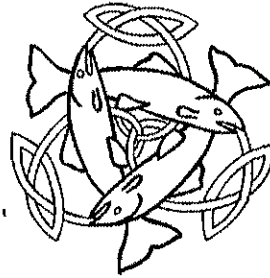


OHFT

Outer Hebrides Fisheries Trust



WIDSFB

Western Isles District Salmon Fisheries Board

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28th February 2012

Comments on Aquaculture Fisheries Bill Consultation

The Western Isles District Salmon Fishery Board (WIDSFB) has a statutory responsibility to protect and improve Salmon and Sea trout fisheries. The Outer Hebrides Fisheries Trust (OHFT) was formed in 1996 and is a charitable, community based organisation conducting scientific research into wild fish stocks and advising on freshwater fisheries management. The Board and Trust work closely together.

The wild fishery and angling tourism are a significant element of the island economy. A study (*James 2000*) demonstrated that this sector employs 260 full time equivalent jobs and contributed £5-6 million per annum to the economy.

We welcome the opportunity to comment on the Aquaculture Fisheries Bill Consultation. We endorse the response of the Association of Salmon Fishery Boards (ASFB) and have added additional comments where necessary.

Simon Scott
Director, OHFT

Carol Mair
Clerk to the WIDSFB

Encl;
Comments
Respondent Information Form – Simon Scott
Respondent Information Form – Carol Mair

Aquaculture and Fisheries Bill – Additional Outer Hebrides Fisheries Trust and Western Isles District Salmon Fisheries Board comments on response from ASFB to Consultation Document

Section 1: The sustainable development of aquaculture

Q1. . Do you agree that we should, subject to appropriate safeguards, make it a legal requirement for marine finfish operators to participate in an appropriate Farm Management Agreement with sanctions for failure to do so, or to adhere to the terms of the agreement?

Yes – this was a clear recommendation of the Ministerial Group on Aquaculture. ASFB believe that a coordinated approach to stocking, fallowing and treatment of sea lice and other disease outbreaks, at a scale appropriate to the potential dispersion of sea lice and other diseases, is an important step in lowering the risks to wild fish arising from aquaculture. We therefore agree that participation in FMAs should be a legal requirement, and that sanctions for failure to adhere to such agreements are appropriate.

However, FMAs do not have any input from wild fisheries interests. One of the identified failings of Area Management Agreements (which did have wild fisheries input) was the requirement for all discussions to take place under a confidentiality agreement. This lack of transparency led to suspicion about the process and ultimately resulted in a lack of wider support for the TWG process. It is therefore important, at the very least, that the proceedings of FMAs, and any data held within that agreement are open and accessible.

Agree, yes, participation in FMAs should be required and have the appropriate statutory backing. Consideration needs to be given as to how FMAs will be monitored and compliance with FMAs is enforced. It should be mandatory for companies to share lice data with individual trusts and trusts should agree to use this data discreetly. Fines, reductions in biomass consent are possible tools to encourage fish farm companies to adhere to FMAs.

Q2. Do you agree that operators should have primary responsibility for determining the boundaries (and other management arrangements) for Management Areas, but with Scottish Ministers having a fallback power to specify alternative Areas?

We are concerned that the existing farm management agreements are extremely variable in size. Whilst we recognise that there remains incomplete information and understanding about connectivity between farms and FMAs, it would appear that in some instances, the current FMA boundaries are not primarily based on reasons of good husbandry, biosecurity and control of sea lice. For example, there are individual companies which operate within relatively small geographical areas, but across a number of farm management agreements (in which no other companies participate). From a wild fisheries perspective, FMAs should ultimately be set based on sea lice dispersal models, in order to ensure that coordinated treatment strategies are optimised. Where such models do not currently exist, there should be a general principle of precaution in setting larger, rather than smaller boundaries, in order to minimise the risks of transfer of disease/parasites between FMAs. We would therefore support Scottish Ministers having powers to specify FMA boundaries, particularly as new information becomes available on sea lice dispersal. We support the examples laid out in paragraph 11 as to when such powers

could be used. Indeed, we believe that several of the existing FMAs should be consolidated at the outset of any such process.

Agree and add that operators should not have primary responsibility for determining the boundaries of FMAs. This should be a joint effort involving fish farm operators and other relevant bodies that include, Fisheries Trust/Boards, SNH, SEPA etc.

Q4. How do you think such a system might best be developed?

No comment.

Development of such a system should primarily identify who the members that sit on the panel should be. This question should be posed to bodies such as District Salmon Fisheries Boards, SEPA, Council, SNH etc.

Q6. What do you consider are suitable options to promote use or relinquishment of unused consents?

Paragraph 19 sets out a number of reasons why consents for unused sites may be held, including holding sites as buffer zones, as part of farm management area arrangements to assist in fish health and disease management. We would be extremely concerned if unused consents were the only mechanism available to achieve such an aim. Indeed, as we have stated above, FMAs should be set at an appropriate size, and with appropriate spacing to allow such buffer zones to operate effectively.

The most suitable option to promote use or relinquishment of unused consents will depend on the individual circumstances at the site in question, and with that in mind we can see merit in all of the incentives set out in paragraph 20. However, as highlighted above, there are situations when the most appropriate approach is to revoke a consent and ensure that no further consents are reissued in that area. This mechanism should also be reflected through the marine planning system.

The question of unused consents should certainly be reviewed. We do not want to promote the use of unused consents except when they could prevent development of a new site. A site with consent but unused should be reviewed and assessed before consent is granted to any new site planned by an individual company. A company should lose its consent after a period of 3 years of no activity at any given location.

Q7. Do you agree that Scottish Ministers should be given powers, ultimately, to revoke, or to require or request others to revoke, consents?

Yes. Such a power to revoke consents is particularly important as our understanding of the potential interactions between aquaculture and wild salmonids improves. Given that Marine Scotland Science are unable to give definitive predictions as to the effect of a site in a particular location, and taking into account that most developments receive permanent planning consent, it is a major problem that such a power does not currently exist. Indeed, we believe that there should be a mechanism for DSFBs and/or local communities to apply to Scottish Ministers for such a power to be used.

Agree, powers should be in place to revoke consents. This should apply to all sites that are unused for a maximum period of three years.

Q9. What in your view is the most appropriate approach to be taken to the collection and publication of sea-lice data?

The most appropriate approach is for full public access to sea lice data in a disaggregated form. As stated in the consultation document, the Healthier Fish Working Group recommended an industry-run database with publically facing reports on sea lice numbers, aggregated over 6 regional zones. However, the regional zones in question are so large as to make the data impossible to utilise in any sensible way. Indeed, any issues at a local level will be hidden in the 'noise' associated with aggregating over such a large area. For example, during June 2011 lice numbers across the North Mainland region, on average, were 138% above the suggested lice treatment threshold (0.5 adult female lice per fish) and from September-November for the same region lice numbers were, on average, 284% above the suggested lice treatment threshold (1 adult female lice per fish). If we assume that most farms in the area were operating in compliance with the Industry Code, this would suggest that some farms potentially had significant problems with sea lice, given that the average over the whole area was over the lice treatment threshold. We are aware of sea lice issues on wild salmonids within this region, but there is currently no mechanism of assessing whether such issues for wild fish relate to lice levels on nearby farms.

Full public access to lice data in Scotland would allow assessments to be made of the success or otherwise of lice control strategies and subsequent impacts on wild fisheries. In addition, full access to lice data would allow the Fish Health Inspectorate to prioritise limited resources on 'problem' sites as part of the on-going farm inspection process.

Another area where access to such data is necessary is the aquaculture planning process. A major concern for wild fisheries interests is the potential for cumulative impacts on fish which often have to negotiate large numbers of farms on their migration to the open ocean. Such cumulative impacts cannot currently be adequately assessed as part of the planning process, as planners do not have access to lice levels on existing farms in the area. There is a clear trend for fish farm applicants to state that they will adhere to the Code of Good Practice with regard to lice levels and the routine response to this by Marine Scotland Science is to state that if the target is met then the impact will be minimal (despite also stating that current industry practice as laid out in the Code of Good Practice is insufficient to protect wild fish). At the present time there is no way of assessing such claims, and indeed, under some circumstances in some areas we do not believe that operators are capable of meeting such targets (as the industry statistics highlighted above suggest).

The consultation document states that this area remains a key area of contention between aquaculture and salmon and freshwater fisheries interests. However, if the industry is confident that sea lice levels can be controlled in line with the Industry Code (notwithstanding our concerns regarding the adequacy of the current code to protect wild fish – please see our response to Q20), then there should be no concern in making such information public. The consultation document also states that data need to be properly presented, explained and understood, otherwise there is a risk that they may be misinterpreted or misused. If data needs to be explained in order to facilitate understanding, then that is a role for the industry - it is **not** a reason to withhold or otherwise sanitise data. Indeed, full public access to sea lice data is consistent with operating in an open and transparent manner – a vital step for an industry with the potential to have significant environmental effects. There would also be wider benefits in having such data available to academic institutions within Scotland, as part of research into the

effects of sea lice, treatment success, and resistance to existing treatments and indeed the development of new treatments.

We believe that the principles for collection and publication of sea lice data should be as follows: All farms should report data on a weekly basis to Marine Scotland; sea lice data should be published monthly, on a farm by farm basis, on a publically available webpage (operated by Marine Scotland or the Industry); the webpage could then be used to explain the data in whatever manner is deemed appropriate. However, it is fundamentally important that raw data is available.

Agree and add that it is current procedure on most fish farm sites that sea lice data is collected on a weekly basis. This data should be freely accessible and with regards to the cumulative effect of multiple sites in sea lochs should then be incorporated into the planning and application process relating to expansion of the industry. Currently SEPA bases its environmental impact assessments on the impact to benthic habitat caused by deposition of particulate waste and chemotherapeutants, incorporation of freely available lice data should form an addition to this protocol. Publication of lice data should be accessible through governmental websites and also distributed to relevant bodies in local areas...Fisheries Trusts, SEPA offices etc.

Q11. What are your views on the timing and frequency of submission of such data?

We believe that such data should be submitted on a weekly basis, with the possible exception of treatment notification, which could be collected less frequently.

Mortality-Monthly, Production-bi annually, Disease-as and when identified with "disease not present" notifications every 6 months.

Q15. Do you agree that the regulatory framework should be the same for all seaweed farms?

No comment.

No, the regulatory framework should not be the same for all seaweed farms. Small scale operations should be treated differently to large, industrial scale sites. Large operations should be made to follow stricter guidelines and have more stringent controls placed on amounts of product that can be produced/harvested over a set period of time. Thought does need to be given as to how to define a "small operation" as opposed to a "large" operation.

Q16. Do you agree that the most appropriate approach to regulation of this sector would be through marine licensing?

No comment.

Licensing and regular site inspections.

Q18. Do you agree that we should provide for additional powers for Scottish Ministers in relation to commercially damaging native species?

No comment.

Yes, a system needs to be established that would allow ministers to make funds available to deal with outbreaks/detection of such species. Where it is found that an individual, group, company

etc. is responsible for the presence of such a species then ministers should have the power to prosecute, revoke licences etc.

Section 2: Protection of shellfish growing waters

Q19. Do you agree with the introduction of provisions to protect shellfish growing waters and support the sustainable growth of the shellfish industry?

ASFB do not have a specific position on issues relating to the shellfish industry. However, as a general principle we believe that the marine planning system provides the most appropriate framework for such area-based decisions to be made.

Yes it is important to protect shellfish growing waters as this would also be of benefit to the future sustainability of wild salmonid stocks. Yes, sustainable development of the shellfish industry should be supported as this could partly replace some salmon farming activity in the future and is so doing could maintain the economic benefits that are currently perceived as significant.

Section 3: Fish farming and wild salmonid interactions

Q22. Do you agree that there should be additional powers for Scottish Ministers to take or require samples of fish from fish farms, for tracing purposes?

Yes. We believe that all companies in the Scottish Industry should provide access to samples to enable escapee fish to be identified to farm of origin. Should genetic sampling prove technically feasible, such sampling would also allow the full assessment of the extent of introgression between farmed and wild fish. Novel genetic techniques based on single nucleotide polymorphism technology currently allow escaped salmon to be identified to the farm of origin. We are aware that some Scottish companies are content to provide this information and we believe that such a scheme should be mandatory across Scotland. We understand that Marine Scotland Science are currently undertaking a scoping study to assess the technical feasibility of identifying escapes and quantifying introgression using genetic methods. Such a power could then be deployed in future, depending on the results of the MSS scoping study.

We are particularly concerned about the risks associated with smolt production in open freshwater cages. Large escape events or 'drip' escapes through the use of nets with inappropriate mesh sizes, will result in an increased potential for introgression with wild fish. We now have evidence of drip smolt escapes from several parts of Scotland which are not being caught by the reporting process. Even where introgression does not occur, such escapees will compete with and may displace resident wild fish. Ultimately we believe that there should be a phased withdrawal from smolt production in freshwater cages, particularly in systems containing migratory salmonids. In the meantime, we believe that all freshwater cage farms should be required to retain genetic samples from each batch of fish to allow escapees to be traced to farm of origin. Where fish can be traced to farm of origin (marine or freshwater) there should be strict liability and a fine proportional to the number of escaped fish recovered.

In addition, we believe that there is also a move in Norway to ensure that all farmed fish are marked with a uniquely numbered tag, again with the purpose of identifying the source of escapes under strict liability. Whilst we accept that this approach would not be practicable in

freshwater, we believe that there is merit in this approach for marine cage fish, as it is consistent with the polluter pays principle.

Ultimately, whilst there may be disagreement on the specific means of identifying escaped fish, and in recognition that technical methods will progress over time, we would advocate that the power should be drafted in such a way as to allow samples for tracing purposes to be taken, but without being prescriptive as to the means to achieve this aim.

Agree and further add that as genetic techniques develop consideration should also be given to taking genetic samples from sea lice that could prove to be a useful tool in establishing origin of sea lice found on wild migratory fish species. For this to be successful additional powers would be required by Scottish ministers to make individual fish farm companies provide lice samples from which genetic material can be taken.

Section 4: Salmon and freshwater fisheries management

Q29. Do you agree that Scottish Ministers should be able to promote combined salmon conservation measures at their own hand?

The consultation document does not set out the basis or need for combined salmon conservation powers and therefore we are unclear as to what advantage there is in combining these powers. DSFBs across Scotland have applied for both close time orders and conservation measures, sometimes in combination, and we are not aware of a particular problem with this arrangement.

Possibly in extreme circumstances but more information regarding this is required.

Q31. Do you agree that we should introduce statutory provisions related to mediation and dispute resolution, to help resolve disputes around salmon conservation, management and any related compensation measures?

Again, we are unclear on the need for a statutory mediation/dispute resolution process. Fisheries management in Scotland largely progresses on a consensual basis. Where it is not possible to reach agreement on a voluntary solution, the legislation allows for DSFBs to apply to Scottish Ministers for e.g. conservation measures, reduction of exploitation (rod and/or net fisheries), methods of fishing etc. The ultimate decision rests with the minister, who will only act after consultation. Assuming that DSFBs are acting in accordance with the Code of Good Practice, and that decisions are therefore justifiable, we believe that it is entirely appropriate for Scottish Ministers ultimately to make such decisions. With regard specifically to compensation arrangements, mediation may prove useful in some instances, but we are not convinced for the need for statutory provisions in this regard.

No

Q32. Do you agree that there should be a legal requirement to provide comprehensive effort data for rod fisheries?

We believe that there would be value in collecting effort data, if it could be clearly demonstrated that such data will significantly add to the understanding of fish stocks. We recognise that stock assessment from catch statistics alone is a blunt tool, and any refinement is welcomed. We believe that refinement can be done on specific test sites, and thus avoid the significant extra effort and cost involved in collecting this data nationally. There are a number of potential

variables in collecting effort data: the experience of the angler; the familiarity of the angler with the river; whether fishing effort has occurred during optimal or sub-optimal fishing conditions; if the fishing effort occurred in the presence or absence of an experienced ghillie. In looking at historic records, it should also be noted that changes in technology now mean that an angler using new equipment can cover a greater area of river than before – essentially there can now be greater effort per angler. We are not clear how these factors could be accounted for in what is likely to be a relatively basic measure of effort.

We believe it would also be useful for more information and data to be collected from net fisheries. We believe that netting effort should be more clearly defined (not simply the monthly mean), all instances when leaders are not removed during weekly close times should be reported (see our response to Section 7 below), and number of fish taken from specific nets should be reported (net locations often range from close to river mouths, to several km from river mouths - such a reporting requirement would give an indication of the relative impact of a fishery on specific rivers).

We would support this issue being examined in detail in drawing up a national strategy for the collection of fish data as proposed above. We are aware that MSS are currently undertaking a pilot study on specific indexed rivers to assess the potential value of such data. On that basis, we would be content for Scottish Ministers to take a power to collect effort data, to be utilised on the successful conclusion of the MSS pilot study. We would also highlight that the existing catch statistics database contains a great deal of valuable information and the national strategy could also examine the most effective means of utilising such information.

Agree, catch per unit effort would be a much more useful data type in terms of fisheries management and stock assessments than simply catch returns alone which is the current status quo.

Q33. What additional information on the fish or fisheries should proprietors and/or Boards be required to collect and provide; and should this be provided routinely and/or in specific circumstances?

Please see our comments above on a national strategy for the collection of fish data.

Water temperature, bank side habitat type, scales, sex, weight, length, weather conditions, obviously it is not practical or in any event reasonable to assume that every angler will collect all of these variables however under specific circumstances and on request this could be adopted.

Q34. Should Scottish Ministers have powers to require Boards and/or proprietors or their tenants to investigate and report on salmon and sea trout and the fisheries in their district?

Paragraph 104 of the consultation document appears to suggest that this question might be limited to licensing functions on the introductions of salmonids to freshwater. However, we are working under the assumption that this question involves all aspects of the salmon and sea trout fisheries in a district. A number of DSFBs already collect and publish information on catches, conservation policies, monitoring, introductions and enforcement within their districts. We believe that the Code of Best Practice is the best way to ensure that this information is provided, in a consistent manner for all DSFBs. The operation of the Code in this matter could be linked to the proposed national strategy for the collection of fish data.

It is not clear from the consultation document, should such a power be invoked to require a DSFB to undertake additional functions above and beyond their core work, who would be expected to

pay for such additional functions. It is important that any such power must be used in a proportionate way, which reflects the resources of the DSFB in question.

Yes

Q42. Do you agree that sea fisheries enforcement officers should be given specific power to allow vessels to be detained in port for the purposes of court proceedings?

No comment.

Yes

Q43. Do you agree that sea fisheries enforcement officers should be able to dispose of property seized as evidence when it is no longer required, or forfeit items which would be illegal to use?

No comment.

Yes

Q44. Do you agree that sea fisheries enforcement officers should have the power to inspect objects in the sea and elsewhere that are not obviously associated with a vessel, vehicle or relevant premises?

No comment.

Yes