



**PUBLIC INQUIRY INTO THE
PROPOSED ABOLITION OF THE
RIVER ARUN INTERNAL DRAINAGE
DISTRICT - STATEMENT OF CASE
NOVEMBER 2017**

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Environment Agency
Horizon House, Deanery Road,
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Email: enquiries@environment-agency.gov.uk
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Further copies of this report are available by emailing: SSDEnquiries@environment-agency.gov.uk

or by writing to:

SSD Enquiries, Environment Agency,
Guildbourne House, Chatsworth Road, Worthing,
West Sussex, BN11 1LD.

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1 BACKGROUND

1.1 The purpose of the proposed Scheme is to secure the abolition of the existing River Arun Internal Drainage District (IDD). This district is currently administered by the Environment Agency, acting as the Internal Drainage Board (IDB) under the Land Drainage Act 1991 (LDA 1991), in addition to its responsibilities for main rivers. It is not proposed to replace the IDD, or to set up another Board.

1.2 In England there are 112 IDDs which cumulatively cover about 1.2 million hectares (9.7% of England's landmass). These IDDs were created over time in areas where it was considered that benefit could be derived or danger avoided through carrying out drainage operations through a local board.

1.3 With the exception of the River Arun IDD, all IDDs are administered by IDBs which are public bodies of locally elected members. The LDA 1991 sets out law governing the management and operation of IDBs as well how to create, dissolve or amalgamate them.

1.4 Since 2006, changing policy and legislation has detracted from the appropriateness of the Environment Agency administering IDDs. An Independent Review of IDBs and an associated Implementation Plan commissioned by the Department for Environment, Food and Rural Affairs (Defra) in 2006, recommended that the Environment Agency should review the arrangement of the IDDs it administered at that time and consider whether they should be reconstituted. It did so with regard to the 8 IDDs that the Environment Agency had been given responsibility for in this part of the country (see Map 1). This included the River Arun IDD.

1.5. The legal arrangements under which the Environment Agency could administer IDBs also changed with the introduction of the Flood and Water Management Act 2010. Until 2010, the Environment Agency Board had been able to delegate its role as the IDB for each of the 8 IDDs to the more locally representative Southern Regional Flood Defence Committee (RFDC). However, in 2010 these limited local democratic controls were lost. The Flood and Water Management Act 2010 replaced the RFDC with the Southern Regional Flood and Coastal Committee (RFCC). This is predominately a consultative body (see s.23 of the 2010 Act). It does not possess full power or authority to make decisions about the management of the IDD which would be binding on the Environment Agency.

1.6. The Environment Agency has been administering the IDDs through the national Environment Agency Board, which is an appointed rather than an elected Board and is based in Bristol. To mitigate the lack of local accountability, the Environment Agency has adopted an Operating Protocol and Terms of Reference (Appendix 1) for its administration of IDBs which has been applied to the River Arun IDD. The Protocol asks the Southern RFCC to consult on, review and raise issues of local relevance to be taken into account by the Environment Agency Board acting as River Arun IDB, including setting drainage rates and special levies.

1.7. In view of Defra's recommendations and the lack of local accountability, in 2012 the Environment Agency decided to divest itself of its responsibilities for administering these 8 IDDs. It therefore started the consultation process for this, with the objective of having a speedy but orderly transition to new arrangements.

1.8. The proposed Orders took the form of the formal abolition of the relevant IDD, followed by the creation of any new management arrangements that may be required. The formal abolition is necessary, as the Orders under which the IDDs were originally transferred to the predecessors of the Environment Agency have not survived.

1.9. Following consultation with those affected on preferred future management arrangements, formal schemes were submitted to Defra to abolish these eight IDDs administered by the Environment Agency. Each Scheme reflected the nature of what future management arrangements were required:

- Where there was support from local councils and landowners, three of the IDDs were proposed to be abolished and replaced with two new IDDs, each with its own locally-elected and accountable IDB to govern it;
- Where there was no support or agreement from local councils and landowners for replacement IDDs, five IDDs (including the River Arun IDD) were proposed to be abolished with no replacement IDD and IDBs. Ordinary watercourses in the IDDs (including drainage ditches currently managed by the Environment Agency acting as IDB) would be managed by local landowners and the local councils would have permissive powers.

1.10. Each of the Schemes was advertised. No objections were received to seven of these Schemes, and the following statutory orders were confirmed abolishing these 7 IDDs:

- Scheme dated 11 December 2014 to abolish the Lombards Wall to Gravesend IDD Confirmed by the Lombards Wall to Gravesend Bridge Internal Drainage District Order 2015 SI 2015/1552 made 16 July 2015.
- Scheme dated 6 March 2015 to abolish the River Adur IDD Confirmed by the River Adur Internal Drainage District Order 2016 SI 2016/756 made 30 June 2016.
- Scheme dated 6 March 2015 to abolish the South West Sussex IDD Confirmed by the South West Sussex Internal Drainage District Order 2016 SI 2016/757 made 30 June 2016.
- Scheme dated 19 August 2015 to abolish the River Ouse (Sussex) IDD Confirmed by the River Ouse (Sussex) Internal Drainage District Order 2016 SI 2016/791 made 18 July 2016
- Scheme dated 19 April 2016 to abolish the Pevensey Levels and River Cuckmere IDDs, to create a new single IDD for the same area covered by the previous two IDDs and to constitute an independent drainage board for that new IDD Confirmed by the Pevensey and Cuckmere Water Level Management Board Order 2016 SI 2016/854 made 22 August 2016.
- Scheme dated 22 April 2016 to abolish the Gravesend Bridge to Sheerness and Penshurst IDD, to create a new IDD for the same area and to constitute an independent drainage board for that new IDD Confirmed by the North Kent Marshes Internal Drainage District Order 2016 SI 2016/859 made 23 August 2016.

1.11. The draft scheme to abolish the River Arun IDD was advertised in September 2015. Defra received representations from 3 local farming businesses, the National Farmers Union (NFU), Sussex Wildlife Trust (SWT), the Royal Society for the Protection of Birds (RSPB) and Arundel Town Council. These raised concerns mainly about the risks to the environment, and the future liabilities for landowners. At Defra's request, the Environment Agency has worked with them to try to address the concerns raised.

1.12. Whilst aware that some concerns remained, Defra prepared and advertised the draft order (Appendix 2) in March 2017. 15 objections were received, following which the Parliamentary Secretary of State for the Environment Dr Thérèse Coffey, decided to use her powers under section 69(1) and Schedule 3, paragraph 3 of the LDA 1991 to hold a public local inquiry into the proposed scheme to abolish the River Arun IDD.

1.13. The Environment Agency and objectors were notified of the inquiry on 11 October 2017 and the inquiry was advertised in the Worthing Herald on 26 October 2017 (Appendix 3). The rules of the inquiry are based on modified Compulsory Purchase (Inquiries Procedure Rules) 2007

2 SCOPE OF INQUIRY

2.1. The Minister has set out the matters on which she particularly wishes to be informed for the purposes of her consideration of the draft order (Appendix 4). This reflects the issues raised by objectors. The Environment Agency will bring evidence before the inquiry to address these issues as well as the overall nature of the Scheme that is being sought.

This Statement of Case sets out the general background before dealing with the issues raised in the Statement of Matters:

- Matter 1:- the implications for the Environment Agency of continuing to manage the IDD, is covered in section 13 below.
- Matter 2:- regarding local flood risk, is covered in sections 8 and 9 below.
- Matter 3:- concerning the implications of the proposed abolition of the IDD for local interested parties, is covered in section 11 below.
- Matter 4:- the likely environmental impacts of abolishing the Arun IDD, in section 10 below.
- Matter 5:- the sufficiency of the measures proposed by the Environment Agency for mitigating any adverse impacts of the abolition of the drainage district, is covered in sections 8, 9 and 10 below.
- Matter 6:- the consequences of the proposed abolition on future management of the watercourses and the pumping stations within the drainage district, is covered in section 12 below.

3 THE RIVER ARUN IDD

3.1. The River Arun IDD covers an area of 3304 hectares throughout the lower and middle reaches of the River Arun catchment. The District is predominantly rural, with some small urban areas, including Arundel, Pulborough and Amberley (see Map 2). The IDD primarily lies within the administrative boundaries of Horsham District Council and Arun District Council, with a small area in the North West falling in Chichester District Council. The ordinary watercourses (mainly man-made drainage ditches) and management of water levels within the IDD are closely linked to the Main River network. The principal Main River watercourses, including the River Arun, Black Ditch, and Western Rother, as well as IDB maintained ordinary watercourses and other ordinary watercourses which the IDD does not exercise its power to maintain are shown in Map 2.

3.2. The IDD is exclusively within the River Arun catchment. As a result, all the ditches in the area ultimately drain, through raised earth embankments and via outfall structures and tidal flaps, into the fast flowing tidal River Arun which discharges into the sea at Littlehampton. Within the catchment there is a variety of important environmental designations, including the Arun Valley Special Protection Area (SPA)/Ramsar and Special Area of Conservation (SAC) designations and other Sites of Special Scientific Interest (SSSI) sites (Map 3). In addition to this, much of the IDD is within the South Downs National Park and there are numerous sites of historic and cultural interest.

3.3. There is a risk of flooding throughout the IDD, and the majority of this is within rural locations and is generally confined to the floodplain. The floodplain of the River Arun between Pulborough and Littlehampton is currently protected from flooding by defences in the form of raised earth embankments, steel or masonry walls and structures including Main River pumping stations at Bury Meade and Pulborough. These defences manage the risk of flooding to property, generally to 2% annual chance event but due to several isolated low spots in the crest height, frequent flooding in rural areas occurs from events in the range of 7% to 20% annual chance.

3.4. A Flood Risk Management Strategy has been approved for this area. The Lower Tidal River Arun Strategy (LTRAS) covers an area very close to that of the IDD. LTRAS divides the catchment into different policy units, each with its own associated options for the future management of the Main River Arun. The detailed recommendations and options can be found within the Strategy document and the associated Strategic Environmental Assessment. The future management of the River Arun remains under discussion, and the effect of the abolition of the IDD needs to be assessed against the current situation and the future management strategy.

4 THE CURRENT LEVEL OF SERVICE PROVIDED BY THE RIVER ARUN IDB

4.1. A profile of the area covered by the River Arun IDD is given in Table 1

4.2. The Environment Agency acting as IDB maintains 64km of IDD watercourses and 41 associated water control structures including two functioning pumping stations (Map 4). More detailed maps on a parish scale are available on request. They are generally man-made drainage ditches, and are allocated a target condition grade. Routine, intermittent and capital maintenance decisions are informed by a risk-based inspections and condition regime consisting of:

- Visual inspections of watercourses and structures.
- Operational inspections of structures
- Public Safety Risk Assessments of structures which may pose a risk to the public.

4.3. Routine maintenance water level management may be undertaken during these inspections. Routine vegetation management is undertaken annually. Intermittent maintenance may include weedscreen clearance or repairs/minor refurbishments.

4.4. In the area of the Amberley Wildbrooks SSSI, water levels are managed in accordance with the Amberley Wildbrooks Water Level Management Plan by the operation of structures on the site, working in partnership with the landowners on an ad-hoc basis. There are no other Water Level Management Plans within the IDD.

4.5. There is a low level of activity with regard to the Land Drainage consenting regime. The number of consents requested/issued has been minimal, at 1-2 a year for those watercourses maintained by the Environment Agency (acting as IDB) and 2-3 a year for those ordinary watercourses within the IDD that are not maintained by the Environment Agency (acting as IDB). Formal enforcement action is rare. The time spent on informal enforcement/influencing is not sufficiently significant to be recorded.

Table 1 Profile of the River Arun IDD

		Chichester District	Arun District	Horsham District	IDD total
Area	Urban	8ha	70ha	61ha	139ha
	Rural	420ha	1412ha	1333ha	3165ha
	Total	428ha	1482ha	1394ha	3304ha
Watercourses	Main River	19.5km	35km	33km	87.5km
	IDD ordinary watercourses maintained by IDB	5.4km	26.3km	32.3km	64.0km
	Ordinary watercourses not maintained by IDB	27.1km	64km	54km	145.1km
	Total	52.0km	125.3km	119.3km	296.6km
IDD structures Maintained					
	Pumping stations	0	1	2	3
	Sluices and water control structures	2	23	14	39
Designated sites	SPAs/SACs	0	0	1	1
	RAMSAR	0	0	1	1
	SSSI	0	1	3	4

4.6. The total annual costs of the Environment Agency's operations as the IDB in the River Arun IDD vary year on year, but are around £82k per year (based on average of last 5 years) with a separate capital investment for the replacement of the pumping stations averaging about £3k pa. A typical breakdown of costs, by the type of operation and location, is shown in Table 2.

4.7. These costs are determined according to the Environment Agency's own operational costs (approximately £26/hr including staff, plant and materials). These are not necessarily indicative of how much it would cost to procure the services independently.

4.8. The IDD pays an annual precept of approximately £15k to the Environment Agency as a contribution to the work on the Main River from which the IDD benefits. This includes routine maintenance of Main River and a contribution to pumping at the Pulborough and Bury Meade Main River pumping stations.

Table 2 – Summary of costs of operations

	Chichester District	Arun District	Horsham District	Total
	£k	£k	£k	£k
Vegetation management	0	23	25	48
Routine maintenance, refurbishment and operation of pumping stations	0	2	6	8
Visual, operational and public safety inspections and water level management (including technical support)	0	9	17	26
Pumping stations replacement (capital costs)	0	1	2	3
Total	0	35	50	85

4.9. Funding to meet the costs of the IDD (including administration) is raised locally from the local councils (on behalf of non-agricultural landowners) and from the agricultural landowners in proportion to the value of their land (in accordance with Section 36 of the Land Drainage Act 1991), as shown in Table 3.

Table 3 proportion of IDD costs met by councils and drainage ratepayers

Chichester District Council	Arun District Council	Horsham District Council	Drainage rates payers
0.25%	80%	0.75%	19%

4.10. The benefits of the current works and operation of the IDD's have been assessed using a Benefits Assessment Toolkit developed by Defra as part of its research into Internal Drainage Board Beneficiaries and Performance Indicators. The approximate net benefits of the work of the IDD is £2.5m pa. See Table 4.

Table 4 – Benefits and beneficiaries of current level of service

Benefits	Order of magnitude of benefits pa	Beneficiaries
Protecting nationally and internationally designated sites in Horsham District	c £2m	Local residents, farmers/landowners, local authorities, wider society
Reducing damages as a result of flooding of residential properties primarily in Arundel and Littlehampton (Arun District)	c £200k	Local residents
Supporting food production in Horsham and Chichester Districts	c £100k	Farmers/landowners
Reducing damages as a result of flooding of business properties primarily in Arundel (Arun District)	c £70k	Local businesses, local authorities
Total	c £2.5m	

5 ENGAGEMENT ON OPTIONS FOR THE FUTURE MANAGEMENT OF THE RIVER ARUN IDD

5.1. Since June 2012 the Environment Agency has been engaging with key stakeholders with the aim of achieving a consensus on the preferred future management arrangement for the River Arun IDD.

5.2. Focussed discussions commenced in June 2012 with the West Sussex Flood Partnership (the strategic flood group run by West Sussex County Council as the Lead Local Flood Authority) and the RFCC has been consulted regularly throughout.

5.3. In October 2012 the Environment Agency wrote letters to all the 152 drainage rate payers and 29 parish councils and other known interested parties (such as rivers trusts, utilities and transport infrastructure managers) within the River Arun IDD. The letter informed them of the Environment Agency's review of future arrangements for the management of the IDD. A questionnaire about how the IDD should be managed in the future and how they wished to be involved in the decision making process was included.

5.4. The three options consulted upon if the existing IDD's were to be abolished were that -:

- Option 1: Communities or other suitable organisations set-up new independent IDB/s to take over some or all of the interests of the existing IDD/s;
- Option 2: No new IDD/IDBs be created. Management of IDD watercourses and structures would revert to the riparian landowners, with the district and borough councils having permissive powers to undertake maintenance;
- Option 3: Communities and other interested parties to work in partnership to establish alternative arrangements outside the statutory IDD regime laid down in the Land Drainage Act 1991.

5.5. Only 13 responses were received from drainage ratepayers (9%) with 6 preferring Option 1 (an IDD), 1 preferring Option 2, and 1 preferring Option 3. 4 proposed co-ordinated management of all watercourses in the districts or the status quo (one did not express a preference). Five responses were received from parish councils with 3 supporting Option 1, 1 each supporting Options 2 and 3. The respondents and comments were precursors to those received by Defra in response to advertising the draft scheme and order.

5.6. In response to views expressed in the survey and at a specific meeting with environmental stakeholders, a West Sussex IDD Steering Group was formed early in 2013 to further investigate and make recommendations on the options for the future management of the 3 IDDs in West Sussex, including the River Arun IDD.

5.7. The Steering Group was chaired by the Arun and Rother Rivers Trust (ARRT) and included officer representatives of West Sussex County Council (WSCC), all District Councils within the IDDs, South Downs National Park Authority (SDNPA), NFU, the Country Land and Business Association (CLA), the Association of Drainage Authorities (ADA), Natural England and the Environment Agency.

5.8. In October 2013, the Environment Agency provided the Steering Group with detailed information on the costs, benefits and risks of the existing and future options for delivering the current level of service provided in the IDDs (document available on request).

5.9. Although the NFU, CLA and the SDNPA expressed a preference for a new IDB to be put in place, the Steering Group passed a majority decision in November 2013 to recommend Option 2 as the best alternative if the existing IDDs are dissolved, subject to local risks being managed. The Chairman of the Steering Group wrote to all drainage ratepayers and parish councils (Appendix 5) advising them of the Steering Group's recommendations and encouraging them to make their views known to their district councils.

5.10. In 2014, based on the business case (Appendix 6), prepared by the Environment Agency at the request of the local councils, Arun, Chichester and Horsham District Councils agreed that they would not object to the abolition of the River Arun IDD provided no new IDD was created and alternative arrangements are in place for the management of Amberley Wildbrooks and Pulborough Brooks Sites of Special Scientific Interest (SSSIs).

5.11. In May 2014, the Environment Agency Board approved (Appendix 7) the submission of the draft scheme (Appendix 2) to Defra proposing to abolish the existing IDD without creating a replacement.

5.12. There were 2 further opportunities for interested parties to make their views known through the advertisement of the draft scheme in September 2015 and the draft order in March 2017.

5.13. In October 2016, following the confirmation of the abolition of the South West Sussex and River Adur IDDs, the Chief Executive of Arun District Council wrote to the Secretary of State confirming the Council's support for the abolition of the River Arun IDD (Appendix 8).

6 THE SCHEME SET OUT IN THE PROPOSED ORDER

6.1. If the Secretary of State decides to accept the Environment Agency's proposal then the Scheme will be set out in the Schedule to the resulting Order which will then be laid before Parliament for approval. The Environment Agency's evidence will explain the purpose of the Scheme, to secure the abolition of the existing River Arun IDD and to deal with the consequential matters.

6.2 There is no need for the Scheme to deal with the abolition of the IDB as well. There has been no formal IDB in charge of the IDD since 1933, when the powers and duties of the Commissioners of Sewers for the Rape of Arundel acting as the IDB were transferred to the River Arun Catchment Board. The Environment Agency, as the statutory successor to the Catchment Board, have been acting as though it was the Board.

6.3. Paragraph 1 of the Scheme states that any order for abolition will not come into force for six months (Appendix 2). This is to enable all parties to put in place any arrangements necessitated by the abolition before the abolition takes effect. In particular, the Environment Agency will have a number of matters to complete as once the IDD is abolished it will have no power to be involved in the operation and management of ordinary watercourses.

6.4 Paragraph 4 of the Scheme is needed to ensure that accounts are made up to the date of abolition for audit purposes. It also provides that anyone owing money to the IDD on that date continues to owe that money to the Environment Agency instead. Paragraph 5 of the Scheme then gives the Environment Agency power to recover that money.

6.5. The effect of paragraph 6 of the Scheme is that all the property held by the Environment Agency acting as IDB would then belong to the Environment Agency itself. The purpose of this paragraph is to ensure that the archives of the IDD come to the Environment Agency, and this is what is expressly listed in the definition of the word "property" in paragraph 2. There is no relevant land or structures in the IDD that would pass to the Environment Agency. The land on which any structures in the IDD have been built and used by the IDB would return to the exclusive control of the relevant landowners on which they are built. This is similar to the situation when the River Adur IDD was abolished, where two landowners took on the maintenance and operation of the Applesham and Northover pumps in readiness for that abolition on 31 March 2017.

6.6. Paragraph 7 of the Scheme provides that the balances of any precepts levied for the running of the District from the councils whose boundaries include it, are refunded to those councils in the same proportion as they are paid.

7 THE BENEFITS AND DISBENEFITS OF A DECISION TO ABOLISH THE RIVER ARUN IDD

7.1. The benefit of abolishing the IDD is that responsibility for funding and management of local drainage will lie with local councils and landowners and consequently local people will have greater control of what happens on their land. Specifically:

- Local councils will be able to take back control on how to invest locally raised funding and decide what outcomes they want for their communities.
- Riparian landowners will no longer have to pay drainage rates and can decide how to meet their own riparian responsibilities and business/personal need. Many riparian landowners currently contribute funding to the IDD through agricultural drainage rates but have no work undertaken on their land.
- The costs of the drainage work within the area will be met by those who benefit.
- The Environment Agency will not be seeking to carry out both a local function and its strategic role and flood risk management responsibilities.

7.2. The disbenefits of abolishing the IDD is that there will be no legal power to raise funding locally through agricultural drainage rates (c£15k pa) and special levies (c£67k) and there would be no IDB to carry out specific drainage works and maintenance. There are also a number of risks that may arise, that will have to be mitigated.

7.3. If the IDD is abolished, there will not be an IDB (in this case, the Environment Agency) to undertake work on any ordinary watercourses or associated structures in the IDD. Work on the Main Rivers (the River Arun, Black ditch and River Rother) by the Environment Agency under its own powers will be unaffected by the abolition.

7.4. The position will become one where:

- Riparian landowners may have to make arrangements to maintain the watercourses and structures, which the Environment Agency (as the IDB) may have previously operated and maintained, so as to meet their own riparian responsibilities and business/personal need. This is in addition to landowners' responsibilities to maintain all other ordinary watercourses on their land which the Environment Agency acting as IDB has not exercised its powers to maintain. Map 5 shows all ordinary watercourses within the IDD.
- District and borough councils will have permissive powers to carry out flood risk management work on the ordinary watercourses in what was the IDD
- West Sussex County Council will be responsible for enforcement and consenting on ordinary watercourses within the IDD as Lead Local Flood Authority.

7.5 This is the same situation as in over 90% of the country where there are no IDBs.

7.6. It will be for landowners and councils to decide what action they take. If all parties exercise their powers to meet their statutory duties and responsibilities, there will be no adverse impacts on the IDD following the abolition. However, the Environment Agency has gone on to assess what the risks would be if this did not happen.

7.7. The Environment Agency worked with the West Sussex IDD Steering Group to assess the benefits of the work currently undertaken by the Environment Agency as IDB. (Appendix 9). This initial assessment was used to inform the assessment of the potential impact of abolishing the IDD on flood risk and how any increased risk could be mitigated.

7.8. Whilst there are sophisticated models of flood risk from the Main River Arun, no such modelling exists for flood risk from the IDD ordinary watercourses. The assessment of the work currently being undertaken was therefore based on the extensive local experience and expertise of the Environment Agency's own flood risk and environmental professionals.

8 LIKELY IMPACTS OF ABOLISHING THE RIVER ARUN IDD ON FLOOD RISK TO PROPERTIES AND INFRASTRUCTURE

8.1. There should not be any change in the likely impact on those watercourses which pose a risk of flooding to a significant number of properties. These are already designated as Main River and therefore would be unaffected by the proposed abolition of the River Arun IDD.

8.2. The IDD watercourses and structures were generally designed and constructed, and are maintained and operated, for land drainage and environmental purposes not to protect properties from flooding. However, there may be some incidental flood risk benefits to properties and any changes in the maintenance and operation of the IDD area could affect those benefits.

8.3. The assessment that has been carried out of the Environment Agency's current work (as the IDB) shows that if the River Arun IDD is abolished, and the riparian landowners and councils do not exercise their powers to maintain ordinary watercourses, there could be an increase in flood risk to 23 properties in the Arun District from 6km of watercourses in Arundel and Littlehampton (Maps 6 and 7).

8.4. However, this risk is unlikely to occur. Arun District Council propose to use the funding previously paid as a special levy to the IDB to employ additional inspectors with the power to take action to ensure landowners meet their riparian responsibilities to maintain their watercourses and structures particularly in urban areas such as Arundel and Littlehampton. Given this, it is unlikely therefore that there would be any increase in flood risk to these properties and indeed it is more likely to decrease.

8.5. There is also a risk that if there was a lack of maintenance, 2 ditches may increase flooding of roads in Horsham district (Map 8). This risk would be able to be mitigated by West Sussex County Council using its enforcement powers.

9 LIKELY IMPACTS OF ABOLISHING THE RIVER ARUN IDD ON LAND DRAINAGE

9.1. Should riparian landowners in agricultural areas (drainage ratepayers) choose not to maintain their watercourses and structures, there is a risk that agricultural land will become wetter and some may become waterlogged (Maps 9 and 10).

9.2. It would be for the landowners to determine whether the benefits to them justify them funding and undertaking the work themselves or setting up partnership with others who believe they would benefit.

9.3. There are two functioning IDD pumping stations in the IDD, Hardham and Greatham. Both pumping stations are on a third party's land (Maps 11 and 12).

9.4. If the IDD is abolished, then these structures would return to the exclusive control of the relevant landowners on which they are built.

9.5 The Environment Agency will no longer have the legal power to manage and operate the pumps, or to use the byelaws to prevent interference with the structures. It will be a matter for the landowner to choose whether to maintain and operate the pumps.

9.6. If the Hardham pumps were switched off, the Environment Agency has estimated that around 40ha of agricultural land owned by the riparian and one other landowner would be at risk of becoming wetter (Map 11). It would be for the landowners to decide how to manage or adapt to the increased water levels. In addition, Southern Water Services would have to consider alternative arrangements to discharge waste water from its reservoir and boreholes at Hardham.

9.7. The Environment Agency has estimated that if the Greatham pumps were switched off this would risk around 105ha of agricultural land owned by the riparian and two other landowner becoming wetter (Map 12). Again, it would be for the landowners to decide how to manage or adapt to the increased water levels. Southern Water Services would also have to consider alternative arrangements to discharge waste water from its reservoir and boreholes at Hardham.

9.8. A third pumping station at Houghton broke down in February 2016. The Environment Agency acting as IDB determined that the benefits did not justify the costs of repair, maintenance and operation. As the landowner/beneficiaries did not wish to take on the pump, plans have been made to decommission and make safe the site in spring 2018. There will therefore be no change to this area following the abolition of the IDD.

10 THE LIKELY ENVIRONMENTAL EFFECTS OF ABOLISHING THE RIVER ARUN IDD

10.1. The following internationally designated sites lie within Horsham District Council and overlap with areas within the River Arun IDD:

- Arun Valley SPA;
- Arun Valley SAC;
- Arun Valley Ramsar site.

10.2 These international sites are legally underpinned by the nationally designated sites of Amberley Wild Brooks SSSI, Pulborough Brooks SSSI and (in the case of the SPA and the Ramsar site) Waltham Brooks SSSI, in Horsham District. The IDD also includes the nationally designated site of Arundel Park SSSI in Arun District.

10.3. The Environment Agency worked with Natural England to identify any potential significant effects on the designated sites and features within the IDD. Mitigation measures were also identified and agreed.

10.4 The Environment Agency submitted its first assessment of the likely effects on the nationally and internationally designated sites of abolishing the River Arun IDD to Natural England in July 2015 (Appendices 10 and 11). The Environment Agency's assessment of the environmental

effects of abolishing the River Arun IDD included the impact on the European designations under the Conservation of Habitats and Species Regulations 2010.

10.5. Natural England initially gave assent to the abolition of the IDD with respect to the Arun Park and Amberley Wildbrooks SSSIs and confirmed no assent was needed for Waltham Brooks SSSI as the Environment Agency acting as IDD does not have a programme of work there. It also confirmed that there would be no likely significant effect on the SPA designations within the IDD or the Ramsar and Sites of Community Importance (SCI) designations at Amberley Wildbrooks and Waltham Brooks (Appendix 12).

10.6 However, Natural England requested further information to justify that there would be no likely significant effect for the Pulborough Brooks component of the European sites or for the populations of the Ramsar and SCI species that occur outside of the European site boundary but are part of the designated sites populations. The Environment Agency worked with Natural England to provide that information and resubmitted its assessment in April 2017 (Appendices 13 and 14).

10.7. The risk at Pulborough Brooks SSSI can be mitigated by the landowner (RSPB) undertaking maintenance and water level management. There is reasonable certainty that this will be funded (in part) through their Countryside Stewardship Agreement from January 2023. Careful programme management of ditches before abolition will minimise the work RSPB need to fund and undertake between abolition and 2023. The Environment Agency as IDB currently invests around £6k pa at Pulborough Brooks.

10.8. It is the opinion of Natural England and of the Environment Agency that the abolition of the IDD is not likely to have a significant effect on the interest features of the Ramsar and SCI within the Amberley and Waltham Brooks sub-components of the European and international sites, provided co-ordination of the water level management plan delivery on Amberley Wild Brooks is continued under the new proposals. The Environment Agency as IDB currently invests around £14k pa at Amberley Wildbrooks.

10.9. In order to provide alternative water level management arrangements, the Environment Agency has proposed to enmain some of the IDD watercourses at Amberley Wildbrooks SSSI. It carried out consultation on the possible enmainment of these IDD watercourses at Amberley in October 2015 (Appendix 15). One objection was received and this has been responded to (Appendices 16 and 17). The Secretary of State has now issued national guidance on the exercise of enmainment powers, and the Environment Agency will be considering the expediency of proceeding with this possible option.

10.10. Natural England gave assent to the abolition of the IDD with respect to the Pulborough Brooks SSSI component and confirmed that there would be no likely significant impact on that SSSI in May 2017 (Appendix 18).

10.11. The consideration of the specific impact of changes to the operating regime of Greatham pumping station suggests it may affect water levels at Waltham Brooks SSSI. Before abolishing the IDD, the Environment Agency would put in place measures to mitigate this risk. A scheme of low maintenance drainage improvements is currently being detailed. These will improve the ability of the landowner, Sussex Wildlife Trust (SWT), to manage water levels at Waltham regardless of the operation of the Greatham pump.

10.12 The improvements will be funded through IDD precept and Flood Defence Grant in Aid (FDGiA) maintenance funding and will be delivered between confirmation and the date of actual abolition of the IDD (proposed within the draft order as 6 months later).

10.13 The Environment Agency has a duty under S28G of the Wildlife and Countryside Act 1981 to take reasonable steps, consistent with the proper exercise of its functions, to further the conservation and enhancement of SSSIs. Natural England gave assent on 13 October 2015 for the proposals so far as they pertain to Arundel Park SSSI (Appendix 12).

10.14. In the Statement of Matters (Appendix 4) the Minister questioned the sufficiency of the possible enmainments covering Amberley Wildbrooks SSSI and of the scheme at Waltham Brooks SSSI. These will be dependent on what future funding will be made available for maintenance work. At Amberley Wildbrooks SSSI funding would be through FDGiA, whilst for Waltham Brooks SSSI it would fall to the landowner/tenant (SWT) to fund and deliver maintenance. This does not represent a material change in the way that watercourses and structures would be maintained and operated. The IDB is also dependent on future funding being available.

10.15. Notwithstanding the abolition of the IDD, the Environment Agency would still have a duty section 40 of the Natural Environment and Rural Communities Act 2006 to have regard so far as is consistent with the proper exercise of its functions, to the purpose of conserving biodiversity. It is also under a duty to have regard to the requirements of the Habitats Directive and the Wild Birds Directive so far as they may be affected by the exercise of its functions (reg.9 of the Habitat Regulations 2010). It would seek to comply with these duties by continuing to protect, enhance or restore habitats and biodiversity during routine maintenance on the Main Rivers and as part of any project work within or adjacent to the Arun Valley SAC/SPA including, for example, that undertaken pursuant to LTRAS. The Environment Agency has Key Performance Targets (KPIs), KPI766 (threats & remedies to SSSIs) and KPI 768 (habitat creation) targets to meet and Natura 2000 sites (such as the Arun Valley SAC/SPA) are the top of the funding list for Environment Agency projects against these KPIs.

10.16. The Environment Agency and Natural England are of the view that measures proposed in the assessment along with developing proposals for improved drainage at Waltham Brooks are sufficient to mitigate any adverse (environmental) impacts of the abolition of the drainage district.

11 THE IMPLICATIONS OF THE PROPOSED ABOLITION OF THE RIVER ARUN IDD FOR LOCAL INTERESTED PARTIES

Local landowners (and drainage rate payers)

11.1. The Environment Agency, acting as IDB, has maintained and operated around 64km of the 140km+ of ordinary watercourses and their associated structures (including 2 pumping stations) in the IDD (Map 4). More detailed maps on a parish scale are available on request. If the IDD is abolished, the Environment Agency will no longer manage, maintain or operate any ordinary watercourses and associated water control structures in the IDD (Map 5).

11.2. Local agricultural landowners currently contribute to the costs of the IDD through drainage rates paid directly to the Environment Agency acting as IDB. Non-agricultural landowners

contribute through their council tax (see below). If the IDD is abolished they will no longer have to make these payments.

11.3. There are around 150 drainage rate payers in the River Arun IDD. The majority of these have no ordinary watercourses on or adjacent to their land and, apart from not paying towards the IDD, will be unaffected by the abolition.

11.4. However, there are around 35 landowners who do have IDD maintained watercourses on their land. These riparian landowners may have to make alternative arrangements to meet their riparian responsibilities and personal/business need and can use the funding previously paid as drainage rate to the IDB. This is in addition to their existing riparian responsibility for any other ordinary watercourses on their land. In some cases the costs may exceed what they have paid to date in drainage rates.

11.5. In response to concerns raised about the condition of structures at handover, the Environment Agency acting as IDB invested additional funds in maintenance in 2015/16 so that currently all structures (with the exception of Houghton pumping station) are at their target condition i.e. whilst they may have defects which could reduce their performance, they are performing to the standard required of them.

11.6. If any landowner has concerns about the maintenance of an ordinary watercourse in the IDD, if the IDD is abolished they should contact West Sussex County Council or their district councils rather than the Environment Agency.

11.7. If the IDD is not abolished, agricultural land owners will continue to have to pay agricultural drainage rates. The work done by the Environment Agency acting as IDB varies from year to year based on the amount of money available for maintenance and may decrease in the future. Landowners may still find that they have to make alternative arrangements to manage their watercourses to meet their riparian responsibilities and business/personal need.

Local councils (and local taxpayers)

11.8. If the IDD is abolished local councils will no longer have to raise funding from their taxpayers to meet the requirement to pay the Special Levy on their behalf to the Environment Agency acting as IDB.

11.9. District and borough councils will have permissive powers to carry out flood risk management work on the ordinary watercourses in what was the IDD.

11.10. West Sussex County Council will be responsible for enforcement and consenting; this is in addition to the powers they currently have to carry out flood risk management work with regard to surface run-off and groundwater.

11.11. Arun District Council plan to use the savings in special levy to fund additional inspections and enforcement to ensure riparian landowners maintain their watercourses and structures in priority areas such as Arundel and Littlehampton.

11.12. Chichester District Council will use their special levy monies for 5 years to work in partnership with riparian owners to:

- carry out investigations into and contribute, where justified, to drainage improvement schemes to mitigate flood risk to properties and businesses and
- undertake proactive work to identify future maintenance plans to be included in the Work Plan of the Local Flood Risk Management Strategy.

11.13. Horsham District Council made no commitment as to how the retained special levy would be used.

11.14 If the IDD is not abolished, local councils will continue to have to pay special levies. The work done by the Environment Agency acting as IDB varies from year to year based on the amount of money available for maintenance and may decrease in the future. The Environment Agency acting as IDB will continue to consult special levy paying councils on the maintenance programme. Local councils will not have the legal power to undertake work on ordinary watercourses in the IDD themselves.

Sussex Wildlife Trust (SWT)

11.15. SWT are landowner/tenants for land in the IDD, including at Amberley Wildbrooks SSSI and Waltham Brooks SSSI, and are implicated as described above. In addition they have specific concerns about the environmental designations at the SSSIs. These concerns and how they are being addressed are detailed in Section 10. Specific implications for SWT are that the proposed drainage improvement scheme at Waltham Brooks would enable SWT to manage water levels within the SSSI without being impacted by pumping at Greatham. SWT would be responsible for funding both the management and future maintenance of the scheme (costs to be confirmed).

11.16 If the IDD is not abolished, SWT will continue to pay its drainage rate. It is possible that SWT could benefit from improvements in drainage at Waltham brooks

Royal Society for Protection of Birds (RSPB)

11.17. The RSPB are landowner/tenants for land in the IDD, including at Amberley Wildbrooks SSSI and Pulborough Brooks SSSI. In addition they have specific concerns about the environmental designations at the SSSIs. These concerns and how they are being addressed are covered in Section 10. The specific implications for the RSPB are that they would be responsible for funding and undertaking maintenance and management of structures on the two watercourses at Pulborough Brooks currently managed by the Environment Agency as IDB. These operations currently cost the Environment Agency as IDB approximately £6k pa.

11.18. If the IDD is not abolished, RSPB will continue to pay drainage rates for a similar or potentially decreasing level of service

Southern Water Services (SWS)

11.19. SWS operate a water supply works at their Hardham site which is located north of the A29 London Road which locally runs between Fontwell and Pulborough.

11.20. Groundwater is abstracted from a borehole and put into either storage tanks or a reservoir before it goes into the water supply. It is the Environment Agency's understanding that if the water in the storage tank fails to meet drinking water standards then it is pumped out. This waste water then passes down a section of moribund canal (which is mainly but not wholly bricked up at both ends and culverted along this length) before it discharges into IDD ditches south of the A29. SWS have a permit from the Environment Agency to make this discharge which was issued to their predecessors in 1966. There are no limits on the frequency or quantity of any discharges and no obligations to record the amounts discharged or the duration of any discharge. Those ditches lead to Greatham pump.

11.21. Also on the south side of the A29 is a reservoir owned by SWS which is set in the middle of farmland. Water is abstracted from the River Arun into this reservoir and then sent by underground pipe to the supply works. This abstraction has Environment Agency consent. The reservoir has an overflow which leads out from the reservoir into another set of IDD ditches which are served by the Hardham pump and this pumps the water from those ditches back into the River Arun a little north of from where it was abstracted.

11.22. The Environment Agency met with the SWS Water Strategy Manager to discuss the implications of the proposed abolition of the IDD on SWS. SWS confirmed that:

- As they are not the primary beneficiaries, it would not be appropriate for SWS to take over the maintenance, renewal and operation of the pumping stations
- If the landowners take on the responsibility of running the pumping stations then SWS would see what compensation charge they would expect if SWS continue to use their facilities. If the charges are prohibitive then SWS would make alternative arrangements by re-routing existing discharges. If the charges are not prohibitive then SWS would consider establishing an agreement with them;
- If nobody takes ownership of these structure and they fall in to disrepair then SWS will have to consider alternative arrangements to protect their assets.

11.23 SWS will continue to pay drainage rates for a similar or potentially decreasing level of service

National Farmers Union (NFU) and Country Land and Business Association (CLA)

11.24. The likely implications for the local landowners (and drainage rate payers) are dealt with above, and there does not appear to be any additional issue that the NFU or the CLA raises on their own behalves.

Arun Valley Vision Group (AVVG)

11.25. The AVVG was set up, with support from the Environment Agency, following concerns raised about the implementation of LTRAS. The concerns were that the flood risk view did not fully take account of the wider interests in the valley. The LTRAS does recommend that public money is not invested in flood defences and structures along some sections of the main tidal River Arun. The aim of the AVVG is to come up with a sustainable solution for the management of flood risk from the Main River Arun in the decades to come and a mechanism to fund it by January 2019. These proposals might include new arrangements for the management of internal drainage in the Arun Valley.

11.26. The Environment Agency's Maintenance Protocol (available on request) suggests that an IDD and IDB is an option for the future management of Main River where for the Environment Agency (as Main River authority), maintenance is not economic.

11.27. However, the existing IDD and IDB does not offer the local accountability required of an IDD. Further, given the views of the local councils that it should be abolished, it is unlikely that the IDB would raise special levies to enable it to take on additional watercourses. LTRAS estimates that the costs of maintaining those sections of the River Arun which are uneconomic and which the IDB may be asked to take on would be £3m over 100 years.

11.28 It may be that support from local councils and landowners for an IDD covering a different area could be identified. However, given the reluctance of the local councils to support an IDD and the redistribution of costs to landowners of any IDD which does not receive the majority of its funding from the local councils (already provided to NFU by the Environment Agency), it is unlikely that a new IDD would be agreed for some years, if ever.

11.29. The abolition of the existing IDD does not preclude a newly locally accountable and representative IDD and IDB being created at a later date or restrict the AVVG's options for the future. Indeed, the existing IDD would need to be abolished for a new IDD to be created and provisions can be made during abolition to ensure any gap between abolition of the existing IDD and creation of the new would not preclude the new IDB taking on any structures such as pumping stations.

12 THE CONSEQUENCES OF THE PROPOSED ABOLITION ON THE FUTURE MANAGEMENT OF THE WATERCOURSES AND THE PUMPING STATIONS WITHIN THE RIVER ARUN IDD

12.1. As explained in section 8, if the IDD is abolished the Environment Agency will no longer undertake work on any ordinary watercourses or associated structures in the IDD. The arrangements for the future management of the watercourses and related structures are explained above at paragraph 7.1.

Consequences for future management of watercourses in non-agricultural areas

12.2. Non-agricultural areas of the IDD and areas where flood risk to properties may increase lie within the Arun District (Arundel and Littlehampton). In the light of Arun District Council's resolution of 10 March 2014 (<http://www1.arun.gov.uk/PublicViewer/Tempfiles/702c75e06b4c428.pdf>), it is likely that the Council will use its enforcement powers to ensure that water courses and associated water control structures in non-agricultural areas will be managed to mitigate flood risk to properties.

Consequences for future management of watercourses in agricultural areas

12.3. Agricultural land in the IDD is spread over all 3 district council areas, with the 3 SSSIs and 2 functioning IDD pumping stations lying within Horsham District Council.

12.4. In the light of the councils' resolutions (<http://www1.arun.gov.uk/PublicViewer/Tempfiles/702c75e06b4c428.pdf> , <http://horsham.moderngov.co.uk/Data/Cabinet/20140918/Agenda/EX140918.pdf> [http://chichester.moderngov.co.uk/Data/Cabinet/20140401/Agenda/\\$Minutes%20-%202014-04-01.doc.pdf](http://chichester.moderngov.co.uk/Data/Cabinet/20140401/Agenda/$Minutes%20-%202014-04-01.doc.pdf)) it is unlikely that any of the councils will commit resources to managing watercourses or structures in agricultural areas. Except for the IDD ditches at Amberley Wildbrooks SSSI which will need further consideration, responsibility for future management of watercourses in agricultural areas will fall to agricultural landowners/tenants (including the watercourses at Pulborough Brooks SSSI).

12.5. The number of landowners who have expressed an interest in/concern about the abolition is small - only 13 (out of 150) responded to our 2012 survey on the future of the IDD. Around 10 farmers from the Arun valley attended a public meeting in Arundel on the issue in 2014. Only 1 farmer attended a drop-in session held in Arundel in September 2015.

12.6. The most common concern expressed by landowners was that, in order for them to reasonably be able to take on the responsibility of watercourses and structures on their land, they should be in a good condition. The Environment Agency has sought to address this concern through additional work carried out in 2015/16 to restore structures to their target condition.

12.7. As indicated in paragraph 10.9. It will be necessary to consider the impact of the abolition on the ditches at Amberley Wildbrooks SSSI.

12.8. RSPB is the sole landowner/tenant at Pulborough Brooks SSSI. Natural England is content that RSPB is capable of managing the 2 IDD ditches at the SSSI without causing a likely significant impact on the designated sites or features. The costs of maintenance and water level management at Pulborough Brooks SSSI is around £6k pa. These costs would not currently be accounted for in the RSPB's new Stewardship Agreement from January 2018 and therefore RSPB object to the additional costs being placed on them. However, with careful programming the additional costs to RSPB during their current Agreement would be minimal.

12.9. The Environment Agency does not undertake work on IDD watercourses at Waltham Brooks SSSI.

Consequences for future management of IDD pumping stations

12.10. In accordance with their published Maintenance Protocol the Environment Agency has enquired whether the landowner (or other beneficiaries) wish to take on the pumping stations. Their response was that, whilst they want the pumps to continue to operate, they are concerned about potential future costs and liabilities and so are unwilling to take them on. The Environment Agency is therefore preparing plans to mothball the pumping stations.

13 THE IMPLICATIONS FOR THE ENVIRONMENT AGENCY OF CONTINUING TO MANAGE THE RIVER ARUN IDD.

13.1. If the River Arun IDD is not abolished, one way of assessing the likely impact on the Environment Agency is to consider what would happen if it were to continue acting as the IDB.

13.2 If the IDD is not abolished, the costs of its administration will increase substantially to cover the extra requirements of the Local Audit and Accountability Act 2014, the Accounts and Audit Regulations 2015, and the loss of cost sharing with the other 7 Environment Agency administered IDBs which have all now been abolished. It is likely that the administrative costs would have to increase from around 30% of the maintenance costs to above the 35% benchmark for independent IDBs of a similar size. In order to meet these costs, both drainage rates and levies will need to be increased or the work done by the IDB reduced. Local councils are likely to oppose increased levies.

13.3. Without increased dedicated resource and administration effort by the Environment Agency acting as IDB to meet the legislative requirements, the IDB's accounts could be qualified for which Defra will have to account. Specifically:

- The Environment Agency acting as IDB will fail to meet the requirements of the Local Audit and Accountability Act 2014 and the Accounts and Audit Regulations 2015.
- The Environment Agency Board cannot meet the requirements of local representation and accountability for IDB business unless subject to formal (legal) restructuring.

13.4. In addition, the Environment Agency Board would continue not to meet the requirements of local representation and accountability for IDB business unless subject to formal (legal) restructuring.

13.5. Seeking ways to try to alter its structure, or the way in which it operate, to fit in with the requirements for a small scale local organisation such as an IDB would, not only significantly increase IDB costs, but be contrary to the Environment Agency's national strategic role.

13.6. In a briefing provided to Defra in November 2016 (Appendix 19), the answer to Defra's question 2 summarises the Environment Agency's view on the legislation which is relevant to its administration of the IDD and its ability to meet it.

13.7. The abolition of the River Arun IDD will have an insignificant effect overall on the financial resources of the Environment Agency. The work the Environment Agency undertakes as IDB is funded entirely through drainage rates and special levies raised locally and is separate from the Environment Agency's funding as strategic Main River authority. Loss of the costs of running the IDD will therefore be matched by loss of income through drainage rates and levies. Whilst the Environment Agency will no longer receive a precept from the IDB in recognition of the benefits the IDB gains from work on Main River (£15.5k pa), it will not have to pay c£12k pa to the IDB as a contribution for it dealing with water from higher up the catchment (Higher Land water Contribution).

14 DOCUMENTS

14.1. So far as possible, the documents which may be referred to during the course of the Public Inquiry have been mentioned in the foregoing statement.

14.2. In addition to the documents mentioned in this Statement, the Environment Agency may refer to or put in evidence at the inquiry the following documents. These may be inspected by prior appointment at the Environment Agency, Guildbourne House, Chatsworth Road, Worthing, West Sussex, BN11 1LD. Anyone wishing to do so are asked to email the Agency at SSDEnquiries@environment-agency.gov.uk to arrange a suitable time or write to the above address.

1. Internal Drainage Board Review, Final Report, February 2006
2. Internal Drainage Board Review Implementation Plan 2007
3. The SIs confirming the following abolition schemes:
 - The Lombards Wall to Gravesend Bridge Internal Drainage District Order 2015 SI 2015/1552 made 16 July 2015.
 - The River Adur Internal Drainage District Order 2016 SI 2016/756 made 30 June 2016.
 - The South West Sussex Internal Drainage District Order 2016 SI 2016/757 made 30 June 2016.
 - The River Ouse (Sussex) Internal Drainage District Order 2016 SI 2016/791 made 18 July 2016
 - The Pevensy and Cuckmere Water Level Management Board Order 2016 SI 2016/854 made 22 August 2016.
 - The North Kent Marshes Internal Drainage District Order 2016 SI 2016/859 made 23 August 2016.
4. Strategy Appraisal Report Lower Tidal River Arun Flood Risk Management Strategy
5. Strategic Environmental Assessment of the LTRAS
6. Amberley Wildbrooks Water Level Management Plan 2006
7. Parish maps showing IDB maintained watercourses and structures
8. Copy of the 22 October 2012 letter from the Environment Agency to drainage rate payers
9. Internal Drainage Board Beneficiaries and Performance Indicators, Final report FD2659, January 2015
10. Options for the Future Management of the River Arun Internal Drainage District - Evidence, October 2013
11. Minutes of the West Sussex IDD Steering Group meeting 19 November 2013 recording the majority decision to recommend Option 2 as the best alternative if the existing IDD's are dissolved
12. Report to committee and resolution of Arun District Council
13. Report to committee and resolution of Chichester District Council
14. Report to committee and resolution of Horsham District Council
15. September 2015 advertisement of draft scheme to abolish the River Arun IDD
16. Environment Agency Protocol for the Maintenance of Flood and Coastal Risk Management Assets (England Only), Environment Agency 2014
17. March 2017 advertisement of the draft order to abolish the River Arun IDD

