

**2022 No. 1059**

**WATER RESOURCES, ENGLAND**

**The Environment Agency (Upper Black Moss and Lower Black Moss Reservoirs) Drought Order 2022**

*Made* - - - - 17th October 2022

*Coming into force* - - 18th October 2022

The Environment Agency has made an application for an ordinary drought order under section 73(3)(a) of the Water Resources Act 1991 (“the Act”)(a).

The Secretary of State is satisfied that proper notices of the application have been published and served by the Environment Agency in accordance with paragraph 1 of Schedule 8 to the Act(b) and no objections to the application have been made.

The Secretary of State is satisfied that, by reason of an exceptional shortage of rain, there exists such a deficiency in the level of water in the Upper Black Moss and Lower Black Moss reservoirs as to pose a serious threat to flora and fauna which are dependent on those waters, including flora and fauna in Black Moss Water, into which the reservoirs flow.

It appears to the Secretary of State expedient to make the provisions in this Order with a view to meeting this deficiency.

The Secretary of State makes this Order in exercise of the powers conferred by sections 73(1) and 74(1)(d) and (5) of, and paragraph 2(5) of Schedule 8 to, the Act(c).

**Citation, commencement and expiry**

**1. This Order—**

- (a) may be cited as the Environment Agency (Upper Black Moss and Lower Black Moss Reservoirs) Drought Order 2022; and
- (b) comes into force on 18th October 2022 and ceases to have effect on 17th April 2023.

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(a) 1991 c. 57. Section 73(3) of the Water Resources Act 1991 (“the Act”) was amended by paragraphs 128 and 139(1) and (3) of Schedule 22 to the Environment Act 1995 (c. 25) and by S.I. 2013/755.

(b) Paragraph 1 of Schedule 8 to the Act was amended by paragraph 128 of Schedule 22 to the Environment Act 1995 and paragraph 3(7) of Schedule 11 to the Local Government (Wales) Act 1994 (c. 19) and by S.I. 2010/675 and 2013/755.

(c) Section 73(1) of the Act was amended by paragraph 139(1) and (2) of Schedule 22 to the Environment Act 1995 and by S.I. 2013/755. Section 74(1) was amended by S.I. 2010/675 and 2013/755.

## Interpretation

### 2. In this Order—

“Black Moss Reservoir” means the Upper Black Moss Reservoir and the Lower Black Moss Reservoir;

“the Company” means United Utilities Water Limited;

“the Licence” means the abstraction licence numbered 2671322033 issued by the Agency(a) on 19th March 2014, which authorises the Company to abstract water from Black Moss Reservoir in Lancashire, to the extent and manner, and subject to the terms and conditions, set out in the Schedule of Conditions to that Licence(b).

## Modification of the minimum rate of compensation water discharged from the Black Moss Reservoir into Black Moss Water

3. While this Order is in force, condition 9.1 of the Schedule of Conditions to the Licence is to be read as if for “2,682” there were substituted “1,341”.

## Further conditions

### 4.—(1) While this Order is in force, the Company must—

- (a) use a meter that is capable of continuous measurement of the compensation flow from Black Moss Reservoir to Black Moss Water at Ordnance Survey National Grid Reference SD 82356 40997;
- (b) record readings of the compensation flow every 48 hours, or at such other intervals as may be approved by the Agency in writing.

### (2) The Company must—

- (a) within 10 working days of the day this Order comes into force, submit to the Agency an environmental monitoring and remediation plan, in such format as is required by the Agency;
- (b) for the remainder of the period during which this Order is in force, follow the plan, as amended from time to time.

### (3) The Agency may—

- (a) at any time, require such changes to be made to the plan as it deems appropriate;
- (b) keep the plan under review to ensure it remains appropriate.

## Supplemental provision

5. For the purposes of regulation 19(3)(d) of the Environmental Damage (Prevention and Remediation) (England) Regulations 2015(c) nothing in this Order is to be taken as authorising any event causing environmental damage.

17th October 2022

*Trudy Harrison*  
Parliamentary Under Secretary of State  
Department for Environment, Food and Rural Affairs

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(a) “The Agency” is defined in section 221(1) of the Water Resources Act 1991 (c. 57).

(b) The Licence is available for public inspection at Environment Agency, Lutra House, Dodd Way, Off Seedlee Road, Walton Summit, Bamber Bridge, Preston, PR5 8BX.

(c) S.I. 2015/810, to which there are amendments not relevant to this Order.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, made on the application of the Agency, makes provision to meet a deficiency in the level of water in the Black Moss Reservoir, which arises from an exceptional shortage of rain and poses a serious threat to the flora and fauna which are dependent on those waters, including flora and fauna in Black Moss Water, a river into which these reservoirs flow. In accordance with section 74(3) of the Water Resources Act 1991 (c. 57), this Order will cease to have effect on 17th April 2023 (within six months of the day on which the Order comes into force).

The abstraction licence numbered 2671322033 currently requires United Utilities Water Limited (“the Company”) to make a continuous release of compensation flow from Black Moss Reservoir to Black Moss Water of not less than 2,682 cubic metres per day.

The effect of this Order is to modify the conditions in the abstraction licence so that the volume of compensation water that the Company is required to release is reduced to not less than 1,341 cubic metres per day.

Article 4 imposes conditions on the Company in respect of environmental monitoring and remediation which expire when the Order ceases to have effect.

Article 5 provides that the modifications made by this Order are not to be taken as authorising any environmental damage for the purposes of the Environmental Damage (Prevention and Remediation) (England) Regulations 2015 (S.I. 2015/810) (and accordingly, the Company may not rely on this Order to support grounds for an appeal against a notice relating to remediation of environmental damage).

The abstraction licence is available for public inspection at the Environment Agency, Lutra House, Dodd Way, Off Seedlee Road, Walton Summit, Bamber Bridge, Preston, PR5 8BX.

A full impact assessment has not been produced for this instrument as no, or no significant impact on the private, voluntary or public sector is foreseen.

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