

European

EPG 11/96

Landowners

Organisation

European Community Water Policy

INTRODUCTION

1. This paper is the response of the European Landowners' Organisation (ELO) to the Communication on European Community Water Policy issued in February 1996 (COM(96)59 final). The ELO represents the interests of many millions of rural landowners throughout the Union. The landowners represented by the ELO are involved in a diverse range of business activities in rural areas: agriculture, forestry, fisheries, tourism, recreation, and other rural industries. They lie at the heart of the rural economy, rural society and - not least - the rural environment. Water resources and water quality are important concerns for them and are, in turn, strongly influenced by their land management activities.
2. The ELO accordingly has a considerable interest in the Communication. The ELO is grateful to the EU Commission for providing it with a place at the Conference on Community Water Policy held in Brussels on 28-29 May. This provided the ELO with a broad perspective on the issues of water policy in the Union and has improved its ability to contribute to the Commission's work in this area. The ELO hopes to strengthen its links with the Commission and other EU institutions, and through its national representatives, with the Governments of Member States on all policy issues related to water quality and water resources.
3. This response focuses on the main principles which the ELO considers should be adopted in drafting the proposed Framework Directive on Water Quality and Water Resources which is foreshadowed in the Communication. The response deals with sections 3-7 of the Communication in turn.

SUMMARY VIEW

4. The summary view of the ELO on the Communication and the possible Framework Directive on Water Quality and Water Resources has three points. Firstly, the ELO accepts that rural land management activities can and often do have damaging impacts - either chronic or acute - on water quality and water resources. The seriousness of specific problems in different Member States, and priorities for action, may be matters for debate, but the ELO sees no value in trying to pretend that the problems do not exist. Development in the Community

must be sustainable - not only in economic and social terms but also in environmental terms - not least in relation to water.

5. Secondly, the ELO considers that what matters most is how the problems are tackled. The ELO suggests four mechanisms:
 - (a) **Advice** is important to improve the awareness of land managers of the (often invisible) problems that their activities can pose for water quality and water resources, and to encourage the widespread adoption of “best practice” to avoid or minimise these problems. The aim should be to ensure that all land managers adopt “best practice” by the year 2000.
 - (b) **Market-based instruments** - such as incentives or charges - should also be used to influence behaviour. The CAP demonstrates the success of market-based instruments and provides a precedent for their wider use. A central aim should be to create effective and adequate incentives for land managers to maintain, protect and enhance water quality, and to safeguard water resources, in the common interest across the EU.
 - (c) **Voluntary agreements** can also be used to encourage action: Catchment Management Plans which set out to establish agreed objectives for river catchments provide an example.
 - (d) **Regulation** should always be viewed as a last resort, not a first resort, for action. It should always: follow sound science; be subject to cost/benefit analysis; be geographically contained; and be monitored and reviewed regularly. Provided these requirements are met, the ELO accepts that there is a need for a regulatory floor to set minimum standards.
6. Thirdly, the ELO considers that the most important level at which to secure action to influence water quality and water resources in rural areas is at the level of the individual rural business - be it a farm, estate or whatever. The ELO considers that the best level at which to seek to co-ordinate such action is at the level of the river catchment or sub-catchment. The ELO accordingly sees a central role for river basin management plans in seeking to establish a voluntary consensus on water quality and resources problems and possible solutions within a catchment. They should also provide a basis for agreeing on costs and benefits for different options and thus help in assessing priorities and securing cost-effective action.

The objectives of a sustainable water policy (Section 3)

7. The ELO endorses the objectives for a sustainable water policy set out in section 3 of the Communication. It is important that the references to the “aquatic environment” are understood to include groundwater as well as surface water, and that the needs of estuarine, coastal and marine waters are also considered. It is also essential that the costs associated with pursuing these objectives are fully justified by a proportionate reduction in environmental risks or damage.

THE CHALLENGES (Section 4)

Pollution (Section 4.1)

8. The ELO accepts that farming and other economic activities can cause considerable problems for water quality. These include: soil erosion (and consequent sedimentation), pollution from livestock and plant wastes, inputs of nutrients (especially phosphate and nitrate), pollution from pesticides, and increased acidification. The ELO recognises that pollution from land management activities in rural areas, from both point and diffuse sources, can have chronic and acute effects on fisheries and on the interests of nature conservation, and lead to increased costs in treating water for drinking purposes, among other impacts.

Water shortages (Section 4.2)

9. The ELO wishes to draw attention to the problems caused for agriculture and rural businesses and homes by water abstraction for public water supply. Groundwater abstraction can lead to: subsidence (making it impossible to farm the land affected and damaging buildings); reduced river flows (damaging fisheries and aquatic wildlife, and reducing water supplies for livestock and crops); and the lowering of the water table (resulting in damage to crops and trees from desiccation and adverse effects on private water supplies). These effects should be taken into account in policies and avoided or minimised as far as possible.

THE PRINCIPLES OF EUROPEAN COMMUNITY WATER POLICY (Section 5)

High level of protection (Section 5.1)

10. The ELO agrees that a “high level of protection” should be sought for the water environment but this needs to be appropriate and affordable. To achieve this, it will be essential to support specific objectives for protecting water with detailed assessments of the costs and benefits so that sound decisions can be made.

Precautionary principle (Section 5.2)

11. The ELO considers that it is important that standards set on a precautionary basis, in the absence of adequate scientific knowledge, are reviewed regularly as knowledge increases. Where new knowledge shows that such standards are unnecessarily strict then the correct response should be to reduce the standards. If advances in scientific knowledge are ignored this simply calls into question the credibility of the precautionary approach. Standards set on a precautionary basis should be accompanied by detailed risk assessments to support the standards.

Preventive action (Section 5.3)

12. The ELO considers that it is unrealistic to expect future damage to be avoided completely. The only way to ensure this result would be to prevent any new economic activities taking place. This is unrealistic. The aim should instead be to avoid or minimise damage, taking account of the costs and benefits involved.

Damage to be rectified at source (Section 5.4)

13. The ELO agrees that action should be taken at source to avoid or minimise pollution, or to reduce existing levels of pollution. This applies as much to diffuse pollution from agriculture as to pollution from other industries. However, it is wrong to think that action needs only be taken at source. For example, current chronic pollution of groundwater in many areas will not disappear overnight even if the polluting activities at the surface are stopped completely: there is a time-lag between water passing from the surface to the aquifer below. In these cases it will be necessary both to treat water and to take action at the surface.

Polluter pays (Section 5.5)

14. The ELO considers that care must be taken in applying the polluter pays principle to agriculture. Government and EU policies to increase food production are the primary cause of water pollution by agriculture. Moreover, unlike other industries, farmers cannot pass on the costs of tackling pollution to consumers because returns to farming are largely dictated by the CAP. It is therefore wrong to assume that farmers alone should pay to avoid, minimise or reduce pollution. The EU and Member States have a duty to help farmers meet the costs. In particular, it would be wrong to require present landowners to clean up pollution caused by others in the past. It should also be remembered that without consumption there would be no pollution: the consumer is the ultimate polluter.
15. The risk of substitution also needs to be recognised: there is no point in putting one person out of business - by making them "pay" for pollution - if the business is then simply taken over by someone else who adopts the same or lower standards: it would be better to help the existing business to adopt high standards by providing appropriate incentives. There is also no point in putting someone out of business in the EU if that business is simply transferred elsewhere (e.g. to a CEE country) with lower environmental standards.

Integration (Section 5.6)

16. The EU Treaty requires environmental requirements to be integrated into other EU policies. The ELO considers that the environment must be a central issue in the debates on the future reform of the CAP. Support should in future be provided for rural areas for environmental, social and economic development purposes, not for food production alone. In the meantime, the agri-environment measures adopted under Regulation 2078/92 provide the best option to help land managers integrate environmental needs into their businesses. These measures should be developed further and effectively funded at EU and national levels.

The use of available scientific and technical data (Section 5.7)

17. The ELO considers that it is essential that decisions are made on the best available data and "sound science". Experience with the definition of Nitrate Vulnerable Zones, for example, has revealed inadequacies in this respect.

Variability of environmental conditions in the regions of the EU (Section 5.8)

18. The ELO welcomes references to the need for water policy to take the variability of conditions across the EU into account. For example, differences in mean

temperatures affect the rate at which pollutants are broken down naturally, and should therefore be taken into account in controlling discharges.

Costs/benefits (Section 5.9)

19. The ELO is concerned that many cost-benefit analyses are highly subjective: nevertheless, such analyses are needed to evaluate options for action and should be encouraged. It is important that the costs to be taken into account include those of businesses as well as those incurred by public authorities or the Government. The ELO welcomes the references to the use of market-based instruments alongside regulation and new technology. Environmental policy should work with and through markets as much as possible. Other important mechanisms include advice and voluntary agreements (see paragraph 5).

Subsidiarity (Section 5.12)

20. The ELO supports the concept of subsidiarity and considers that the Framework Directive should do no more than establish Community-wide guidelines. It should be left to the Member States to decide what particular mix of mechanisms and standards are needed to achieve the guidelines. This is essential in view of the variability of environmental conditions across the EU. Action needs to be proportionate to the problems in each Member State, not harmonised across the EU at a level that may be excessive in one area and inadequate in another.

EXISTING EC LEGISLATION (Section 6)

21. The ELO considers that the Framework Directive should be wide-ranging. Even if it does not itself re-enact - with necessary amendments - all the Directives listed in Section 9 of the Communication, it is important that each of these is reassessed in the light of the Communication. The aim should be to simplify, integrate and consolidate as much of the existing legislation as possible, and to strive for consistency. The ELO accordingly calls on the Commission to present a report on each Directive showing how it will relate to the draft Framework Directive, and identifying any areas where amendments could be considered to those Directives, when it publishes the draft Framework Directive.

SPECIFIC ISSUES IN WATER MANAGEMENT (Section 7)

Emission Limit Values and Environmental Quality Objectives (Section 7.1)

22. The discussion of these two approaches in the Communication focuses on control of point source pollution. The ELO agrees that a combination of approaches is likely to be most effective in these cases. However, consideration also needs to be given to the control of diffuse pollution. This cannot be controlled by Emission Limit Values - because there are no point sources to control. Here an approach based on setting environmental quality objectives is required.
23. The ELO considers that the Framework Directive should require Member States to set Water Quality Objectives which are designed at least to maintain the existing quality of any stretch of water or to improve it in relation to the use of the water. Member States should then set Emission Limit Values to control specific point discharges, based on Best Available Techniques Not Entailing Excessive Cost or

on the Water Quality Objectives themselves. Diffuse sources of pollution should be identified and addressed by advice, market-based instruments or voluntary agreements as appropriate to the nature and level of the problem.

24. In each case, it is essential that the proposed Water Quality Objectives for any stretch of water are subject to cost-benefit analysis and public consultation - including direct consultation with the businesses involved. The aim should be to prevent any deterioration in existing water quality. Improvements in water quality should be sought only where the benefits clearly justify the costs. Where costs fall on farmers it is important that Member State Governments provide appropriate assistance (see paragraph 14). The Framework Directive should clearly provide for public debate on these issues and for businesses affected by proposed Water Quality Objectives or Emission Limit Values to have a right of appeal.
25. It is important in this context to recognise that the principle of diminishing returns applies - it costs far less to secure the first 10% improvement in water quality than to secure the last 10% improvement in water quality. The priority for seeking improvements in water quality should be where substantial benefits can be achieved at low cost. This particularly applies to countries which lag behind in pollution control: e.g. in the case of pollution of the Baltic from the CEE countries. This creates problems for all the Baltic-fringe Member States.
26. The ELO agrees that the Framework Directive should not itself set Water Quality Objectives at EU level to be implemented by Member States - as has been adopted in some cases in the past. This approach ignores the variability of environmental conditions across the EU. Instead, the Framework Directive could establish common criteria to be used by Member States to set Water Quality Objectives. There needs to be much more debate about possible criteria, in particular to take account of the varying experience of different Member States with Water Quality Objectives and Water Quality Assessment to date.

Designation of "Zones" (Section 7.2)

27. The ELO agrees that while it makes sense to target action on those geographical areas where environmental problems are greatest (because this is a cost-effective way of using resources) this should be done so far as possible without drawing lines on maps - i.e. without explicit designation. The basic problem is that explicit designation creates inequalities in the way in which land is viewed by landowners, prospective purchasers, statutory agencies, voluntary environmental bodies, local planning authorities and others. This difference is commonly reflected in a real or perceived difference in the value of land either side of "the line on the map". This fall in value may occur for no other reason than that land has been included within a "Zone". There may also be no apparent environmental problem on the specific area of land designated. Indeed, experience of the definition of Nitrate Vulnerable Zones suggests that the science of designation is often inadequate.
28. The ELO therefore encourages the Commission to avoid requiring Member States to designate "Zones" in implementing the Framework Directive. Attention should focus instead on appropriate horizontal measures which can be applied across individual Member States. This does not mean that the same standards must apply everywhere or that action should be taken where a particular environmental problem does not exist: Member States should instead ensure that the mechanisms chosen allow for flexibility in implementation according to local conditions in individual catchments. Avoiding designation will help to avoid wasting time and money on the accurate definition of Zones which often cannot be

precisely defined. It will also avoid the possibility of arbitrary and often unfair impacts on the capital value of land, and the concern which this arouses.

Water quantity (Section 7.3)

29. The ELO considers that there is great scope to manage demand for water more effectively. Agricultural needs are important and should be fully considered - alongside environmental needs - in developing new water resources. The ELO is also concerned that abstraction for public water supply often pays scant regard for other interests (see paragraph 9). These concerns should be reflected in the Framework Directive. The Directive should also encourage Member States to support farmers who invest in storage facilities for water on their own farms, or in collaborative projects with their neighbours, so as to assure their water supplies for spray irrigation, subject to the protection of the water environment.
30. The ELO considers that it is important that the Framework Directive should require Member States to introduce systems to control the abstraction of both surface water and groundwater. Such systems should take account of the impact of abstraction on downstream users of water, on downstream water quality, the rights of riparian landowners, and the rights of other abstractors. Member States should also be required to promote efficiency in water use, effective control of leakage, and water conservation so as to manage and limit demand for water and to make it easier for all interests to secure adequate supplies for their needs.

Transparency, public participation and accountability (Section 7.4)

31. The ELO supports moves to encourage greater transparency about the state of the environment. Transparency is also needed about the costs involved in tackling environmental issues. Too often it is assumed that improvements in environmental quality can be secured at no cost or at a minimal cost - especially when those who will bear the costs are not those seeking the environmental improvements. Environmental interests need to recognise that someone somewhere will always need to pay for any environmental improvements.

River Basin Management (Section 7.7)

32. The ELO supports the use of river basins - or catchments - as the basis for action in relation to water quality and water resources. The Framework Directive should require Member States to establish suitable administrative structures to improve the co-ordination of action on water quality and water resources at catchment level. However, the Directive should not prescribe the geographical level at which such planning should take place: this should be left to the Member States.
33. The ELO urges the Commission to recognise that one of the most important levels at which action is needed is at the level of the individual farm or estate - the land under the control of the individual landowner or manager. This is because, for example, decisions made by such managers have the potential to affect diffuse pollution and water resources over substantial areas. It is therefore essential that landowners within any catchment which is the subject of a management planning exercise are actively involved in that process. They should be directly consulted by the river basin authorities on local problems, future land management aims, water quality objectives, and relevant mechanisms. It must be remembered that statutory and voluntary bodies do not "own" the catchments for which they are preparing plans. Landowners have a crucial role to play.

34. The ELO also suggests that Catchment Management Plans should be seen as initiatives to secure a voluntary consensus among relevant interests - farmers, industry, environmental groups, etc - in any catchment. The willingness of those affected to discuss and debate objectives and policy mechanisms openly will be greatly reduced if Catchment Management Plans are seen as regulatory plans to be imposed regardless of local views. Instead, the aim should be to define a consensus on options and priorities for action to safeguard water quality and water resources, to establish costs and benefits, and to seek adequate resources.

ELO POLICY GROUP
10 June 1996

A0842080

**Any comments or queries on this submission should be addressed
to the Chairman of the ELO Policy Group at the address below.**

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