, known as a Hands Off Flow (HOF) condition.

While the EA can and does issue new licences, this carries an associated cost, and new licences are also by nature more restrictive than some older ones due to time limits and HOF restrictions. Additionally, some areas are considered by the EA to have "restricted water available" or "water not available", in which case the EA will not issue new "consump-

tive" licences, which are licences in which water is not returned to the environment after it has been used.

This means that it can be beneficial for licences to be traded between water users. That is to say, abstractors who no longer need part or all of their licence may then sell their water rights to other users. By trading licences, those in need of a licence can access one even where new licences cannot be issued and the valuable less restrictive older licences can sometimes be transferred between abstractors.

#### How does water trading work?

There are two different ways an abstraction licence can be transferred. If the buyer wishes to abstract water from the same location (the abstraction point) as the seller, the process is relatively simple: a single form must be filled out by both parties, which will then be processed by the EA. There is no associated fee. However, the transfer will not be granted unless the transferee has an appropriate right of access to the abstraction point.

If the water is to be abstracted by the buyer at a different location, the

process is somewhat more complicated. To begin with, the new location must be both in the same water catchment and hydrologically linked to the old one (that is, associated with the same watercourse). The seller must then submit a form to surrender their licence and the buyer must apply for a new licence for the water which is then available. This means that, in theory, rather than a single licence being transferred, an old one has been abolished and a new one created. This comes with some caveats:

■ The first of these is the charge associated with a new licence application. For 2019 this is usually £135, although a higher charge of £1,500 applies for applications for impoundment licences or for licences to abstract water for use in generating electricity. The EA is also obligated to advertise when and where new abstraction licences are being made, which carries a separate £100 administration fee to the applicant plus the cost of running the advert.

■ Additionally, as the process involves the creation of an entirely new licence, it will not work as a

means to transfer unrestricted licences between users. Instead, the new licence may be subject to HOF or other restrictions. Also, as the buyer is applying for a new licence, they must undergo the full application process, which involves the completion of multiple forms involving, for example the proposed use and measurement of the water, the duration of the licence, a groundwater investigation, environmental statements and appraisals and management system details with also evidence of an adequate water supply and access to it. There is a four-month processing time for applications and proposed sites may be subject to inspection. Professional advice is likely to be required.

#### Water trading and industry

In practice, therefore, abstraction licence trading can be a complex process. A deal must be brokered between a buyer and seller both operating in the same catchment. There are more than 100 different catchment areas in England each effectively with their own market. The buyer must then be granted their licence by the EA before abstraction

can actually begin. Simplification of trading is among the EA's objectives for their ongoing abstraction licence reform, but it is not clear precisely what form a new system would take.

Nonetheless, given the EA's increasing ecological focus on top of water resource control, combined with increasing pressures on the UK water supply resulting from a rising population and changing climate, it seems likely that trading will become increasingly important. If pressure on our water supply increases, this means it may become harder for new users to gain new licences, and licences they are granted may become more restrictive. This would increase both the value and demand for existing licences in general. If the buyer could abstract from the same location, less restrictive older licences could become more valuable still. Combined with the government's ongoing campaign of reducing, or removing, licences whose full capacity is not utilised, this will stimulate activity in the market for trading, as anyone with a licence whose full capacity they no longer need risks losing a potentially

valuable asset. Therefore industry as a whole, including the farming sector, will stand to benefit from abstraction licence trading even despite the complexity of the process. The first step is for anyone who needs a licence, or anyone who no longer needs one, to make themselves known. For water rights to flow freely, buyers and sellers must be connected to one another within their respective catchments, and this can only happen when it is clear who wishes to trade.

If you need to abstract or impound water for your business, or have a licence to do so which you no longer use, especially if you live in an area of limited water availability, licence trading may be something you should be looking into, and taking specialist advice sooner rather than later. Townsend Chartered Surveyors are an established UK wide agency who buy and sell water licences.

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